

CITY OF LINCOLN CITY

SPECIAL CITY COUNCIL MEETING AGENDA

MONDAY SEPTEMBER 21, 2020 6:00 PM

The Lincoln City Council Special Meeting for September 21, 2020 at 6 p.m. 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 and those comments will be entered into the record and provided to the City Council. The City Council may request that the public comments are summarized or read aloud.

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 to 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.

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 Cathy Steere, 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 live 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. Special Meeting – Minutes of Regular Meeting – June 22, 2020 6:00 PM
2. Special Meeting – Minutes of Regular Meeting – August 24, 2020 6:00 PM
3. Special Meeting – Minutes of Special Meeting – September 2, 2020 10:00 AM
4. Special Meeting – Minutes of Special Meeting – September 14, 2020 10:00 AM

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

F. PUBLIC HEARINGS/PUBLIC COMMENT

G. ORDINANCES

1. ORDINANCE NO. 2020-14 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.72 (SIGN REGULATIONS), AMENDING AND UPDATING CITY SIGN REGULATIONS REMOVING PROVISIONS FOR TEMPORARY SIGNS
2. ORDINANCE NO. 2020-22 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 9 (PUBLIC PEACE, MORALS, AND WELFARE), REVISING CHAPTER 9.34 (SIGNAGE) TO ADD ADDITIONAL EXEMPTIONS FOR SIGNAGE TO BE CONSISTENT WITH TITLE 17 (ZONING).
3. ORDINANCE NO. 2020-15 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.76 (ADMINISTRATIVE PROVISIONS), REPLACING EXISTING PROCEDURES WITH A NEW A UNIFORM PROCEDURAL CHAPTER 17.76 (PROCEDURES), ADDING A NEW CHAPTER 17.77 (APPLICATIONS), MODIFYING, CONSOLIDATING, RELOCATING OR REMOVING PROCEDURES AND STANDARDS FOR A MORE EFFICIENT REVIEW PROCESS

H. RESOLUTIONS - NONE

I. SPECIAL ORDER OF BUSINESS

4. Economic Development Toolbox: Request to apply for EPA (Environmental Protection Agency) CWA (Community Wide Assessment) Grant for Redevelopment/Brownfield Assistance
5. Residential Parking Permit Areas
6. No Parking Areas
7. City Council Employee Evaluation Process
8. COVID-19 update

J. CITY MANAGER/CITY ATTORNEY REPORTS

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

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

M. ANNOUNCEMENTS FROM COUNCIL

N. ADJOURNMENT

CITY OF LINCOLN CITY

CITY COUNCIL MINUTES OF MEETING

June 22, 2020, 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

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Dick Anderson	Mayor	Present	6:00 PM
Judy Casper	Councilor Ward 3	Present	6:00 PM
Diana Hinton	Councilor Ward 1	Present	6:00 PM
Riley Hoagland	Councilor Ward 2	Present	6:00 PM
Diane Kusz	Councilor Ward 2	Present	6:00 PM
Rick Mark	Councilor Ward 3	Present	6:00 PM
Mitch Parsons	Councilor Ward 1	Present	6:00 PM

Staff present: Ron Chandler, City Manager; Richard Appicello, City Attorney; Jerry Palmer, Chief of Police; AnneMarie Skinner, Planning Director; Debbie Bridges, Finance Director; Jeanne Sprague, Parks and Recreation Director; Ken Murphy, Emergency Preparedness Coordinator; Cathy Steere, City Recorder; David Twigg, I.T. Support Specialist.

Mayor Anderson advised there was an agenda change. There would be an additional resolution pertaining to a 24 hour hold under section K, "Resolutions".

C. PLEDGE OF ALLEGIANCE

As the meeting was held remotely, the Pledge of Allegiance was skipped.

D. CONSENT AGENDA

Councilor Hinton advised that Ms. Steere had sent over two items for Council approval- a liquor license for Marci's Bar and Bistro and a liquor license for Gallucci's Pizzeria.

Ms. Steere said these were not license renewals; they were COVID-specific licenses allowing for off-premises alcohol sales.

MOTION:	Motion to approve the Consent Agenda: Off-Premises Liquor License for Marci's Bar and Bistro and Gallucci's Pizzeria
MOVER:	Riley Hoagland, Councilor Ward 2
AYES:	Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT:	Passed

E. COUNCIL DELIBERATIONS

1. DELIBERATIONS: CPA & ZC 2020-01 Scrutton, et al zone change - request for approximately 2.06 acres to be changed to a comprehensive plan map designation of Commercial-Recreation District and a zone designation of Recreation-Commercial (RC) Zone.

Ms. Skinner advised Council that this is a request to re-zone 8 properties from Multi-Family residential to Recreation-Commercial. There is no development agreement involved with this zone change.

Councilor Mark asked Ms. Skinner how long it would take to update the Comprehensive Plan? Ms. Skinner said it'll take at least 2 years to update. Mr. Appicello said this issue is irrelevant since Council is reviewing a privately-initiated request and a decision needs to be made now.

Councilor Hinton said this proposal is not consistent with the current Comprehensive Plan. Councilor Hinton said staff do not recommend approval and she concurs with staff.

Councilor Casper said that the proposed uses for the properties are not in the best interests of citizens at this time and she recommends denial.

Mr. Appicello said that the Comprehensive Plan being overdue is not relevant. The City has not adopted a moratorium on re-zoning applications. Staff articulated before the Planning Commission that the rationale for not recommending approval was because the request is "spot re-zoning" and is not consistent and compatible with the current Comprehensive Plan. The Planning Commission did think the zone change was appropriate. The issue at hand is if Council thinks this is appropriate. Is it time to change the zoning from residential to recreation-commercial?

Mayor Anderson said that housing is our first priority. However, oceanfront properties such as these are expensive and all but 2 of 8 of these properties have structures on them. High-end rental housing would be a good fit for this area. Mayor Anderson doesn't like allowing single family housing in a multi-family area but this area will likely not have multi-family dwellings.

MOTION:	Motion to deny CPA & ZC 2020-01
MOVER:	Diana Hinton, Councilor Ward 1
SECONDER:	Riley Hoagland, Councilor Ward 2
AYES:	Casper, Hinton, Hoagland, Mark
NAYS:	Anderson, Kusz, Parsons
RESULT:	Passed by Roll Call Vote

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

Mr. Chandler said that 52 public comment emails have been received. Mr. Chandler summarized the comments. 21 comments were in support of the rule regarding the wearing of face coverings. 3 were against this rule. 1 comment regarding non-essential shopping was received. 1 comment was about the lack of leadership within Lincoln City.

Regarding the 24 hour hold rule for lodging, 13 were in support of removing the rule and 12 were against removing the rule.

1 email was received thanking the City for COVID economic aid funds.

1 email was received about the lack of protection against the impact of vacation rental dwellings.

1 email was received about enforcing the state face covering guidance.

G. PRESENTATIONS

H. PUBLIC HEARING / ORDINANCE

I. PUBLIC HEARINGS / PUBLIC COMMENTS

1. ZOA 2020-01 Procedures - an ordinance amendment to organize land use permits and applications into procedure types of Type I, II, III, or IV with associated application forms and checklists; add a table showing each permit and application with its associated number type

Staff recommended to move this item to July 13, 2020 to allow the Planning Commission time to finish their review. This was passed by Unanimous Consent.

MOTION:	Move the Public Hearing for ZOA 2020-01 to July 13, 2020 to allow the Planning Commission time to finish their review
AYES:	Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT:	Passed via Voice Vote

2. ZOA 2020-02 Parking and Landscaping - consolidates parking and landscaping requirements from various chapters and sections of Title 17 and places them in one chapter each, with that chapter being Chapter 17.56 for parking requirements and creating Chapter 17.55 in which to place all of the code's landscaping requirements

Mr. Appicello advised Councilors to declare any conflict or potential conflict of interest. No Councilors declared a conflict.

Ms. Skinner said this Ordinance combines items scattered throughout Title 17 and puts them in one place. Currently Lincoln City has a chapter for Parking but Parking Requirements are also listed in Design Standards and in chapters on the various areas of the City.

Currently Landscaping is a section of Chapter 17.52 and this ordinance would create a separate chapter for Landscaping and consolidate Landscaping requirements into that chapter. These changes would simplify the review of landscaping requirements for contractors, the public, and staff.

There are no substantive changes with this Ordinance.

Mr. Appicello said there are several ordinances addressing definitions. Mr. Appicello asked for approval to pull out definition sections and bring back definition changes in one ordinance for Council review. Mr. Appicello said the Ordinances are not on the agenda tonight for approval, but they will all be in final form on July 13.

Mayor Anderson asked why the City was having a Public Hearing if all that was being done was moving around text within sections and chapters? Mr. Appicello said there were small changes that some people might believe are substantive. In addition, a notice was sent to residents about this public hearing.

Councilor Hinton said she had three corrections and a question. Mr. Appicello asked Councilor Hinton to email him the corrections. They are pertaining to punctuation.

Councilor Hinton asked about parking for one bedroom units. The ordinance currently says one parking space. Councilor Hinton thought that two had been approved due to the need for caregiver parking. Mayor Anderson said the conversation was that one bedrooms might require more than one space but by allowing 1.5 spaces per unit there ought to be enough parking for caregivers.

Councilor Casper asked if we had a specific ordinance regarding light pollution? Mayor Anderson suggested that Mr. Appicello define light pollution when the definition ordinance goes before Council.

Mr. Chandler confirmed that no public comments were received.

Council gave unanimous consent to Mr. Appicello to return with an Ordinance on July 13.

MOTION:	Motion to close the record and the hearing for ZOA 2020-02
MOVER:	Riley Hoagland, Councilor Ward 2
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT:	Passed via Voice Vote

3. ZOA 2020-04 Permanent Signs - proposed language to replace Chapter 17.72 Signs by clarifying definitions, placing temporary sign provisions in Chapter 9.34, providing consistent permanent sign regulations throughout the city, and providing clear and objective standards for sign illumination

Mayor Anderson asked Council to declare any conflicts or potential conflicts of interest. None were declared.

Ms. Skinner said this Ordinance Amendment was a carryover from one that was started about a year ago. The main proposed change is the removal of temporary signs from the land use chapter. This amendment also provides clear standards for sign illumination.

Ms. Skinner also noted this ordinance will make sign requirements consistent throughout Lincoln City. Currently there are slightly different sign standards in Taft, Nelscott and Oceanlake compared to the rest of the City.

Mayor Anderson asked Ms. Skinner to explain the Planning Commission's recommended amendment to clarify the area measurement for tenant sign space. Ms. Skinner said that the code appeared to only allow one tenant sign space, even if there was more than one tenant in the building. That was not the intent of the code.

Ms. Skinner said she had received one public comment regarding the definition for original art display. The comment came from Alison Robertson, Economic Development Director. The comment pertained to graphic designers who create representations via computer. The comment expressed that these designers should be allowed to display their art.

Councilor Hoagland said he would like to allow this. The definition is currently limiting.

Mr. Appicello said it was important to make sure art displays are not signage. With direction, Mr. Appicello can return on July 13th with alternate definitions for consideration.

Ms. Skinner said that an original art display was not a sign and does not require a sign permit. It does not need to meet sign size requirements. Digitally generated items that are part of a sign are not prohibited. They are allowed- however, they're not exempt from sign permit requirements.

Councilor Parsons asked how to distinguish a sign from art. Is it the business name? Ms. Skinner said that if you have the business name it becomes a sign.

Mr. Appicello said the issue of projection onto the building could be addressed under temporary signs.

Council gave staff unanimous consent to bring back an Ordinance. Mr. Appicello said he would also bring back temporary sign provisions on July 13. These are not subject to public hearing requirements.

MOTION:	Close the hearing and the record for ZOA 2020-04 - Signs
MOVER:	Diana Hinton, Councilor Ward 1
SECONDER:	Judy Casper, Councilor Ward 3
AYES:	Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT:	Passed via Voice Vote

- 4. ZOA 2019-08 Design Standards** - amends design standards in the zoning ordinance to make them consistent throughout all commercial zones and pearls

Ms. Skinner said this ordinance makes the design standards consistent throughout the City. It also removes the options for single-family residences in multi-family zones as per discussion at the Planning Commission and City Council work sessions.

Councilor Casper discussed day care homes. She noticed that licensing approval was removed from the ordinance. Is this not necessary? Ms. Skinner said licensing is necessary but the ORS chapter is different. Ms. Skinner will work with Mr. Appicello to make sure license requirements are addressed. Councilor Casper asked who determines variances? Ms. Skinner said the Planning Commission determines these, as the review authority.

Mr. Appicello said the Planning Commission did not like the "Review Authority" term and wanted to change it. Mr. Appicello asked what Council thought about it? Ms. Skinner said Planning Commission wanted the "Review Authority" term changed in specific areas, and she changed it as they requested. Council did not request further changes to the "Review Authority" term.

Councilor Casper brought up colors. Are the colors for new construction? Does the City have color recommendation throughout the City, as part of zoning? Ms. Skinner said there's nothing like that now. The color recommendations are for new construction.

Mayor Anderson asked if the idea was that new construction would inspire remodels for older construction. Ms. Skinner said yes.

Council gave Unanimous Consent for an Ordinance to come before them regarding Design Standards.

MOTION: Motion to close the hearing and the record for ZOA 2019-08
MOVER: Judy Casper, Councilor Ward 3
SECONDER: Riley Hoagland, Councilor Ward 2
AYES: Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT: Passed via Voice Vote

RE-OPENING OF PUBLIC HEARING FOR ZOA 2019-08

Mayor Anderson re-opened the hearing and asked if there were any public comments? Ms. Skinner and Mr. Chandler said no public comments had been received. No-one was in the Council Chambers to offer comments.

MOTION: Second motion to close the public hearing and the record for ZOA 2019-08
MOVER: Judy Casper, Councilor Ward 3
SECONDER: Riley Hoagland, Councilor Ward 2
AYES: Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT: Passed by Voice Vote

6. Public Comment: Resolution 2020-17 Proposed Revisions to City-Wide Fee Schedule

Ms. Bridges said that during the budget process a 6% increase was included for Community Center revenues. Ms. Sprague did an analysis against other cities and Lincoln City's rates were below all comparable jurisdictions.

No public comments were received regarding this matter.

J. ORDINANCES

K. RESOLUTIONS

7. RESOLUTION NO. 2020-17 A RESOLUTION OF THE CITY OF LINCOLN CITY ADOPTING REVISIONS TO THE PARKS AND RECREATION FEE SCHEDULE

Councilor Mark said that the increase in rates seemed reasonable. Councilor Mark said he'd like to see the rain gutters not leak as much at the Community Center.

MOTION: Motion to Approve Resolution 2020-17 Revisions to Fee Schedule
MOVER: Judy Casper, Councilor Ward 3
SECONDER: Diane Kusz, Councilor Ward 2
AYES: Anderson, Casper, Hinton, Kusz, Mark
NAYS: Hoagland, Parsons
RESULT: Passed by Roll Call Vote

8. RESOLUTION 2020-16 A RESOLUTION AUTHORIZING AND DIRECTING BUDGET TRANSFERS FOR THE CITY OF LINCOLN CITY, OREGON IN THE 2019-2020 FISCAL YEAR BUDGET

Ms. Bridges said detail on the transfers was provided in the staff report.

Mayor Anderson confirmed that these changes will impact the 2019-20 budget. He asked if the 2020-21 budget will have the actual figures for 2019-20? Ms. Bridges confirmed that these transfers will be included in the actual figures for 2019-20.

Mayor Anderson confirmed these were smaller amounts. Ms. Bridges explained that the largest transfer is for \$56,000, and this transfer was included in the estimated year end and the proposed budget. The next largest transfer is for \$30,000, and the rest are quite small.

MOTION:	RESOLUTION 2020-16 A RESOLUTION AUTHORIZING AND DIRECTING BUDGET TRANSFERS FOR THE CITY OF LINCOLN CITY, OREGON IN THE 2019-2020 FISCAL YEAR BUDGET
MOVER:	Rick Mark, Councilor Ward 3
SECONDER:	Riley Hoagland, Councilor Ward 2
AYES:	Anderson, Casper, Hinton, Hoagland, Kusz, Mark, Parsons
RESULT:	Passed by Roll Call Vote

9. RESOLUTION 2020-18 – A RESOLUTION CONCURRING WITH AN EMERGENCY RESOLUTION PASSED BY LINCOLN COUNTY WITH THE EXCEPTION OF TWO PROVISIONS

Mr. Appicello said that this resolution reflects the City taking a different position to Lincoln County on two items - the County's reduction from 25 people to 10 for social gatherings and the City's wish to remove the 24 hour lodging hold.

Councilor Hoagland said that the City is in Phase 1 and cases are increasing. He feels this is a bad move. He feels that visitors are not taking the appropriate precautions and there are a lot of people in Lincoln City.

Councilor Hinton agrees with Councilor Hoagland. Cases are increasing - 6 more cases were added today (Monday June 22). Today Lincoln County's first death was reported - a 68 year old man. Councilor Hinton is uncomfortable having people go into lodging rooms when the virus could be in there. AirBNB as of June 15 recommends a 24 hour waiting period. The CDC also recommends a 24 hour waiting period if there is a COVID-positive person staying in the room. We should treat all visitors as being COVID-positive.

Councilor Mark said he would speak in favor of the resolution. He said we have no idea who is COVID positive and who isn't. He believes the lack of testing for COVID is a national disaster. Councilor Mark said that there haven't been any outbreaks connected to hotel stays and Lincoln City and other towns in Lincoln County have been open to visitors for a month. Councilor Mark says he doesn't think limiting hotel reservations would have a huge impact on limiting visitors to the coast, citing the large amount of day trippers. Councilor Mark said he was concerned about the health of local housekeepers. He wondered if hotels could increase their check out and check in gap to 8 hours? This would allow housekeepers to do a more thorough job without feeling the time crunch. Councilor Mark asked if the City could have a dedicated complaint line for violations? Maybe this could tie in with a dedicated VRD complaint line. Councilor Mark also wanted to see the City use a data trigger, such as an outbreak occurring at a hotel, to revisit the 24 hour rule.

Councilor Casper said that she's pleased to see AirBNB put out cleaning protocols based on CDC recommendations. There's no enforcement however. Councilor Casper said that some organizations have excellent training for their housekeepers; other housekeepers are more independent. Councilor Casper suggested that inspections be done to make sure companies follow through with proper cleaning. Councilor Casper said Lincoln City's economy is dependent on the lodging industry and Lodging industry employees need to know that the City supports them in their work and safety.

Mayor Anderson said Lincoln County has done a lot more testing recently. Testing has been performed in hotspots. Last week testing was done in senior living facilities, including staff. We are seeing results based on the increased testing. Mayor Anderson said at this time no cases have been tied to the lodging industry, and lodging has been open since May 21. The rest of Oregon has had lodging open the whole time. Mayor Anderson said that lots of testimony had been received from service-sector staff who wanted to get back to work. Mayor Anderson said that the Oregon Department of Health said that the increase in cases is due to socializing and family networks. These aren't lodging.

Councilor Hinton said VRDs serve the needs of large gatherings. Councilor Hinton said that the CDC guidelines say rooms should be vacant for 24 hours if there is a known COVID case.

Councilor Hoagland said that lodging workers come to the City Council when they are afraid. Councilor Hoagland said that comments in favor of re-opening appeared to be copy and pasted. Councilor Hoagland believes that employees were told to make these comments by their employers. Councilor Hoagland is not in favor of rescinding the 24 hour lodging hold.

MOTION:	Motion to Approve Resolution 2020-18 - A resolution of the City of Lincoln City concurring with the Lincoln County emergency resolution excepting two provisions
MOVER:	Mitch Parsons, Councilor Ward 1
SECONDER:	Diane Kusz, Councilor Ward 2
AYES:	Anderson, Casper, Kusz, Mark, Parsons
NAYS:	Hinton, Hoagland
RESULT:	Passed by Roll Call Vote

L. SPECIAL ORDER OF BUSINESS

10. COVID-19 Update

Mr. Chandler said there were three issues that the Council were dealing with at the beginning of last week. One issue was face coverings, and now the Governor has issued a statement regarding these. Mr. Chandler asks staff to continually read guidance from the state on face coverings. Words such as "may" or "required" are very important.

An order was issued by the Governor that applies to Lincoln County and some others. Face coverings must be worn at grocery stores, fitness related organizations, pharmacies, public transit agencies and providers, personal service providers, restaurants, breweries, brew pubs, bars, wineries, retail stores, shopping centers, malls, and ride sharing services. Businesses are required to require employees, contractors, volunteers, customers and visitors to wear a face covering unless an accommodation or exemption is required by law. Exemptions include eating, drinking, or an employee being in a location where an employee is not interacting with the public if they can maintain a distance of 6 or more feet away from other employees. Businesses are required to provide face coverings for their employees and must provide accommodations when required by law. Businesses are required to post clear signs about face coverings. The state has a recommended sign for businesses to use.

Businesses are not required to (but should) provide at no cost disposable face masks for customers and visitors; provide signs about face coverings in languages that aren't commonly used; and communicate with visitors and customers about face covering exemptions.

The public is required to wear a face covering when at a business unless the individual is under 12 years old, has a medical condition, or has a disability that prevents an individual from wearing a face covering.

Mr. Chandler said that face coverings are not currently required outside.

Mr. Chandler discussed enforcement. There's no guidance currently available from the state regarding enforcement. Mr. Chandler said the state is not currently supporting giving tickets to violators. The question is how do you enforce a requirement without giving tickets?

Mr. Chandler said the County will forward calls regarding face coverings to the Lincoln County Health Department. Lincoln City dispatch will do the same. The City is waiting for more guidance from the state on dealing with this.

Councilor Casper provided the County Health Phone number: 541-265-0621.

Mr. Chandler said the County has reduced the gathering size limit to 10 but Lincoln City has remained at 25. Mr. Chandler provided Council with information regarding restaurants and requirements for their operate in Phase 1.

Mr. Chandler encouraged people to review all documentation and look at what is required (and enforceable) as opposed to what is recommended.

Mr. Murphy said that the Governor's website should be checked frequently.

Councilor Mark asked if businesses now need to post signs regarding face coverings? Mr. Chandler confirmed that was now required. Mayor Anderson stated that this didn't go into effect until June 24. Councilor Mark asked if the City could send information to businesses to help support them enforce the new requirements? Mr. Chandler said that the City could forward the state requirements to local businesses.

Councilor Casper hopes that local businesses support face covering requirements. Councilor Casper would like the Chamber of Commerce to take a stance on this issue.

Chief Palmer asked Council to remember there are exceptions to face covering rules.

Councilor Hoagland said that business owners aren't always at their businesses. Councilor Hoagland would rather not put enforcement onto customer service staff.

Mayor Anderson asked Mr. Chandler about the electronic sign on Highway 101. Should it change to "Face Coverings required"? Mr. Chandler said it will be changed.

Councilor Mark asked Chief Palmer if a store owner or customer service clerk asks a customer to wear a face covering and the customer refuses, is that grounds for trespassing? Chief Palmer said that if a store asks a customer to leave and a customer refuses, the Police can investigate the incident for trespassing and potentially issue a citation or arrest.

M. CITY MANAGER/CITY ATTORNEY REPORTS

Mr. Chandler said the joint meeting with the Siletz Tribe will be held via Zoom on July 20.

Mayor Anderson confirmed a joint meeting with Lincoln County will take place via Zoom on July 1.

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

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

Mr. Chandler read a comment from Cassandra Anderson, a Lincoln City resident. Ms. Anderson has noticed a drastically higher amount of people wearing face coverings in Newport compared to Lincoln City. Ms. Anderson asked for an ODOT sign saying that face coverings are required indoors in Lincoln City. Mr. Chandler said the City does not have a sign at its south entrance so he will contact ODOT to see if we can get one there. Councilor Hinton and Mayor Anderson commented that we have a sign at the north end of town already.

P. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL

Councilor Hoagland made a statement regarding Black Lives Matter. He read a quote from Desmond Tutu.

Councilor Casper reminded Council that their legislative priorities are due and asked Councilors to get those to Mr. Chandler.

Councilor Parsons would like the Skate Park to reopen soon. It's outdoors and the only common surface is the handrail on the stairs. Mr. Chandler and Mr. Murphy said that opening the skate park was prohibited until Phase 2.

Councilor Kusz said that things were hard, especially for working people. We all are responsible for ourselves. Councilor Kusz does not want to see confrontation regarding face covering requirements. She would like to see everyone be kind and respectful to each other.

Councilor Hinton would like to talk about enforcement and what that means. Council tends to look to Chief Palmer for enforcement but the Police might not have to enforce everything. Councilor Hinton would like to lighten the load on the Police Department.

Q. ADJOURNMENT

DICK ANDERSON, MAYOR

ATTEST:

CATHY STEERE, CITY RECORDER

CITY OF LINCOLN CITY

CITY COUNCIL MINUTES OF MEETING

August 24, 2020, 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

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Dick Anderson	Mayor	Present	
Judy Casper	Councilor Ward 3	Present	
Diana Hinton	Councilor Ward 1	Present	
Riley Hoagland	Councilor Ward 2	Excused	
Rick Mark	Councilor Ward 3	Present	
Mitch Parsons	Councilor Ward 1	Present	

Staff Present: Ron Chandler, City Manager; Richard Appicello, City Attorney; Sgt Jeff Winn, Lincoln City Police; Tony LaSoya, I.T. director; Richard Townsend, Interim Planning Director; Debbie Bridges, Finance Director; Alison Robertson, Economic Development and Urban Renewal Director.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was skipped as this meeting was held remotely.

D. CONSENT AGENDA

1. Regular Meeting – Minutes of Regular Meeting – August 10, 2020 6:00 PM
A clerical change was made to the minutes prior to the Council meeting.

MOTION:	To Approve the August 10, 2020 minutes with changes.
MOVER:	Diana Hinton, Councilor Ward 1
SECONDER:	Judy Casper, Councilor Ward 3
AYES:	Anderson, Casper, Hinton, Mark, Parsons
EXCUSED:	Hoagland
RESULT:	Passed

E. COUNCIL DELIBERATIONS

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

Mr. Chandler read a summary of public comments regarding fireworks, VRD enforcement, COVID 19, and rent reductions. These written public comments will be attached to these minutes after they are approved by Council.

Aaron Linfoot, COO for Meredith Lodging - spoke about Meredith's operations. Mr. Linfoot advised that Meredith is a local company that provides living wages to its employees, some of which have been with Meredith for over 10 years. Mr. Linfoot said that March hit Meredith hard. Employees had to be furloughed. When business started building up in June, Meredith brought all staff back as soon as possible. Many staff had not received their unemployment checks from the state. Meredith provides contactless self-check in. Many of their customers stay at their vacation rental home during their stay. Meredith cleans to CDC standards and asks guests to stay away if any have had COVID like symptoms. Guests are told to bring masks and if they don't have one, Meredith will provide one. Guests are advised to bring in as many supplies as they can and only send one person to the local stores. Meredith sends security past their properties nightly. A staff member is in the office 24 hours a day, seven days a week. Mr. Linfoot thanked the City Council for prioritizing tourism in Lincoln City, and thanked Council for the financial assistance (COVID-19 related) that was provided to businesses.

G. PRESENTATIONS

H. PUBLIC HEARING / ORDINANCE

I. PUBLIC HEARINGS / PUBLIC COMMENTS

1. ANNEX 2020-01 and CPA & ZC 2020-02 - Continue to September 14, 2020

Mr. Appicello confirmed the applicant would provide public notice of the continuation to September 14. Councilor Hinton said that Richard Townsend will be acting as Interim Planning Director for 3 months. Mr. Townsend also represents the applicant in this matter. Councilor Hinton said she finds this to be a conflict. She would rather deny this matter until another time.

Mr. Appicello said that Mr. Townsend is recusing himself on this matter and that Mr. Chandler would represent the City.

Mr. Chandler said that the matter was delayed until the 14th September due to Mr. Townsend's interim role. Mr. Chandler has not and will not discuss the matter with Mr. Townsend, and Mr. Townsend has recused himself from this project. The Senior Planner cannot handle this matter since he is supervised by Mr. Townsend. This is why Mr. Chandler is taking this matter over.

Councilor Hinton said this is a complex project and she doesn't think Mr. Townsend can completely recuse himself.

Mayor Anderson asked Mr. Appicello if the project can be further delayed. Mr. Appicello said the City has an obligation to process this matter, but there's no time clock since an annexation accompanies the matter. Mr. Appicello recommended continuing this matter to the second meeting of September to allow for noticing. Mr. Appicello says that Mr. Townsend is not involved in the City's review and doesn't think there's a conflict issue here. Timing of mailed notices to the public is more of a problem due to COVID issues.

Councilor Casper asked if this could be delayed until a Planning Director is hired? Mr. Appicello said he doesn't think that is necessary.

Mr. Chandler said we should talk with the applicant if a postponement is to be considered.

Councilor Parsons shares Councilor Hinton's concerns.

Councilor Mark doesn't have a strong feeling on this matter.

MOTION:	Motion to Continue ANNEX 2020-01 to September 28, 2020
MOVER:	Rick Mark, Councilor Ward 3
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Anderson, Casper, Mark, Parsons
NAYS:	Hinton
EXCUSED:	Hoagland
RESULT:	Passed by Roll Call Vote

2. Public Comment North Lincoln Sanitary Rate Review

Tina French, North Lincoln Sanitary Service (NLSS) presented to Council. Ms. French said that, in odd numbered years, the rate review is based on the Consumer Price Index. The rate review would be at 3.6% for 2019. Under Other Revenue, NLSS included a Payment Protection Plan loan. There have been large changes in disposal- about a 60% tonnage reduction from March until June due to COVID-19. NLSS still hasn't recovered to normal. NLSS is saving some money on fuel. Labor costs haven't changed significantly due to COVID.

Councilor Mark said he thought that with the loss of spring tourism, NLSS revenue and costs would both decrease. Ms. French said the only decrease in cost came from disposal. Ms. French said there was a slight decrease in residential service during COVID-19 shutdown but a huge decrease in commercial service. 60% of NLSS revenue in Lincoln City is from commercial service. Commercial properties still had garbage pickup, but rather than having 5 full containers they would have 1. This leads to almost the same amount of labor for NLSS staff but lots less garbage volume.

Ms. French said that no employees were let go due to COVID-19. NLSS did some projects they usually save for winter time to keep people employed. Now, NLSS is busier than they've been in some time.

Ms. French said that the 2018 rate increase was so large due to the change in the Chinese market for recycling products. Ms. French said NLSS is now paying 2 times as much to drop off recycling compared to garbage.

Councilor Hinton said she doesn't know the impact of a 3.6% price increase for the next two years since the residential numbers are not provided. Also, September 1 is days away and Councilor Hinton is concerned about the lack of notice time given to the public for this proposed price increase.

Ms. French said the increase for a 32 gallon pickup once a week (this is the majority of NLSS business) would be from \$20.56 to \$21.30. The average commercial customer would see their rates increase from \$135.29 to \$140.12 per month. Ms. French said that NLSS bill in arrears. They will send a notice on September 1 that the September rate will increase but customers won't be billed for that increase until October.

Mayor Anderson asked Ms. French to provide the public with the various options NLSS has to arrange garbage pickup. There are 3 different container sizes; 32, 64, or 96 gallons. You can get your garbage

picked up weekly, biweekly, once a month, or on call pickup. On call pickup is in violation of the Lincoln City ordinance but the City isn't enforcing that provision. Most customers are not using on call pickup. Service can be temporarily stopped for up to 6 months if you're traveling or if you're a part time resident. Ms. French said that NLSS had sent out educational materials regarding the Yard Debris program. NLSS plans to do more education on this program in January. Roll carts for compostable materials will be delivered to customers the last week of February. Roll cart lids for Yard Debris will have a brown lid with educational information on the lid itself. Ms. French said that the new County Solid Waste Coordinator will work with NLSS on this project.

Ms. French thanked Councilor Casper for attending the Lincoln County Solid Waste meetings.

Councilor Mark said that we are hearing concerns from citizens regarding composting. Is there an option on can size? Citizens are concerned about costs. Councilor Mark said that he thinks his cost will not increase because he can reduce his garbage pickup from weekly to bi-weekly.

Ms. French said the composting program is set up for a 96 gallon roll cart, but NLSS recognizes that doesn't work for everyone so they will offer smaller cans (32 and 64 gallon) as well.

Councilor Casper thanked NLSS for picking up SOLV bags. Other haulers on the coast charge for picking these up. NLSS didn't charge. Ms. French said NLSS will continue to accept SOLV bags at no charge.

J. ORDINANCES

3. ORDINANCE 2020-19 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING, ORDINANCE 2020-18 (SW BARD ROAD SANITARY SEWER LOCAL IMPROVEMENT DISTRICT) TO SET THE ADMINISTRATIVE FEE CONSISTENT WITH PRIOR APPROVED LOCAL IMPROVEMENT DISTRICTS

Mr. Appicello explained that the engineering report stated the administrative fee would be 0.5% of the assessment. In the past the City has used a flat \$100 fee. Mr. Appicello says the administrative work is the same regardless of the tax assessment. Finance staff requested that the ordinance be amended to match prior LIDs. Mr. Appicello said that the Public should be offered the opportunity to comment on this change.

Mayor Anderson asked Mr. Chandler if any public comments had been received regarding this matter? Mr. Chandler confirmed no public comments had been received.

MOTION:	Motion to Approve First Reading of Ordinance 2020-19 Bard Rd. LID Amendment
MOVER:	Judy Casper, Councilor Ward 3
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Anderson, Casper, Hinton, Mark, Parsons
EXCUSED:	Hoagland
RESULT:	Passed by Roll Call Vote

MOTION:	Motion to approve Second Reading of Ordinance 2020-19 and adopt the Ordinance
MOVER:	Judy Casper, Councilor Ward 3
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Anderson, Casper, Hinton, Mark, Parsons
EXCUSED:	Hoagland
RESULT:	Passed by Roll Call Vote

K. RESOLUTIONS

4. RESOLUTION NO. 2020-19 A RESOLUTION OF THE CITY OF LINCOLN CITY ADOPTING AN INCREASE IN RATES FOR NORTH LINCOLN SANITARY SERVICE

MOTION:	RESOLUTION NO. 2020-19 A RESOLUTION OF THE CITY OF LINCOLN CITY ADOPTING AN INCREASE IN RATES FOR NORTH LINCOLN SANITARY SERVICE
MOVER:	Rick Mark, Councilor Ward 3
SECONDER:	Diana Hinton, Councilor Ward 1
AYES:	Anderson, Casper, Hinton, Mark, Parsons
EXCUSED:	Hoagland
RESULT:	Passed by Roll Call Vote

L. SPECIAL ORDER OF BUSINESS

5. Ec Dev: Local Program Support Grant Request - Small Business Development Center Programs 2020-21

Dave Price of the Small Business Development Center (SBDC) joined the meeting. Ms. Robertson noted this was the first Local Program Support grant request that had been presented to the Council. The grant falls under the newly adopted Economic Development Toolbox programs. Ms. Robertson said that the Urban Renewal agency has supported the SBDC using their similar toolbox; however, it would be beneficial for the SBDC to be able to support businesses not just in the Urban Renewal boundary but within the City limits.

3 projects have been proposed within this request- Small Business Management scholarships, COVID business recovery and redevelopment advising, and Small Business classes and workshops.

Mr. Price said the Small Business Development Center was happy to be able to apply for funding again. This would be the 8th consecutive year of funding for the SBDC. Mr. Price said that the spring term essentially vanished. Classes went online. The SBDC didn't spend the Urban Renewal grant money. However, the SBDC only bills the City / URA for the funds when a business signs up. Mr. Price said that he said he feels 2021 would be the year where this program would be most valuable for City businesses. Mayor Anderson said that Mr. Price had covered one part of his grant request, and explained why the City liked the way the program is funded, with unused funds not being forwarded to the SBDC. Mayor Anderson asked for more information on the other aspects of the SBDC grant request.

Mr. Price said there was one thing different about this request compared to the previous 7. In previous years funding has been provided for scholarships. Mr. Price discussed classes that are coming up in social media and finance and how a business can benefit from scholarships. The Small Business Management Program is a year long program. Goals are set at the beginning of the program. Mr. Price said many businesses he has spoken to have said their goal is to "grow back" post-COVID.

This year, the SBDC is also requesting funds to set aside advising resources for Lincoln City businesses. Mr. Price says there is a large demand for advising resources and that the SBDC only has a limited amount of funding for these. Mr. Price noted the SBDC gets the same amount of funding from the Small Business Administration now as it did in 1985. The SBDC has received the same amount of County funding since 2009. Mr. Price does not want to have to turn away Lincoln City businesses from consultation services. Mr. Price said the SBDC will approach other cities in the County with a similar request for grant assistance.

Councilor Mark said he appreciates the practical examples of what the SBDC is doing and why City funding is helpful.

Mayor Anderson has sat in on many Zoom meetings with the SBDC and knows that the SBDC is a very positive vehicle for business. Mayor Anderson thanked Mr. Price for his efforts to help Lincoln City business.

Councilor Parsons asked Ms. Robertson about potential delays to contracted services outlined in her Council Communication. Ms. Robertson said that there's more background information to complete with consultants regarding a new Urban Renewal area. COVID has delayed this work.

MOTION:	Motion to approve the Small Business Development Center Grant Request in the amount of \$24,900
MOVER:	Judy Casper, Councilor Ward 3
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Anderson, Casper, Hinton, Mark, Parsons
EXCUSED:	Hoagland
RESULT:	Passed by Roll Call Vote

6. Ec Dev: Commercial Lease - Salmon Drift Creek Watershed Council Request for Rent Reduction

Paul Katen, Board President of the Salmon Drift Creek Watershed Council (SDCWC), joined the meeting. Mr. Katen has volunteered with SDCWC for 19 years. Since 2005, the SDCWC has focused their efforts on the Lincoln City area waterways - the Salmon River, Devils Lake and its tributaries, Schooner Creek and Drift Creek. The SDCWC offices are on the lowest floor of City Hall. SDCWC monitors water quality and quantity in the rivers. They identify problems in the watersheds.

In 2006 SDCWC worked with the City to remove an unused dam on Rock Creek. The dam was blocking fish passage. SDCWC also have installed dog waste stations at beach access points. Bags cost around \$2,000 a year.

SDCWC worked to restore the wetlands in the Salmon River area where Pixieland once was.

SDCWC has been working this last decade on Schooner Creek - Lincoln City's primary drinking water source. There has been a detailed study on Schooner Creek Road to identify problems like undersized culverts and excess sediment getting into Schooner Creek. In 2019 SDCWC worked with Public Works to correct some of the problems identified.

SDCWC is a low overhead organization. One of their biggest expenses is the rent they pay to the City. SDCWC is a 501(c) (3) non-profit.

Mayor Anderson said he appreciated the summary of SDCWC programs and projects and would like to see Mr. Katen present to Council more frequently.

Councilor Hinton asked about Agnes, Baldy, and Logan Creeks, and if SDCWC had any plans for them.

Mr. Katen said SDCWC was trying to get grant funds to look at these, but with COVID they've had challenges getting out to get water sampling. Mr. Katen said there was a lot of sediment in Logan Creek and when the culvert is eventually replaced under Logan Road the City should provide for fish passage. Baldy Creek has salmonid juveniles - the culvert under the Devils Lake Rock site off SE Highway 101 is underground for 700 feet so fish would struggle to get further up Baldy Creek.

Mr. Chandler said the current rental contract with SDCWC expires at the end of August. SDCWC has received a rate reduction before to their present rent of approximately \$200 a month. The City currently rents offices in this part of the building to Career Tech, who pay a \$ per square feet amount for rent, and Business For Education of Youth (BFEY), who lease the least favorable office rent-free for their Backpacks for Kids program.

Mr. Chandler said he had authorization to defer rent for SDCWC for 4 months, and then have SDCWC pay the deferred rent at the end of the lease term or through payments. This approach would not require City Council authorization. Mr. Chandler recommends that Council build in any rent reduction to \$0 as part of the new 2 year lease, with a definite end date to the \$0 rent payments.

Mayor Anderson asked about separate utility charges. SDCWC pays for internet and telephone, and liability insurance. The City pays for water, sewer, and electricity.

Councilor Casper asked about the cost of office cleaning. Mr. Katen says he does most of the office cleaning. Councilor Casper confirmed with Mr. Chandler and Mr. Katen that SDCWC didn't put down a security deposit.

Councilor Mark asked about SDCWC's revenue sources. SDCWC is close to 100% grant funded.

Mayor Anderson asked that, if grant funding goes away, how would the SDCWC change? Would it not exist? Mr. Katen said that the Mid-Coast Watershed Council would re-absorb the SDCWC.

Mayor Anderson said the work performed by SDCWC is positive for Lincoln City. The City has given credit to other similar agencies for services that benefit the community. Mayor Anderson asked if the rent reduction could be considered as a credit to the projects that SDCWC does to benefit Lincoln City.

Councilor Mark agrees with Mayor Anderson. Councilor Mark asked if City Council was concerned about setting a precedent here? Mayor Anderson said that he sees it more as an exchange of services. The City provides office space and the non-profit provides valuable services to the City.

Councilor Casper thanked SDCWC for their efforts. Councilor Casper asked if SDCWC could provide reports to City Council twice a year. Councilor Casper also asked if SDCWC could provide more educational services in lieu of paying rent for the office space. Mr. Katen said that SDCWC used to provide education services, but that the funding grant went away and now all funding for education goes through the Lincoln County School District. SDCWC works directly with local teachers now, and Mr. Katen went to Taft Elementary recently and spoke to a class.

Mr. Chandler discussed the need to identify the public purpose for a rent reduction and also recommended this lease stay with a 2 year term.

Mr. Chandler said the office SDCWC rents is the most attractive of the downstairs offices, with "street" frontage. Mayor Anderson said that Council wants to limit parking and congestion in the area, so potential tenants have to be on the smaller side. SDCWC currently has the right to use 3 parking spaces in the rooftop parking lot above McKay's.

Councilor Hinton agreed with the suggestion of a 2 year lease with \$0 rent, tying the rent reduction to projects SDCWC does to benefit the City.

Mr. Appicello said he could bring back a revised lease to Council with appropriate language. The other option is the City could make a donation in the amount of rent; however, donations are normally done on a fiscal year basis, not a 2 year basis.

Councilor Casper liked the idea of making the lease a one year lease.

Councilor Hinton said she would prefer a 2 year lease. Mr. Katen said their projects are task-specific, with a small amount of administrative funds. SDCWC Funding can be stretched over a longer period of time if necessary. Mr. Katen described how SDCWC approached the Schooner Creek road project. Mr. Katen said that SDCWC received \$100,000 in grant funds last year and had spent \$97,000 of those funds. SDCWC were holding \$3,000 to finish the project post inspection from Lincoln County Roads and the Lincoln City Engineer.

Mr. Appicello said the Lincoln City Cultural Center provides a report to the Council on a yearly basis advising about the projects they are doing. These projects are incorporated into the \$0 rent lease. Mr. Appicello recommends SDCWC do the same.

MOTION:	For staff to bring back to Council a lease for the Salmon Drift Creek Watershed Council office space listing \$0 rent, with offsetting services being provided by the Watershed Council
MOVER:	Diana Hinton, Councilor Ward 1
SECONDER:	Judy Casper, Councilor Ward 3
AYES:	Anderson, Casper, Hinton, Mark, Parsons
EXCUSED:	Hoagland
RESULT:	Passed by Roll Call Vote

7. Fireworks

Mr. Chandler wants to confirm the expectation of the City Council regarding Fireworks enforcement. The City has increased enforcement efforts in past years. With more enforcement comes more cost. Does Council want "zero tolerance" on fireworks? Or something less?

Mr. Chandler advised all fireworks on the beach are prohibited. Off the beach, you can launch "retail" fireworks (ones bought at fireworks stands in Oregon / Lincoln City) throughout the town. "Consumer" fireworks require a permit in Oregon.

The sale of fireworks is restricted from June 23 - July 6. Legal fireworks can be used all year.

Fireworks are prohibited on the beaches and in Oregon State Parks. The City prohibits fireworks in City parks.

Mr. Chandler advised that Lincoln City could legally ban all fireworks. Mr. Chandler advised that even if the City does this, the enforcement of this law is still an issue.

Over the last three years the City has seen an increase in July 4 fireworks. Mr. Chandler provided statistics on police activity pertaining to fireworks showing an increase in reported firework complaints. 9 Citations were issued in 2020 for firework activity relating to the July 4 holiday.

Mr. Chandler has met with residents to discuss their experiences. Mr. Chandler has heard that firework activity is worse today than it has been in the past. Residents say the City needs to do more.

To cite a person for firework activity, the illegal activity has to be seen by a witness or a police officer. Often the Police are unable to witness the activity even if they respond to a complaint within a few minutes.

Mayor Anderson asked Council what they thought about an outright ban across the City for all fireworks?

Councilor Hinton said that fireworks have escalated to an intolerable point. Councilor Hinton would like to give impacted residents a break with a 1 or 2 year ban on all fireworks. Councilor Hinton said there have been lots of fireworks in August in the north end of town. She worries for people who have PTSD.

Councilor Mark said he heard fireworks last night (August 23) in Cutler City. He thinks it's time for the City to take extreme action, although this is a coast-wide problem. Councilor Mark said residents are concerned about fire. Councilor Mark would be in favor of closing the beach on July 4 after 7 pm. Councilor Mark would ban fireworks for 3 years with a hope of changing culture here around fireworks. Councilor Mark noted enforcement would be impractical. Councilor Mark discussed his experience with fireworks at Josephine Young Park on July 4 and noted how people really enjoy seeing fireworks on the beach.

Councilor Parsons said his goal for July 2020 was to see the Police Department write more citations for firework activity. Councilor Parsons said this goal was met. Councilor Parsons noted this year might be very different to future years. Councilor Parsons is not for a ban on fireworks. He believes the Police can only do so much given the difficulty of citing people who break fireworks laws. Councilor Parsons would like to see a year of focused enforcement in areas where lots of complaints originate. Councilor Parsons is sympathetic to citizens disturbed by firework activity.

Councilor Casper agrees with Councilor Parsons regarding the difficulty of fireworks enforcement. Councilor Casper said that fireworks haven't been bad in Nelscott since July 4. She would like to see visitors enjoying the professional fireworks on the Siletz Bay and on Devil's Lake and also see a campaign asking visitors to leave their fireworks at home. Councilor Casper would like to see lodging facilities encouraging visitors to see the professional shows and to be considerate of neighborhoods.

Mayor Anderson doesn't think an outright ban is necessary. This year is an anomaly and other mayors up and down the coast feel the same. Mayor Anderson noted the firework activity in 2020 moved north from the usual area of Siletz Bay, perhaps because the City did not put on its firework show in the Siletz Bay area. Fireworks around the NW 15th area haven't been bad since July 4. Roads End has received the brunt of firework activity. Mayor Anderson would like to see more concentrated enforcement in Roads

End. He can't see how the City would enforce an outright ban and notes how much Police time is already taken up with firework enforcement.

Councilor Hinton is frustrated with fireworks, and her neighbors are too. Councilor Hinton would like to see the City work with the state to control fireworks at the beach accesses. Councilor Hinton noted that this year there is more firework activity in the Roads End neighborhoods and there is concern regarding the risk of fire.

Councilor Casper said there used to be a volunteer program through the Sheriff's office that helped with firework enforcement. Councilor Casper thinks a reinstatement of this program would help.

Mayor Anderson said that he heard that 2 councilors are for zero tolerance on firework activity, whereas 3 are not in favor of a total ban. Councilor Mark said he didn't think zero tolerance was possible and said he didn't know how to enforce a total ban. Councilor Mark likes the idea of more focused enforcement at Roads End. Councilor Mark says this would increase the chances of law enforcement officers seeing the illegal activity and then citing or arresting violators.

Councilor Casper asked what the cost would be to ban fireworks in the Roads End area and train volunteers for other areas.

Mr. Chandler said this discussion was helpful and he will come back to Council with various approaches. Mr. Chandler would like to receive citizen input and ideas on Fireworks in Lincoln City. Mr. Chandler would like to build the outcome of these discussions into the 2021-22 budget.

Councilor Hinton asked about the statistics provided in the staff report. Were the citations associated with the incident, or separate? Mr. Chandler said the citations were separate from the incident at Spanish Head, which resulted in arrests. Mr. Chandler will provide a more detailed breakdown of this information.

8. VRD Enforcement

Mr. Chandler is working on assembling information on VRD enforcement through the years and will forward it to Council once ready.

Mr. Chandler provided information on the amount of VRDs in Lincoln City in various zones.

Mr. Chandler said the public feels that the City isn't doing much in regards to VRD enforcement. One thing that has been discussed is to employ the community policing principles to VRD enforcement. These are listed in Mr. Chandler's staff report.

Parking is another complaint associated with VRDs. There's some misunderstanding about VRD parking. Parking is often discussed as a VRD issue when it's a City-wide issue. Mr. Chandler said that it's not illegal for people to park on the street in Lincoln City, unless the area is designated as no-parking. Mr. Chandler said that he would be bringing Parking before the Council next month, discussing the ways to create no-parking zones or residential parking only zones.

Occupancy has been more of an issue this year due to the Governor's COVID-19 restrictions. Residents are saying "we should not be the police". Mr. Chandler discussed the difficulty for the Police to determine an Occupancy Violation. Are people in the house staying the night, or just visiting? Mr. Chandler noted the City has the authority to audit guest registers and to identify people advertising higher occupancy than they are permitted to have.

Garbage is another issue. The first problem relating to garbage is the frequency of pickup. Garbage may be picked up weekly but the house could be rented to 2 - 3 guests during that week and as such there's an excess of garbage. Also, it's been observed that VRDs generate a lot of garbage.

Mr. Chandler discussed options that NLSS provide for garbage pickup. The City could require VRD owners to use particular sizes of cans and have pickup on a more frequent basis.

Noise can be an issue. Generally, when a noise complaint comes in, officers take action against the people making the noise. The City has not taken action against the VRD owner, but perhaps the City should consider doing so.

Mr. Chandler says he greatly appreciates the feedback he has received from citizens regarding this matter.

Mayor Anderson asked if the City was able to impose fees on VRDs that could pay for additional enforcement personnel? Mr. Chandler said he believes the City can do this. Mr. Appicello said fees can be added to cover costs but caution should be exercised. Enforcement officers can't fund their own jobs through writing tickets.

Councilor Hinton said that Newport covers the fee for enforcement through their license program.

Mr. Townsend said enforcement can't be paid for through license fees or permit applications. Enforcement can be paid for by citations.

Councilor Casper asked if enforcement could be paid for through TRT funds? Mayor Anderson said that TRT already partially funds Police and Parks.

Councilor Casper asked about enforcing the City noise ordinance, which has time limits on noise. Mr. Townsend says that ordinance applies to everything in the City, not just businesses, with a few exceptions being given for construction noise.

Mayor Anderson said the concept of having neighbors police VRDs is not a new one. Mayor Anderson wonders if the issue has got out of hand, or if neighbors are now less tolerant of VRDs? Mayor Anderson would like to see more enforcement if it can be funded.

Councilor Hinton asked about parking. Can the City amend its code to allow for off-street parking only at VRDs and to make sure that VRD parking is at the number that is listed on the VRD license? Mr. Appicello said the code could be amended, but currently anyone is allowed to park at a legal off-street parking space. Councilor Hinton thinks a code amendment would alleviate issues and make enforcement easier.

Councilor Hinton said that Roads End has a pump house that was previously used for meetings and perhaps an enforcement officer could be based there. The enforcement officer could then really get a feel for the issues that exist in that area. Councilor Hinton says that most of the violations occur outside of the City's regular business hours (8 am till 5 pm).

Councilor Hinton said that larger vacation rentals that house 10 - 16 occupants provide more noise and create more parking problems.

Mayor Anderson asked if the City had contacted property management companies to see if they're willing to participate in this discussion and help find solutions? Mr. Chandler said he would contact them.

Mr. Townsend said that Roads End presents some unique situations because all but 2 of the Roads End VRDs were approved under Lincoln County rules. This presents non-conforming use situations. Mr. Townsend said there are a lot of options. Some of the options would involve tweaks to the licensing ordinances, and these could have a good impact. Mr. Townsend likes the idea of making changes to the garbage pickup requirements. Mr. Townsend would like to see more enforcement on Friday and Saturday nights. Mr. Townsend thinks that discussing this matter with management companies is a great idea, but reminded Council that not all VRDs are managed by management companies. Mr. Townsend said the license ordinance could be changed to put all complaints before the Municipal Court judge, or for complaints to count towards a license revocation.

Mr. Chandler said that he would like to hear more ideas from the public regarding VRD enforcement.

9. COVID-19 Update

Mr. Chandler said the County Commission has extended the 24 hour hold rule for the lodging industry in unincorporated Lincoln County until September 29.

The County Commission announced an outbreak of COVID 19 at the Inn at Spanish Head.

Mr. Chandler noted that the Governor's Emergency Declaration Order expires on September 4. Mr. Chandler explained that the City's Emergency Declaration is tied to the Governor's. Mr. Chandler expects

the Governor will renew her Emergency Declaration Order but if not, Mr. Chandler will advise the City Council what to do to renew their Emergency Declaration.

M. CITY MANAGER/CITY ATTORNEY REPORTS

Mr. Chandler said that Abby Edwards, H.R. supervisor, would like a 2 hour meeting with Council to discuss the form Council uses to evaluate the performance of Mr. Appicello and Mr. Chandler. Councilor Casper suggested Wednesday September 2 at 10 am. Council concurred with this date and time.

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

Councilor Parsons asked if the radar speed signs could be moved around more frequently.

Councilor Casper wanted to remind people of the achievements of the previous Urban Renewal district, including parking lots, electric vehicle charging stations, traffic signals, sidewalks, undergrounding of utilities, pedestrian crossings, street extensions, public arts, community gardens and pump station upgrades.

Councilor Hinton that taxes will not go up with the new Urban Renewal District.

Mayor Anderson said that September is National Preparedness month. Disasters don't wait- make your plan today. Mayor Anderson asked for people to think beyond COVID 19 and prepare for other types of disasters.

Q. ADJOURNMENT

DICK ANDERSON, MAYOR

ATTEST:

CATHY STEERE, CITY RECORDER

CITY OF LINCOLN CITY

CITY COUNCIL

MINUTES OF SPECIAL MEETING

September 2, 2020, 10:00 AM

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:

1. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Dick Anderson	Mayor	Present	10:00 AM
Judy Casper	Councilor Ward 3	Present	10:00 AM
Diana Hinton	Councilor Ward 1	Present	10:00 AM
Riley Hoagland	Councilor Ward 2	Present	10:00 AM
Rick Mark	Councilor Ward 3	Present	10:00 AM
Mitch Parsons	Councilor Ward 1	Present	10:00 AM

Staff present: Ron Chandler, City Manager; Richard Appicello, City Attorney; Abigail Edwards, H.R. Supervisor; Nina Gonzales, H.R. Admin / Public Information; Tony LaSoya, I.T. Director; Chief Jerry Palmer, Lincoln City Police Department.

2. COMMENTS FROM CITIZENS PRESENT ON AGENDA AND NON-AGENDA ITEMS

Lori Arce-Torres, Executive Director of the Lincoln City Chamber of Commerce: Ms. Arce-Torres said she was representing the Chamber's lodging members. Ms. Arce-Torres asked Council not to re-implement the 24 hour cleaning hold for lodging properties.

David Faught, co-owner of Captain Cook Inn: Mr. Faught said a 24 hour cleaning hold would limit income for lodging properties and also limit wages for housekeeping staff. Mr. Faught said his cleaning protocols were stricter than those recommended by Lincoln County and said that COVID cases in the tourism industry in Lincoln City had been in restaurants and bars, not hotels.

Douglas Thompson, general manager of the Captain Cook Inn: Mr. Thompson said when the 24 hour cleaning hold was previously in place it made things difficult. He said that one night reservations on Fridays meant a loss of Saturday revenue. Mr. Thompson said his housekeeping staff sanitizes thoroughly, including in public areas. Mr. Thompson said a new 24 hour cleaning hold would decimate the lodging industry.

Greg Staneruck, Regional Representative for Oregon Restaurant & Lodging Association: Spoke against a 24 hour cleaning hold. Mr. Staneruck said putting the 24 hour hold back in place would not slow the spread of COVID-19. Mr. Staneruck said Governor Brown said the virus was spreading in food processing plants, social gatherings, and assisted living facilities. Mr. Staneruck said Lincoln County was the only county in Oregon using a 24 hour hold.

Mr. Chandler read a summary of 52 public comments pertaining to the 24 hour cleaning hold and one public comment pertaining to the Chinook Winds fireworks display. These comments will be attached to the minutes once they are approved by Council.

Mayor Anderson noted that the public comments in the agenda packet were from local citizens expressing health concerns, whereas all those received after the packet was published were from the lodging industry against the potential 24 hour hold.

Mayor Anderson said he'd received a comment from Lee Jensen of Motel 6. Mr. Chandler said that he had received Mr. Jensen's comment and it would be included as part of the record.

3. SPECIAL ORDER OF BUSINESS

A. Consideration of the 24 Hour Hold Rule on Lodging Businesses

Mr. Chandler said that three City Councilors had contacted him asking to put this item either on a regular Council agenda or to have a special meeting on the topic.

Councilor Casper said that information on how long the COVID-19 virus can last on surfaces was always changing. Councilor Casper said the virus lives 24 hours on surfaces - not 3. Councilor Casper said that Lincoln County Public Health is concerned about this issue. Councilor Casper said that lots of housekeeping staff have left the industry due to fear of catching COVID-19. Councilor Casper said the goal should be to get kids back into school and that Council should look at all options to bring COVID-19 cases down.

Councilor Hinton said that Lincoln County started breaking down some of their data into categories, including by industry. Councilor Hinton said that Lincoln City cases associated with the Food Service industry doubled from 10 to 20 in one week. Councilor Hinton noted that it would have been helpful to know whether the Surftides outbreak was associated with their restaurant or lodging businesses. Councilor Hinton noted that Lincoln County Public Health had said that hospitality and tourism were contributing to COVID-19 cases- however, only one case related to hospitality was recorded in one week. Councilor Hinton noted that 52% of cases in Lincoln County to date have been in the Hispanic / Latinx community and said that efforts to reduce the spread of COVID should focus on this community. Councilor Hinton described the hard work the County does to trace contacts of COVID cases, in particular the efforts to tie cases to workplace outbreaks.

Mr. Chandler shared information about the Inn at Spanish Head COVID outbreak. 5 out of 97 employees were initially diagnosed with COVID-19; that number increased by one to 6. Fathoms restaurant at the Inn at Spanish Head was closed on August 24 for cleaning and to allow staff to quarantine and test for COVID-19. Mr. Chandler was unable to receive information regarding the source of the outbreak or whether the diagnosed employees worked in the restaurant. Mr. Chandler has not been able to get any information on the Surftides outbreak.

Councilor Hinton would like to watch this issue for a few weeks and revisit this discussion at the end of the month when Lincoln County enters Phase 2. Councilor Hinton asked what the City could do to help restaurants when the City doesn't have authority over them?

Mayor Anderson said that in contact tracing, the County has found that when they traced the Newport outbreaks, there were 6 cases for every positive case. In Lincoln City, there have been 15 cases for every positive case. Mayor Anderson says that he believes that COVID isn't being spread at Lincoln City workplaces; he believes that it's being spread after working hours through socializing. Mayor Anderson also said that living conditions might contribute to the larger spread for each case in Lincoln City. Mayor Anderson would like to continue encouraging our citizens to practice social distancing and not socialize as much.

Councilor Hinton suggested a letter from Council or the City Manager to the food service businesses stating that the COVID-19 numbers are up in that category and providing advice on how to reduce the spread of COVID-19. Councilor Hinton thinks the letter should be in English and Spanish.

Councilor Casper discussed recoveries from COVID-19. Councilor Casper said that initially, the OHA considered people to be recovered from COVID-19 if they displayed no symptoms for 3 days. Now, OHA uses a 60 day recovery period.

Councilor Parsons said he had spoken with 15-20 housekeepers working in hotels and VRDs. Councilor Parsons reported housekeeping staff were generally more concerned about their economic situation than they were about COVID-19.

Mayor Anderson said every effort should be made to educate our workforce and citizens. However, the City is not going to take action on re-implementing the 24 hour rule at this time.

Councilor Hinton asked for Council to revisit this issue on September 28. Councilor Hinton asked what other Councilors thought about sending a letter to the lodging / restaurant industry?

Mayor Anderson asked that Greg Staneruck be brought back into the meeting for his opinion on a potential letter. Mayor Anderson asked if Mr. Staneruck's trade association could do more to educate their members? Mr. Staneruck said he was planning to contact his members in Lincoln City to advise them of what was discussed at this meeting. Mr. Staneruck will ask his members to continue to communicate about COVID with their staff and to continue to take it seriously. Mayor Anderson asked for a strong message since the City Council is concerned about both economics and the safety of the community. The Council would rather not be forced to take action to adversely effect Lodging and Restaurant businesses. Mayor Anderson encouraged Mr. Staneruck to work with the Lincoln City Chamber of Commerce and also asked that the message include information on after-hour gatherings and the risks of socializing after work. Councilor Hinton asked Mr. Staneruck to cc the City Council on his correspondence. Mr. Staneruck said he would.

B. Evaluation Criteria for Employees of the City Council

Abby Edwards, H.R. Supervisor, presented this item to Council. The City Council advised Ms. Edwards that they wanted to make a change to the way they evaluate the City Manager and, as a matter of protocol, Ms. Edwards wanted to establish processes for evaluating all City Council employees (the City Manager, City Attorney, and Municipal Court Judge). Ms. Edwards asked if evaluations should be moved to a fiscal year format. The Municipal Court Judge contracts with the City on a fiscal year basis. Ms. Edwards advised Council that the Judge could not make the meeting today.

Ms. Edwards also advised the City Attorney was in favor of being evaluated on a fiscal year basis.

Ms. Edwards said she had received additional information on the City Attorney evaluation process and had also received comments on the City Manager evaluation process from Council.

Mayor Anderson suggested finding a date and having an Executive Session with the Judge to discuss his performance review format.

Councilor Casper suggested a timeline for completion of the evaluation process, suggesting that all Council employees be evaluated by December. Ms. Edwards said that it takes about 2 months to complete the evaluation processes, so December would be feasible, especially given the need to agree on the manner in which the Judge is evaluated.

Mayor Anderson said that evaluating performance could be done quickly using past forms. However, he thought today's discussion was focusing on changing forms and the way Council evaluates their employees.

Ms. Edwards said that the City Manager process needs to be updated now. The City Attorney and Municipal Court Judge could wait for evaluation process review.

Mayor Anderson asked why there isn't an existing process for the City Manager's evaluation? Mr. Appicello said that there was a process for the City Attorney - the Attorney does a self-evaluation, forwards it to the Council, and then Council evaluates the City Attorney. Mr. Appicello said he was happy with the form and the current period runs from February to February. Mr. Appicello would like to move to a fiscal year format for his evaluations.

Mr. Chandler said that the City Manager process has been that, in spring, the City Manager would be evaluated in an executive session. Council would then summarize the evaluation at a regular Council meeting. Mr. Chandler has not provided a self-evaluation to Council. Mr. Chandler said that the form of his evaluation needed to be clarified and also he liked the idea of moving to a fiscal year evaluation since a lot of the City Manager's work is the City budget. Mr. Chandler noted he wasn't a fan of the numbering system for evaluations.

Mayor Anderson said that he's hearing we do have a process for evaluations. We could take care of performance reviews in a month using the existing process. He said that the need to update process doesn't necessarily need to hold up evaluations.

Councilor Hinton said that she wanted to work on the processes. She believes the current processes aren't clear. She disagrees with Mr. Chandler about the value of the numbering system for evaluations.

Mayor Anderson said he was trying to weigh up the need to complete performance evaluations or the need to update the processes. Councilor Hinton said that she was working with Ms. Edwards on processes already. Councilor Casper said that she thought Council needed to review the City Manager's revised form.

Ms. Edwards said that we need to update the City Manager form. Ms. Edwards said she was told the other Council employees needed their evaluation processes to be refined and established. Ms. Edwards said that the City Manager form is ready for Council to review and approve it. The evaluations of the City Attorney and Municipal Court Judge could also be done in September.

Mr. Appicello asked if his evaluation could be set for October 12. Mr. Appicello advised Councilors that they have no individual authority over personnel and that the end result of evaluations should be a Council review of an employee's performance, not several individual reviews.

Ms. Edwards presented the revised City Manager evaluation form to Council. Ms. Edwards summarized the past three years of City Manager evaluations, saying that Council went from a numbered system to a comment based system. Ms. Edwards said she had blended the numbered and comment based system in the revised form. A self evaluation for the City Manager is included in the proposed revision to the form.

Councilor Casper said she appreciates the comprehensive evaluation form. She asked if Council could have time to review the form and make a decision at the next meeting.

Councilor Hinton would like to add "Communication with the Community" as an evaluation area. Ms. Edwards said she could add that, taking the language from the 2017 City Manager evaluation. Councilor Hinton would also like to add "Communication Risk Management".

Ms. Edwards said that she would make these changes and then bring the form back for adoption at the next Council Meeting.

Councilor Casper asked if a set of questions could be developed for Council to ask Department Heads. Ms. Edwards presented a proposed list of questions that were based on those used by the City of Florence and said these could be incorporated into the City Manager evaluation form and process.

Councilor Hoagland asked if these evaluations have anything to do with compensation? Mayor Anderson said they do not. Councilor Hoagland asked about actions that could be taken if a employee doesn't perform to a satisfactory level. Mayor Anderson said individual areas needing improvement could be discussed. However, if the total evaluation is not satisfactory then Council can consider action against one of their employees.

Ms. Edwards asked Council if Mr. Appicello's self evaluation could be reviewed by Council on October 12. Mayor Anderson confirmed the evaluation process, stating that Mr. Appicello's evaluation would not be completed until the end of October.

Councilor Hinton asked how Council can talk with the Judge before or during the evaluation process? Ms. Edwards said the Judge is willing to meet with Councilors in a non-quorum format via Zoom, via telephone, or via a socially distanced in person meeting.

4. ADDITIONAL COMMENTS FROM CITIZENS PRESENT ON AGENDA AND NON-AGENDA ITEMS

Douglas Thompson, general manager of the Captain Cook Inn: Discussed how information pertaining to COVID is inconclusive. Said he will return to the Council Chambers on September 28 when Council discusses this matter again. Could Council check with Lincoln City health care providers regarding COVID 19 before making any decisions? Mr. Thompson suggested that more information be provided by the hospitality industry and the medical field before any further decisions are made.

Mayor Anderson said that we need everyone's participation to get the economy back, keep our citizens safe and get kids back to school.

5. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL

Councilor Hinton asked Mr. Chandler about the difficulty of tracking the amount of people who gather indoors, particularly regarding those in vacation rentals. Mr. Chandler said the City is trying to identify which vacation rental properties are advertising for more than 10 people. Mr. Chandler said that the VRD enforcement officer is now working with management companies to ensure advertising for more than 10 occupants is not taking place. The City is responding to current violations and also is looking at past offenses.

6. ADJOURNMENT

DICK ANDERSON, MAYOR

ATTEST:

CATHY STEERE, CITY RECORDER

CITY OF LINCOLN CITY

CITY COUNCIL

MINUTES OF SPECIAL MEETING

September 14, 2020, 10:00 AM

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

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Dick Anderson	Mayor	Present	10:00 AM
Judy Casper	Councilor Ward 3	Present	10:00 AM
Diana Hinton	Councilor Ward 1	Present	10:00 AM
Riley Hoagland	Councilor Ward 2	Present	10:00 AM
Rick Mark	Councilor Ward 3	Present	10:00 AM
Mitch Parsons	Councilor Ward 1	Present	10:00 AM

Staff Present: Ron Chandler, City Manager; Richard Appicello, City Attorney; Jerry Palmer, Chief of Police; Tony LaSoya, I.T. Director; David Twigg, I.T. Support Specialist.

C. PLEDGE OF ALLEGIANCE

As this meeting was held remotely, the Pledge of Allegiance was skipped.

D. CONSENT AGENDA - NONE

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

Fran Lonnon: Ms. Lonnon had comments on the evacuation process for the Echo Mountain Fire. She asked why both Devils Lake Roads were closed at the same time? She asked why the hospital doesn't have a generator? She said that going door-to-door to notify the public to evacuate is unacceptable. She asked if these notices could be done via Amber Alert? The information to the community was almost non-existent, and that was scary. If there was a tsunami we'd have been wiped out. She asked why the City didn't use signs or other methods to notify the public where and how to evacuate. Ms. Lonnon said that getting information online was very difficult as the power was out. Many folks don't have cell service. Channel 4 wouldn't work with the power outage. Ms. Lonnon congratulated Lincoln City Police Department for doing an amazing job. The Council needs to work on these issues.

Lisa Corzine: Agreed with Ms. Lonnon's comments and asked why no emergency broadcasting was done. Asked how \$85 million could go forward to beautify an area when that money could go to the Police Department or be used for emergency broadcasting. Ms. Corzine said she received better information from family in Texas than she did from Oregon sources. There was lots of fake news about the emergency. Ms. Corzine didn't hear from the Mayor at all. Ms. Corzine said if there was a tsunami, we'd all be gone. Ms. Corzine asked why the hospital doesn't have a generator, noting that McKay's grocery store has one. Transporting patients is risk. Ms. Corzine is embarrassed that the City didn't have a plan and plans need to be focused on. The City doesn't need roundabouts. It needs to take care of its small businesses.

Mr. Chandler said that he'd received one public comment by email pertaining to the 24 hour rule for lodging. He would summarize that comment on September 28 when this topic comes before Council again.

F. PUBLIC HEARINGS/PUBLIC COMMENT

G. ORDINANCES - NONE

H. RESOLUTIONS

1. A Resolution Ratifying the Echo Mountain Complex Emergency Declaration

Mr. Chandler advised the Council that he had signed the declaration of emergency; however, the declaration has to be accepted or modified by City Council within seven (7) days.

Councilor Hinton said that the description of the evacuation areas in the resolution was inaccurate. The description should match the evacuation areas Lincoln County used. The description on the resolution does not include the Villages at Sitka Ridge or the Voyage Avenue area as having been evacuated at Level 3 (go now).

Mr. Appicello advised that the declaration could either copy the County's verbiage, or he could make reference to the County Evacuation Orders in the declaration. Either would be fine.

Mayor Anderson asked Council which method they would prefer. The consensus was to reference the County Evacuation Orders as they changed frequently on September 9.

MOTION:	To approve the resolution with changes to the language, making reference to Lincoln County's Evacuation orders
MOVER:	Diana Hinton, Councilor Ward 1
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Anderson, Casper, Hinton, Hoagland, Mark, Parsons
RESULT:	Passed

I. SPECIAL ORDER OF BUSINESS

J. CITY MANAGER/CITY ATTORNEY REPORTS

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

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

M. ANNOUNCEMENTS FROM COUNCIL

Mayor Anderson asked Mr. Chandler if an after event report be available for citizens to help answer their questions regarding the Echo Mountain emergency response?

Mr. Chandler said a report would be prepared. Mr. Chandler said that we were moving out of the emergency but the situation remains active. The City is keeping track of the comments that are coming in. Mr. Chandler said there is a misunderstanding regarding the City's role in this emergency. Lincoln County is managing the emergency since the fire is in Lincoln County. The City has been providing assistance to the County. Mr. Chandler said that information on the emergency came to the City from Lincoln County. Mr. Chandler said initial information was sparse but picked up as it went. Mr. Chandler said the City is trying to find out where people are going for their information.

Mr. Chandler noted that citizens could only get out of town one way (to the south)- this made things very difficult. Mr. Chandler noted that people were trying to use the side streets to evacuate to the south, but eventually those roads all end up on Highway 101. Mr. Chandler stated that citizens on level 2 and level 1 evacuation orders left at the same time as citizens on a level 3 (go now) evacuation order.

Mr. Chandler said there were three current emergencies- COVID, the fire, and debris left by the strong winds. The City is starting to receive questions about when debris will be picked up from curbsides. Mr. Chandler said the City is working with North Lincoln Sanitary Service and asked citizens to please be patient. Mr. Chandler said that some City employees are still evacuated from their residences and others have lost their homes.

Councilor Hinton said this was difficult for City staff. Mr. Chandler was working around the clock. Communication was very difficult since there was no power, cell service, or internet. Councilor Hinton would like to schedule a work session after debriefing to discuss how the emergency was handled. Councilor Hinton said that even though the emergency moved up the hierarchy of responders, the City still has an obligation to communicate with its citizens even after the Lincoln City Police Department hands the matter to the County Sheriff and after the City Manager hands the matter to the County Commissioners.

Mr. Chandler said that we are moving into the recovery stage of this emergency. Efforts are now focused on assessments and damages, including displaced persons and loss of homes and property. Managing volunteers is a major project. Mr. Chandler has received numerous calls from people who want to help. The City is working with the County on volunteer services.

Lincoln County has been receiving donations in Newport; however, the County has asked for donations to pause due to the need to take stock of what has been received. The County is working with the Red Cross to find a location in Lincoln City to distribute donations to people in need. Mr. Chandler said that most of the damage is outside the City limits, and the County leads the recovery efforts in these areas.

Mayor Anderson asked Mr. Chandler if the Community Center was serving as a Red Cross shelter? Mr. Chandler said that the Community Center was serving as the Red Cross Service Center; however, the Community Center is not open as an overnight shelter. The Red Cross will help those who need overnight accommodations.

Mayor Anderson asked about short-term vouchers for people needing accommodation and the City's role in finding housing for people who have been displaced? Mayor Anderson asked if the County would lead these processes? Mr. Chandler said yes, but the City would stay actively involved. Currently damage information is trickling in.

Councilor Hinton said the Red Cross is using vouchers for hotels and motels. What about for VRDs? During COVID the City purchased lines of credit from the lodging industry, including from VRDs which would be very suitable for displaced families. Councilor Hinton asked Mr. Appicello if these lines of credit could be used? Mr. Appicello said that he would research this issue, but he was not very hopeful since the funds are from the transient room tax (TRT).

Councilor Hinton was thinking about rebuilding. What part can the City plan in that? Can the City assist the County with planning or other services? Councilor Hinton doesn't know how many houses were lost but it seems like an awful lot of property was heavily damaged.

Mayor Anderson agreed with Councilor Hinton. Mayor Anderson said that the County has been cooperative and said Lincoln City would be willing to participate and assist. Mayor Anderson said a lot of Lincoln City's workforce has been adversely affected and the City will want to make sure they are accommodated.

Councilor Hinton asked that Mr. Chandler draw up a list of what the City has already done and plans to do to assist with this emergency.

Mr. LaSoya advised Council that streaming video was down and that there was nothing that could currently be done to fix it. Mr. LaSoya said the vendor was having issues and acknowledged that the timing of this outage was horrible. Mr. LaSoya said that a video of the meeting would be uploaded to the City website as soon as possible after the meeting concluded. Mr. LaSoya apologized for the inconvenience.

Councilor Hoagland asked about short term rentals being used for emergency housing. Councilor Hoagland asked if we could relieve some of the short term tenant laws to allow Vacation Rental dwellings to house displaced people long-term. Councilor Hoagland said there was an issue with the Emergency Management System and it didn't notify the public like it should have. Councilor Hoagland would like Mr. Chandler to explain more about that failure.

Councilor Mark acknowledged there was a disconnect in information being provided and received. Councilor Mark said his heart goes out to those that have lost items during this emergency and hopes the City can help them. Councilor Mark said that he was able to find the information that he needed on the County website. Councilor Mark appreciated that the City eventually duplicated that information on the City website. Councilor Mark said we have learned lessons from this event and next time we will be

better prepared. Councilor Mark said he received the emergency calls from the County. Councilor Mark says he used portable chargers to keep his phone up and he has a Personal Hotspot on his phone that allows him to use his phone for Wi-Fi. Councilor Mark used his car to charge his phone after his portable chargers ran out of batteries. Councilor Mark encourages the public to do what they can to be prepared for emergencies. The devices he used to stay connected cost less than \$100. Councilor Mark wonders if the new communication tower at the Police Department can help with emergency communications?

Councilor Mark said that the City did have an evacuation plan. Citizens in certain areas were ordered to evacuate and head south. Councilor Mark acknowledges the traffic was backed up. Councilor Mark said that while it was unfortunate that West and East Devils Lake Road were both closed, people driving those roads would have still had to come through the Nelscott Gap, which was a bottleneck.

Councilor Mark said he's received lots of donations at Neighbors for Kids. He's been volunteering there the past two days.

Councilor Hinton said that one of the public comments discussed the new Urban Renewal area. Councilor Hinton said that there continued to be a misunderstanding regarding what the Urban Renewal district is about. It's not a new tax and money is not being taken from other taxing districts. The funding for the new Urban Renewal area is a redistribution. One of the priorities for the new Urban Renewal district is Emergency Preparedness.

Councilor Hinton thanked North Lincoln Fire and Rescue for doing an amazing job. She also thanked Pacific Power, NW Natural, the Lincoln City Police Department, the Lincoln County Sheriff's Office, Mr. Chandler, Ken Murphy (City Emergency Preparedness Coordinator), City staff, and Community Members who have stepped up and helped out. Lincoln City has a big heart.

Mayor Anderson thanked other communities in the County for housing Lincoln City area citizens.

Mayor Anderson said that the September 14 City Council meeting had been moved to September 21. Council will be meeting on September 21 and September 28.

Councilor Casper asked citizens to get their to-go bags and emergency medication supplies ready.

N. ADJOURNMENT

DICK ANDERSON, MAYOR

ATTEST:

CATHY STEERE, CITY RECORDER

Council Communication

Ordinance 2020-14 Signs 17.72 Second Reading

Meeting Date:	September 21, 2020	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Planning Department	Secondary Contacts:	Richard Townsend
Approval:	Ronald F Chandler	Estimated Time:	5 minutes

Question(s):

Should the City Council conduct and approve Second Reading and adopt Ordinance 2020-14 entitled:

ORDINANCE NO. 2020-14

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.72 (SIGN REGULATIONS), AMENDING AND UPDATING CITY SIGN REGULATIONS REMOVING PROVISIONS FOR TEMPORARY SIGNS

:

Staff Recommendation:

Staff recommends Council 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:

Changes marked in yellow were read on August 24, 2020 and have been incorporated into the Ordinance. Added changes since August 24 are set forth in yellow and must be read.

One change includes the **restoration of the prohibition on permanent signs on undeveloped lots:**

1. Specially prohibited signs by zoning district include the following:

A. Signs on undeveloped lots or parcels in the GC, PI, RC, PC, M-W, TVC, OPD and NPD zones.

Signs are accessory - so it follows that you cannot have a sign if there is not principal use of the property. It is unclear why this provision was removed.

The existing Chapter 17.72 (Sign Regulations) contains provisions for permanent and temporary signs. Planning staff removed temporary signs requiring a permit from Chapter 17.72 and cleaned up the ordinance.

The temporary sign provisions removed by planning staff will come forward to Council in a non-land use ordinance concerning Chapter 9.34 – also on this agenda. **Note: existing Chapter 9.34 prohibits all temporary signs except those shown as exempt in that ordinance. Some of the temporary sign permit items removed from this ordinance are proposed to be added to Chapter 9.34 as additional exemptions.**

Per Council recommendation definitions were moved to a separate ordinance and adopted. The Planning Commission recommended approval of the proposed ordinance amendment to Chapter 17.72.

Changes to be read on pages 5, 7-8, 22, 30,31.

Council Options:

1. Conduct and Approve Second Reading and Adopt the Ordinance.
2. Continue Second Reading to September 28, 2020

[or]

3. Do not proceed with proposed ordinance.

Potential Motions:

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

ORDINANCE NO. 2020-14

**AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY
MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.72 (SIGN REGULATIONS), AMENDING
AND UPDATING CITY SIGN REGULATIONS REMOVING PROVISIONS FOR TEMPORARY
SIGNS**

Council:

1. Motion to approve Second Reading and adopt Ordinance 2020-14, with changes as read. **[or]**
2. Motion to set Second Reading for September 28, 2020.

Attachments:

FINAL Ext. A Findings 2020-13,14 and 15.	(DOCX)
3799 Ordinance 2020-14 9-15-20 244pm	(DOCX)

EXHIBIT A - FINDINGS

Findings for Ordinances 2020-13 (Parking and Landscaping), 2020-14 (Permanent signs) and 2020-15 (Procedures)

The above referenced proposed ordinances were properly noticed pursuant to ORS 197.610 and were part of a city-wide Measure 56 notice to property owners. However, the ordinances are primarily housekeeping as the new Planning Director sought to better organize the development code; as such, notice to DLCD and the city-wide notices were probably not required as the statewide planning goals do not appear to be implicated by the re-organization. Notice was primarily done in an abundance of caution.

Ordinance 2020-13 moves landscaping requirements from the current numerous (scattered) locations to one uniform chapter. Similarly, the ordinance moves all parking and loading requirements to one existing chapter.

Ordinance 2020-14 reorganizes the sign code. Some years ago the City placed temporary signage in Chapter 9.34 in the Municipal Code – outside of the land use code processes which regulates permanent signage structures. The city maintained the requirements for temporary signage in both Title 17 and Title 9. The City now removes this duplication and places all temporary signage in Chapter 9.34 outside the land use chapter.

Ordinance 2020-15 reorganizes the administrative procedural requirements of the code and brings the city more in line with other jurisdictions in the valley by recognizing type 1-4 land use processes. Again, substantively requirements are not changing – the organization of the code is changing.

The public was exceedingly uninterested in the proposed amendments, with very little public comment or questions on the proposals.

A. Statewide Planning Goals

(1) Goal 1: Citizen Involvement

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

All documents relating to the proposal(s) (amendments) were made available for public review and/or purchase, and were posted on the city’s website. Staff was available to interpret and explain the technical information. The city sent notice to all affected property owners regarding the public hearings on the proposed zoning ordinance amendments and the local newspaper published hearing notices in accordance with notice requirements. The planning commission and the city council each held 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 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 city is currently is designated and zoned for urban development. There is no agricultural land in Lincoln City. The amendments do not affect agricultural lands. Goal 3 is not applicable.

(4) Goal 4: Forest Lands

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

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

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

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

The amendments affect only areas already committed to urban development. They do not by themselves permit development in any areas of protected natural resources, scenic or historic areas, or open spaces. The amendments are 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 amendments will not adversely affect the quality of the air or water. They do not by themselves permit development that might affect water or air quality. The existing

ordinances and plan requirements relating to water and air quality will continue to apply to all properties that might be affected. Therefore, the amendments are consistent with Goal 6.

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

“To protect people and property from natural hazards.”

The amendments do not by themselves allow development within any natural hazard area. The existing ordinances and plan requirements relating to natural hazards will continue to apply to all properties that might be affected by natural hazards. Therefore, they are 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 amendments do not relate to recreation as that term is used in this goal and do not adversely affect the provision of or ability to site recreational areas in the City. The amendments are consistent with Goal 8.

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 amendments are intended to address and remedy confusing and disjointed code provisions that the city believes are impeding development in the city. By better organizing the code and clarifying processes and requirements the city hopes the amendments will encourage development. The proposed amendments are consistent with Goal 9.

(10) Goal 10: Housing

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

The amendments do not relate directly to the housing needs of the people of Lincoln City, except that clarity as noted above may encourage new development. Goal 10 therefore met or is not applicable.

(11) Goal 11: Public Facilities and Services

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

The amendments do not relate directly to public facilities and services. Goal 11 is not applicable.

(12) Goal 12: Transportation

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

The amendments do not relate directly to the development of the city’s transportation system. Goal 12 is not applicable.

(13) Goal 13: Energy Conservation

“To conserve energy.”

The amendments do not relate directly to energy conservation. Goal 13 is not applicable.

(14) Goal 14: Urbanization

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

The amendments do not relate directly to urbanization. Goal 14 is not applicable.

(15) Goal 15: Willamette River Greenway

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

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

(16) Goal 16: Estuarine Resources

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

The amendments by themselves do not allow development in areas adjacent to the city’s designated estuarine resource (i.e., Siletz Bay). All development in such areas already is controlled by existing ordinances and comprehensive plan standards. The amendments, therefore, are consistent with Goal 16.

(17) Goal 17: Coastal Shorelands

Exhibit A

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

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

(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 amendments do not, by themselves, allow any development in or near beach and dune areas. All development in such areas already is controlled by existing ordinances and comprehensive plan standards. The amendments are consistent with Goal 18.

(19) Goal 19: Ocean Resources

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

The amendments do not, by themselves, affect any ocean resources and, therefore, are consistent with Goal 19.

B. Comprehensive Plan Goals

(1) Planning Goal

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

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

The proposed amendments do relate directly to public services and utilities. This goal is 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 amendments, by themselves, do not allow development in hazardous areas. Development in such areas is controlled by existing comprehensive plan and zoning ordinance standards, as well as building code requirements. The amendments are consistent with this goal.

(6) Housing Goal

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

The amendments do not relate directly to the housing needs of the people of Lincoln City. The amendments do not substantively alter such requirements. The housing goal is met or does apply.

(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 amendments are intended to address and remedy code provisions that are in need of clarity and better organization. By improving the clarity and organization of the code, the city hopes to encourage new development in the city. These amendments, therefore, are 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 amendments do 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 amendments do not relate directly to transportation. This goal is not applicable.

(10) Energy Goal

“To conserve energy.”

The amendments do 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 amendments, by themselves, do not allow development in sensitive natural resource areas. The existing ordinances and plan requirement relating to protecting the natural environment will continue to apply to all properties that might be affected. These amendments contribute to this goal.

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

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

The amendments by themselves do not allow development in areas adjacent to the city’s designated estuarine resource (i.e., Siletz Bay), in the city’s coastal shorelands, beach and dune areas, or in ocean resource areas. The existing ordinances and comprehensive plan standards would be applied to any areas affected by these amendments, thereby protecting these resources. The amendments are consistent with this goal.

ORDINANCE NO. 2020-14

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.72 (SIGN REGULATIONS), AMENDING AND UPDATING CITY SIGN REGULATIONS REMOVING PROVISIONS FOR TEMPORARY SIGNS

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

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

2.1 Powers of the City

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

2.2 Construction of Charter

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

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

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

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

WHEREAS, on February 11, 2020, the City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610, of its consideration of the proposed amendment(s) and on February 26, 2020; notice of the proposed amendments was included in an ORS 227.186(4) notice to all affected property owners.

WHEREAS, the Planning Commission, on May 5, 2020, held a public hearing and considered the amendments contained within this ordinance. On May 19, 2020, the Planning Commission voted to transmit the amendments to the City Council with a recommendation of approval; and

WHEREAS, the City Council held a public hearing on June 22, 2020. On June 22, 2020 Council closed the record and deliberated on the proposed amendments. All persons were given an opportunity to provide written and/or oral testimony on the proposed ordinance. After deliberation, Council provided direction to move definitions to a separate ordinance and return for required readings on July 13, 2020.

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.72 (*Sign Regulations*) is hereby amended to add the following text to replace the existing chapter:

SIGN REGULATIONS¹

Sections:

17.72.010 Purpose and objectives.

17.72.020 Zoning sign permit application.

17.72.025 Exemptions from requirement for sign zoning permit.

17.72.030 Construction.

17.72.035 Placement.

17.72.040 Maintenance.

17.72.050 Nonconforming Signs.

17.72.055 Temporary and Portable Signs.

17.72.060 Prohibitions.

17.72.070 Measurements.

17.72.080 {Reserved}

17.72.090 Permanent signs in the R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, R-R, VR, and NP-NCR zones.

17.72.100 Permanent signs in all other zones.

17.72.110 Illumination – General restrictions.

17.72.120 Electronic display centers and changeable copy signs.

17.72.130 Violations.

Chapter 17.72 Sign Regulations.

17.72.010 Purpose and objectives.

- A. The purpose of this chapter is to improve the aesthetic quality of the city in a manner which recognizes and balances the need for permanent signs with other visual, aesthetic, economic, and safety concerns of the city by:**

1. Protecting the health, safety, and welfare of the public;
2. Facilitating communication between people through establishment of a
3. comprehensive system regulating permanent signs in the city;
4. Minimizing adverse safety factors to pedestrians, bicycles, and vehicles;
5. Enhancing the overall aesthetics of the city;
6. Providing permanent signs that are legible, neat, clean, and in good repair, thereby
7. establishing and maintaining an orderly appearance for the city;
8. Providing for safe construction, location, erection, and maintenance of permanent
9. signs;
10. Preventing proliferation of signs and sign clutter by regulating the number and
11. size of permanent signs;
12. Ensuring signage does not create an impermissible conflict with statutory,
13. administrative, or constitutional standards;
14. Providing for fair and consistent enforcement of the sign regulations set forth
15. herein; and
16. Ensuring that the constitutionally guaranteed right of free expression is protected.

17.72.020 Zoning sign permit application.

- A. Except as provided in LCMC 17.72.025, a zoning sign permit is required prior to
- erecting, constructing, placing, locating, attaching, affixing, moving, modifying, or
- altering any permanent sign or permanent sign structure.
- B. An application for a zoning sign permit shall be made on a form prescribed by the
- director, shall contain all the information requested on the prescribed form, and
- shall be filed with the department.
- C. A separate zoning sign permit application is required for each separate sign.
- D. The payment of permit fees in the amount set by City Council resolution is required
- for each separate sign.
- E. A separate application through Lincoln County for an electrical permit may be
- necessary. It's the applicant's responsibility to contact Lincoln County and ascertain
- electrical permit requirements.
- F. A separate application through the department for a structural permit may be
- necessary. It is the applicant's responsibility to contact the building official and
- ascertain structural permit requirements. If a structural permit is required, it must
- be issued prior to erecting, constructing, placing, locating, attaching, affixing,
- moving, modifying, or altering any permanent sign or permanent sign structure.

17.72.025 Exemptions from requirement for sign zoning permit.

The following list of items is exempt from the zoning sign permit requirement of this chapter, but they are still subject to the limitations of city code, including definitions:

- A. Painting, repainting, cleaning, and maintaining an existing sign;**
- B. Signs that are designed to be read only from within buildings or other premises such as parking and maneuvering areas and interior spaces such as within multi-business complexes;**
- C. Integral signs;**
- D. Grave markers;**
- E. Government signs;**
- F. Vehicle signs that are not prohibited under 17.72.060;**
- G. Signs displayed upon a bus or vehicle owned by a public transit district or government agency;**
- H. Original art displays;**
- I. Utility signs;**
- J. Window signs, internally or externally illuminated, either directly or indirectly;**
- K. Signs incorporated into ATMs, fuel pumps, or vending machines;**
- L. Changing of sign copy; and**
- M. Changing of sign face provided no changes are made to the cabinet or other structural components of the sign and provided no changes or repairs are made to illumination.**

17.72.030 Construction.

- A. All permanent signs and sign structures, including exemptions listed in 17.72.025, shall comply with the applicable provisions governing construction within and for the city, including all city, state, and federal rules and regulations.**
- B. Any applicable permits shall be obtained as required by city, state, or federal law and shall be obtained prior to construction or placement.**
- C. It is the responsibility of the individual wishing to construct or place the permanent sign to ascertain all requirements, prohibitions, exemptions, and permitting processes and to obtain all required permits prior to said construction or placement.**

17.72.035 Placement.

- A. Placement is subject to compliance with clear-vision area requirements of LCMC 17.52.060;**

- 1 B. All portions and components of permanent signs and sign structures must be
 2 placed such that no portion or component obstructs clear and unhindered
 3 passage of any vehicular, bicycle, or pedestrian traffic in any right-of-way;
 4 C. All portions and components of permanent signs and sign structures must be
 5 placed outside of the required clear circulation path for ADA-accessibility. In no
 6 case, shall any portion or component of any permanent sign, sign structure, or
 7 any other item allowed in this chapter obstruct, impede, or be within the
 8 required clear circulation path unless a reduction in the width of the clear
 9 circulation path has been approved by the city engineer.
 10 D. No portion or component of any permanent sign, sign structure, or any other
 11 item allowed in this chapter shall be placed or displayed in a manner that
 12 presents a safety hazard to pedestrians, bicycles/bicyclists, vehicles and drivers,
 13 or anyone else; and
 14 E. Except as provided in F below, no sign shall be constructed, erected or
 15 maintained within public right-of-way, except as installed by a duly constituted
 16 governmental entity.
 17 F. A protrusion over a city street or alley right-of-way may be approved by the
 18 City Engineer, not to exceed 24 inches, provided the bottom of the sign is at
 19 least eight feet above finished grade and all applicable permits and license fees
 20 are paid for such encroachment into the public right-of-way. No protrusion
 21 into the Highway 101 right-of-way is allowed.

22 17.72.040 Maintenance.

- 23
 24 A. All permanent signs, along with all of their structures, components, poles, posts,
 25 supports, braces, guys and guy wires, anchors, etc. and any other item allowed by
 26 this chapter must be:
 27
 28 1. Maintained in a safe, hazard-free condition;
 29 2. Maintained in a condition which is neat, clean, and in good repair;
 30 3. Kept free from rust, corrosion, peeling paint, mold, mildew, or other surface
 31 deterioration;
 32 4. Kept neatly and freshly painted or posted; and
 33 5. Kept free of all extraneous items.
 34 B. All permanent signs, which are faded, torn, damaged, dirty, ripped, corroded,
 35 tattered, frayed, broken, hazardous, or in a state of disrepair must have immediate
 36 maintenance performed or be removed immediately, but no later than 30 days
 37 following the occurrence of the fading, tearing, damage, uncleanness, etc.

- 1 C. A permanent sign structure must contain a sign face at all times, except during the
2 time when the sign face has been temporarily (no more than 30 days) removed for
3 repair or maintenance. Such sign face shall be neat, clean, and hazard-free.

4
5 **17.72.050 Nonconforming Signs.**

6
7 **Nonconforming permanent signs may continue, subject to the restrictions in this section:**

8
9 **A. A nonconforming permanent sign or sign structure shall not be:**

- 10 1. Expanded in size or height that increases the nonconformity; or
11 2. Relocated.

12 **B. A nonconforming permanent sign may be maintained or altered, including**
13 **changing the face and repair, provided no changes are made that would increase**
14 **the nonconformity.**

- 15 1. If a nonconforming sign is destroyed by wind, fire, rain, or by any other natural
16 disaster, the sign shall not be replaced and shall lose its nonconformity and any
17 remaining portions shall be removed; any new signage erected in its place shall
18 comply with the provisions of this chapter.

19
20 **17.72.055 Temporary and Portable Signs.**

21
22 **Temporary and portable sign allowances are given in Chapter 9.34 LCMC. Definitions are**
23 **listed in LCMC 17.08.010.**

24
25 **17.72.060 Prohibitions.**

- 26
27 1. The following are expressly prohibited, unless specifically stated otherwise in this
28 chapter:
29
30 A. Flashing or blinking signs;
31 B. Unlawful signs;
32 C. Reflective signs or signs that contain mirrors;
33 D. Obstructions of traffic control markings or devices, traffic signals, or traffic
34 signs;
35 E. Obstructions of drivers to pedestrians or pedestrians to drivers at or in marked
36 or unmarked crosswalks;
37 F. Beacons, except those associated with emergencies or aircraft facilities, or
38 placed by government agencies;
39 G. Inflatable signs that are attached to the property, ground, or other permanent
40 structure;

- H. Signs and components and elements of faces of signs that shimmer or contain reflective devices;
- I. Signs which emit any odor, noise, or visible matter other than light;
- J. Video signs;
- K. Any sign erected, constructed, installed, displayed, placed, attached, affixed, maintained, or altered in a manner not in compliance with this chapter;
- L. Signs which restrict, decrease, or obstruct any portion of required five-foot-wide clear circulation paths for ADA-accessibility;
- M. Signs constructed or maintained which, by reason of their size, location, movement, coloring or manner of illumination may be confused with or construed as a traffic control device or which hides from view any traffic control device;
- N. Signs (other than government signs) constructed in such a manner or at such a location that they will obstruct access to any fire escape or other means of ingress or egress from a structure, building, or exit corridor, exit hallway, or exit doorway. No sign or supporting structure shall cover, wholly or partially, any window or doorway in any manner that it will substantially limit access to the building in case of fire;
- O. Any sign attached to a tree, plant, shrub, living vegetation, traffic sign or device, utility pole or box, or street light, except as otherwise allowed or required by the government or utility, this chapter, or other chapters of the code;
- P. Projected image signs;
- Q. Vehicle signs which are any of the following: internally or externally illuminated signs; video signs; animated signs; moving or rotating signs; flashing or scrolling signs; or signs that move, shimmer, contain reflective or glaring devices or use or contain any form of electronic, electrical, battery-operated, computer-operated, or digital mechanisms;
- R. Vehicles or trailers used as signs or as bases for signs where the primary purpose of the vehicles or trailers in that location is their use as a sign; and
- S. Temporary signs including but not limited to flying signs, pennants, strings and streamers, inflatable signs, flags, and the like unless specifically allowed by Chapter 9.34 LCMC.
- T. Signs prohibited by state or federal law
- U. Signs that create glare

2. Specially prohibited signs by zoning district include the following:

A. Signs on undeveloped lots or parcels in the GC, PI, RC, PC, M-W, TVC, OPD and NPD zones.

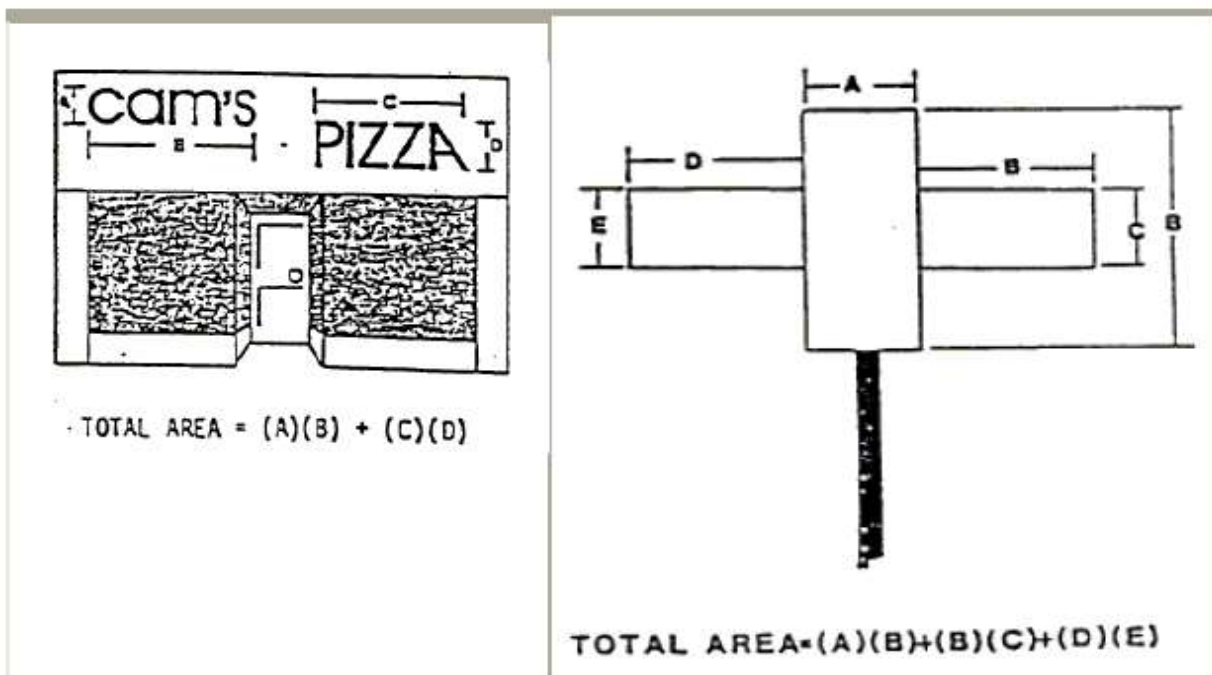
17.72.070 Measurements.

The following shall be used in measuring a permanent sign to determine compliance with this chapter:

A. Sign Area.

- 1. The area of the sign is computed by calculating the area encompassed within any regular geometric figure that would enclose the sign (excluding the sign structure and structural supports). When the sign is broken into different parts, the geometric figure shall be placed around each individual part for calculating the area of that part, and then adding the sum of the parts, to reach the overall sign area. See Figure 17.72.70-1 below.**

Figure 17.72.70-1 Sign Area Measurements.



B. Height.

- 1. Height of sign is measured from the grade of the curb line closest to the base of the sign to the highest point of the sign. In the absence of a curb line, the edge of the street pavement shall be used. In the absence of street pavement, the finished grade directly adjacent to or underneath the sign shall be used.**

- 1 C. Double or multi-faced signs. Allowable sign square footage applies to only one
 2 side of double or multi-faced signs, provided each face is identical in size.
 3 D. Clearance. Clearance of a sign is measured from the finished grade directly
 4 underneath the sign to the lowest point of the sign.

5
 6 **17.72.080 [Reserved].**

7
 8 **17.72.090 Permanent signs in the R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, R-R, VR, and NP-**
 9 **NCR zones.**

10
 11 **The following permanent signage is allowed in the R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, R-**
 12 **R, VR, and NP-NCR zones:**

- 13
 14 A. A permitted and approved non-residential use may have permanent signage not
 15 exceeding 50 square feet in area. Permanent signage may be wall signs, roof signs,
 16 blade signs, suspended signs, canopy signs, awning signs, or marquee signs or
 17 freestanding ground, pole, or monument signs, with no limitation on the number
 18 of signs, provided the total permanent signage square footage does not exceed 50
 19 square feet in area.
 20 B. In the R-M zone, sites with a permitted and approved multi-unit dwelling use may
 21 have permanent signage not exceeding 50 square feet in area. Permanent signage
 22 may be attached wall signs, roof signs, blade signs, suspended signs, canopy signs,
 23 awning signs, marquee signs or freestanding ground, pole, or monument signs,
 24 with no limitation on the number of signs, provided the total permanent signage
 25 square footage does not exceed 50 square feet in area.
 26 1. Sites in the R-M zone containing at least two buildings, wherein each of the
 27 buildings has three or more residential units, may have one additional sign not
 28 to exceed 20 square feet, as well as one additional sign per building, not to
 29 exceed 10 square feet for each such sign.
 30 C. Changeable copy signs, electronic message centers, and signs that are internally
 31 illuminated are prohibited.
 32 1. External illumination may be provided in accordance with the provisions of
 33 Section 17.72.110.

34
 35 **17.72.100 Permanent signs in all other zones.**

36
 37 **The following permanent signage is allowed in all other zones besides R-1-5, R-1-7.5, R-1-**
 38 **10, R-1-RE, R-M, R-R, VR, and NP-NCR zones:**

A. Attached Signs. Attached signs allowed by this code are wall signs, blade signs, suspended signs, canopy signs, awning signs, or marquee signs.

1. Number. There is no limit to the number of attached signs on a building with either one tenant space or with more than one tenant space, subject to the aggregate total area limitation of 17.72.100(A)(2) below.

2. Area.

a) Buildings are allowed a minimum of 25 square feet of attached sign area regardless of the amount of frontage or tenant spaces.

b) When a building contains more than one tenant space, each tenant space is allowed a minimum of 25 square feet of attached sign area.

c) Tenant spaces with more than 25 lineal feet of frontage are allowed to increase the 25-square-foot minimum by one square foot for each lineal foot of frontage.

d) In no case shall the total square footage of attached sign area on one building exceed 100 square feet, regardless of the number of tenant spaces and regardless of the amount of frontage.



Figure 17.72.100-1: Examples of attached signs (from top, left to right: wall, blade, wall, blade).

1 3. Attached signs may be illuminated, subject to the provisions of Section
2 17.72.110.

3
4 B. Roof signs. Each building is allowed one roof sign not to exceed 50 square feet in
5 area.

6 1. Roof signs may not extend more than 6 feet above a flat roof or the ridge of a
7 pitched roof.

8 2. In no case may the combined height of the building and sign exceed the
9 building height limitations of the underlying zone.

10 3. Illumination may be incorporated into roof signs, subject to the provisions of
11 Section 17.72.110.

12 C. Freestanding Signs. Freestanding signs are ground signs, monument signs, and
13 pole signs.

14 1. Number.

15 a) One freestanding sign is allowed per legal lot of record, provided the lot has
16 50 or more lineal feet of street frontage. Two or more contiguous lots under
17 the same ownership, wherein each of the lots have less than 50 lineal feet of
18 street frontage, may have their street frontages combined for purposes of
19 determining the lineal feet of street frontage for the one allowed
20 freestanding sign. This is the only instance where street frontages may be
21 combined for sign allowance purposes.

22 b) In cases where a legal lot of record has multiple street frontages, each of
23 which exceed 100 lineal feet, that legal lot of record may have one
24 freestanding sign for each such street frontage, provided the freestanding
25 sign allotted per street frontage is placed adjacent, and oriented to, the
26 street frontage from which the allowance is obtained.

27 i. Additionally, if one or more of the multiple street frontages
28 exceeds 200 lineal feet, then one additional freestanding sign
29 may be placed adjacent, and oriented to, such street frontage
30 that exceeds 200 lineal feet.

31 2. Area Limitations.

32 a) The allowed area of a freestanding sign is one square foot of sign area per
33 one lineal foot of street frontage, up to a maximum area of 100 square feet.

34 3. Placement.

35 a) Freestanding signs must comply with clear-vision area requirements of
36 LCMC 17.52.060.

37 b) No freestanding sign may be within 100 linear feet of another freestanding
38 sign on the same legal lot of record.

4. Height.

- a) The maximum height of a freestanding sign is 20 feet measured as the vertical distance from the highest point of the sign, including any vertical projection thereof, to the level of the street upon which the sign faces, or the adjoining ground level, if it is above the street level.
- b) Where the adjoining ground level is the reference in determining the permissible height of a freestanding sign, it is unlawful to alter the grade or ground level below the sign so as to allow a taller sign.

17.72.110 Illumination – General restrictions.

- A. No sign, light, lamp, bulb, tube, or device shall be used or displayed in violation of this section.
- B. No light source shall create an unduly distracting or hazardous condition to a motorist, pedestrian, or the general public.
- C. External light sources for a sign shall be directed and shielded to limit direct illumination of any object other than the sign.
- D. The illumination of signs shall comply with the following:
 - 1. Neon, LED, or incandescent illumination is allowed, subject to these standards.
 - 2. Illumination is allowed either internally, externally, directly, or indirectly, subject to these standards.
 - 3. No exposed reflective type bulb, par spot, nor incandescent lamp, which incandescent lamp exceeds 25 watts, shall be exposed to direct view from a travel way, but may be used for indirect light illumination of the display surface of a sign.
 - 4. When neon tubing is employed for illumination, the capacity of such tubing shall not exceed 300 milliamperes rating for white tubing nor 100 milliamperes rating for any colored tubing.
 - 5. When fluorescent tubes are used for interior illumination of a sign, such illumination shall not exceed illumination equivalent to 800 milliamperes rating tubing behind a sign face spaced at least nine inches, center to center.

17.72.120 Electronic display centers and changeable copy signs.

- A. All electronic display centers shall come equipped with automatic dimming controls that automatically adjust the display brightness based on ambient light conditions such as from day to night or on a cloudy day.
- B. No electronic display center shall exceed a brightness level of 0.3 foot candles above ambient light as measured using a foot candle (LUX meter at a present

distance depending on sign area). Measuring distance shall be determined using the square root of the product of the sign area and one hundred. (Example using a 12-square-foot sign: square root of (12x100) = 34.6 feet measuring distance.)

- C. One electronic display center or changeable copy sign is allowed per legal lot of record provided the legal lot of record has at least 40 lineal feet of street frontage.
- D. The display in the electronic display center may not change or move more often than once every hour.
- E. The images and messages displayed must be static, and the transition from one static display to another must be instantaneous without any special effects.
- F. The electronic display center must be designed and equipped to freeze the element's display in one position if a malfunction occurs.
- G. Sign area of the display portion of the electronic display center or changeable copy sign may not exceed 30 percent of the provided sign face.
- H. The electronic display center or changeable copy sign must be part of an attached sign or freestanding sign, is not allowed as a separate sign, and is included in the calculation of allowed attached or freestanding sign face area.
- I. Incorporation of electronic display centers and changeable copy signs:
 - 1. Electronic display centers may be incorporated into either attached or freestanding signs, but not roof signs.
 - 2. Changeable copy signs may be incorporated into either attached or freestanding signs, but not roof signs.
 - 3. Electronic display centers and changeable copy signs are only allowed as part of permanent attached or freestanding signs and may not be utilized as stand-alone permanent signs.
 - 4. Electronic display centers and changeable copy signs are subject to the provisions of Sections 17.72.110 and 17.72.120.

17.72.130 Violations.

Any sign that is located, constructed, maintained, repaired, or used in violation of city code constitutes a nuisance. The city may take action against such as provided in Chapter 17.84 LCMC or as provided in Chapter 8.12 LCMC.

SIGN REGULATIONS¹

Sections:

17.72.010—Statement of purpose.

17.72.020—Conformance with chapter provisions.

17.72.030—Definitions.

17.72.040—Prohibited signs.

17.72.045—Exempt signs and limits of exemptions.

~~17.72.050 — Application and permit requirements for permanent and temporary signs.~~

~~17.72.060 — Special conditions, standards and limitations by zoning district.~~

~~17.72.070 — Permit fees.~~

~~17.72.080 — Sign maintenance.~~

~~17.72.090 — Nonconforming signs.~~

~~17.72.100 — Nuisance signs.~~

~~17.72.010 — Statement of purpose.~~

~~Signs perform an important function in identifying and promoting properties, businesses, services, residences, events, and other matters of interest to the public. The intent of this chapter is to regulate all signs within Lincoln City to ensure that they are appropriate for their uses, in keeping with the appearance of the affected property and surrounding neighborhood, and protective of the public health, safety, and general welfare by:~~

~~A. Setting standards and providing uniform, rationally based controls that permit reasonable use of signs and preserve the character of Lincoln City;~~

~~B. Prohibiting the erection of signs in such numbers, sizes, designs, illumination, construction and locations as may create a hazard to pedestrians, cyclists, and motorists;~~

~~C. Avoiding excessive conflicts from large and multiple signs, so that permitted signs provide adequate identification and direction while minimizing clutter, unsightliness, and confusion;~~

~~D. Establishing a process for review and approval of sign permit applications; and~~

~~E. Ensuring sign design that builds on the image and the visual environment Lincoln City wishes to promote.~~

~~This chapter must be interpreted in a manner consistent with the United States and Oregon Constitutional guarantees of free speech and expression. If any provision of this chapter is found by a court of competent jurisdiction to be invalid, such finding must not affect the validity of other provisions of this chapter which can be given effect without the invalid provision. (Ord. 2019-14 § 1)~~

~~17.72.020 — Conformance with chapter provisions.~~

~~A. Any sign erected, altered, or repaired after May 8, 2019, must conform to the requirements of this chapter.~~

~~B. Properties in the Oceanlake Plan District (OPD), Nelscott Plan District (NPD) and Taft Village Core (TVC) zones are subject to additional or different sign requirements.~~

~~Applicants should examine the texts of those zones before applying for sign permits.~~

~~C. This chapter addresses temporary and permanent signs requiring a permit; exempt temporary signs (those not requiring a permit) are addressed in Chapter 9.34 LCMC.~~

~~D. The city building code, LCMC 15.04.020(C), adopts by reference "The Uniform Sign Code" (1997 Edition), promulgated by the International Conference of Building Officials, Whittier, California. (If any of the provisions in this chapter are in conflict with the Uniform Sign Code, the provisions of this chapter will prevail.) (Ord. 2019-14 § 1)~~

~~17.72.030 — Definitions.~~

For the purposes of this chapter, the following terms, phrases, words and their derivations will have the meaning given here. Unless expressly stated otherwise, any pertinent word or term not defined here will be construed to have its legal definition or, in the absence of a legal definition, its meaning as commonly accepted by practitioners such as civil or structural engineers, surveyors, architects, landscape architects, and planners.

"Address sign" means a permanent sign that designates the street number, street name, unit number, or unit name for identification purposes. Such signs are required government signs, necessary for public safety purposes. An address sign is exempt from permitting.

"Athletic field sign" means any permanent or temporary government sign located on the outfield fence or other structure of an athletic field. An athletic field sign is a government sign exempt from permitting, except that a privately owned (temporary or permanent) athletic field sign located on public property must be placed pursuant to a permit and concession/fee agreement and permit by the parks department or other governmental owner, administering a content-neutral sign policy.

"Attached sign" means wall signs, projecting signs, and roof signs.

"Banner" means a temporary sign printed on cloth, bunting, paper, plastic, or similar flexible material attached to a building, structure, staff, pole, rope, wire, or framing. A banner may be permitted only as a temporary sign. A flag is not a banner.

"Beacon sign" means any light with one or more beams directed into the atmosphere or directed at one or more points not on the sale lot as the light source; any light with one or more beams that rotate or move.

"Directional sign" means a sign required or approved through the government development review process which directs vehicular and pedestrian traffic and is typically shown or referred to on a governmental site plan approval. Examples of these government signs include entrance and exit signs, tsunami evacuation signs, or other educational or instructional signage. Except for evacuation signs, such signs must not exceed two and one-half feet in height and are no larger than six square feet.

"Feather banner" means a temporary sign on cloth, bunting, plastic, paper, or similar nonrigid material attached to a structure, staff, or pole and that is taller than it is wide. A feather banner is not a flag.

"Flag" means a sign made of fabric or other similar nonrigid material supported or anchored along only one edge or supported or anchored at only two corners. If any dimension of the flag is more than three times as long as any other dimension, it is classified and regulated as a banner regardless of how it is anchored or supported. See also "Banner."

"Flashing sign" means an illuminated sign on which artificial or reflected light is not stationary and constant in intensity and color at all times when in use, but changes or cycles on and off by any means more frequently than once in any one-hour period. The actual change of display for an illuminated, changing image sign must be completed in two seconds or less. Displays must change by instantaneous change from one static display to another, and once changed, must remain static until the next change. Signs must not scroll, travel, or display video. A change in light intensity around sunset or

sunrise to bring the illumination to an appropriate daytime or nighttime level is not "flashing" as that term is used in this chapter. "Flashing signs" are not (1) signs that are entirely located within an enclosed building and are not observable from the exterior of such buildings; or (2) flashing or changing message signs located inside or outside an enclosed building, but not observable from any public or private right-of-way or other property.

"Flying signs" are temporary signs, which include but are not limited to balloons, blimps, or kites, designed to be kept aloft by mechanical, wind, chemical or hot air means, that are tethered to a fixed permanent location.

"Freestanding sign" means a sign supported by structures or supports that are placed on, or anchored in, the ground and that is independent and detached from any building or other structure, whether portable or stationary. Freestanding signs include ground signs and pole signs.

Frontage, Business. "Business frontage" means the lineal front footage of a building or portion thereof devoted to a specific business or enterprise and having an entrance/exit open to the general public.

Frontage, Street. "Street frontage" means the lineal dimension in feet that the property on which a structure is built abuts a public street or streets.

Government Signs. A "government sign" is a sign that is constructed, placed or maintained by the federal, state, local government or special district, or a sign that is required to be constructed, placed or maintained by the government, including local development approval conditions, either directly or to enforce a property owner's rights. Examples of government signs include but are not limited to required traffic control signage, address signs, apartment and motel unit identification signs, directional signs, subdivision identification signs, signs to exercise rights per trespass or solicitation ordinance or statute, athletic field signage (including approved concessions), other municipal facility identification or safety signage.

"Ground sign" means a sign permanently affixed to the ground at its base, supported entirely by a base structure, and not mounted on a pole or attached to any part of a building. A ground sign is also known as a monument sign.

"Illuminated sign" means a sign that is illuminated by electric lights or luminous tubes as a part of the sign proper. An internally illuminated sign is illuminated through its sign face or backlit by a light source contained inside the sign. An externally illuminated sign is illuminated by a light source exterior to the sign that is aimed at its surface.

"Inflatable sign" means a sign that is inflated with air or other gas, including signs kept inflated with a blower or other means, and is made of flexible material which may be of various three-dimensional shapes. A normal balloon 14 inches in size or smaller is not considered an inflatable sign.

"Lot" means a parcel of land under one ownership, whether described by metes and bounds or as a platted subdivision or partition lot. "Lot" generally refers to a legally created lot.

"Moving signs" means signs that revolve, rotate, swing, undulate or otherwise attract attention through the movement of parts, or through the impression of movement.

1 ~~"Multi-business complex" means premises operated or developed as a unit with an~~
 2 ~~undivided or nonsegregated parking area that functions as a center and which has~~
 3 ~~multiple occupancy by business or service firms. A business is considered as part of a~~
 4 ~~multi-business complex regardless of whether said business occupies a separate structure~~
 5 ~~or is under separate ownership or is on a separate parcel.~~

6 ~~"Nonconforming sign" means any sign which lawfully exists prior to the effective date of~~
 7 ~~the ordinance codified in this chapter but which, due to the requirements herein, no~~
 8 ~~longer complies with the height, area or placement regulations or other provisions of this~~
 9 ~~title.~~

10 ~~"Original art display" means a hand-painted work of visual art that is either affixed to or~~
 11 ~~painted directly on the exterior wall of a structure with the permission of the property~~
 12 ~~owner. An original art display does not include mechanically produced or computer-~~
 13 ~~generated images, including but not limited to digitally printed vinyl, electrical or~~
 14 ~~mechanical components or changing image art display.~~

15 ~~"Parked vehicle sign" means any sign attached to or displayed on any type vehicle or~~
 16 ~~trailer which is parked on a public right-of-way, public property, or private property so as~~
 17 ~~to be visible from a public right-of-way where the apparent purpose is to display the sign.~~
 18 ~~However, this is not in any way intended to prohibit signs placed on or affixed to or in the~~
 19 ~~windows of vehicles and trailers, where the sign is incidental to the primary use of the~~
 20 ~~vehicle or trailer.~~

21 ~~"Person" means and includes any person, firm, partnership, association, corporation,~~
 22 ~~company or organization of any kind.~~

23 ~~"Pole sign" means a freestanding sign that is permanently supported in a fixed location~~
 24 ~~by a structure of one or more poles, posts, uprights, or braces from the ground and not~~
 25 ~~supported by a building or a base structure.~~

26 ~~"Portable sign" means a sign that is designed to be transported or moved and not~~
 27 ~~permanently attached to the ground, a building, or other structure. Portable signs include~~
 28 ~~sandwich board signs, A-frame signs, swinger signs, and similar constructed signs. Such~~
 29 ~~signs are not exempt from land use permitting and may not be placed on public property.~~

30 ~~"Projected image sign" means a sign displayed by projecting an image onto a wall or~~
 31 ~~other surface.~~

32 ~~"Projecting sign" means any wall sign that is affixed at an angle or perpendicular to the~~
 33 ~~wall of any building in such a manner to read perpendicular or at an angle to the wall on~~
 34 ~~which it is mounted.~~

35 ~~"Roof sign" means any sign wholly erected, constructed or maintained on the roof~~
 36 ~~structure or parapet wall of any building.~~

37 ~~"Sign" means any display, illustration, structure or device that has a visual display visible~~
 38 ~~from a public right-of-way and designed to identify, announce, direct or inform, or~~
 39 ~~otherwise for the purpose of communicating a message. The scope of the term "sign"~~
 40 ~~does not depend on the content of the message or image being conveyed. "Sign" includes~~
 41 ~~the sign faces as well as any supporting structure.~~

42 ~~"Sign repair" means fixing or replacement of broken or worn parts. Replacement may be~~
 43 ~~of comparable materials only, and in the case of nonconforming signs replacement of a~~

1 structural member triggers compliance with current requirements. Repairs may be made
2 with the sign in position or with the sign removed.

3 "Sign structure" means a structure specifically intended for supporting or containing a
4 sign.

5 "Sign that creates glare" means a sign that is not designed, located, shielded, and directed
6 so as to prevent the casting of glare or direct light from artificial illumination upon public
7 rights-of-way and surrounding property.

8 "Signs on natural objects" means signs that are attached or otherwise affixed to trees or
9 other vegetation, or painted, printed, or drawn upon a rock or other natural feature in its
10 natural location.

11 "Snipe sign" means any small sign, generally of a temporary nature, made of any material,
12 when such sign is tacked, nailed, posted, glued or otherwise attached to trees, poles,
13 stakes, fences, natural features, or other objects not erected, owned and maintained by
14 the owner of the sign.

15 "Structural alteration" means modification of the size, shape or height of a sign structure.
16 Also includes replacement of sign structure materials with other than comparable
17 materials; for example, metal parts replacing wood parts.

18 "Structural trim" means the molding, battens, cappings, nailing strips, latticing and
19 platforms which are attached to the sign structure.

20 "Subdivision sign" is a form of government address sign and means a permanent sign at
21 the entrance to the subdivision that designates the subdivision name for identification
22 purposes. Such signs are necessary for public safety purposes and generally approved
23 with governmental site plan approval. Such a sign requires permitting, is generally a
24 freestanding sign and may not exceed 42 square feet.

25 "Temporary sign" means a sign intended to be displayed for a specified period of time
26 only and then removed. Temporary signs include, but are not limited to, portable signs,
27 banners, flags, pennants, balloons, blimps, streamers, posters, or other like signs meeting
28 the dimensional requirements of this chapter. Temporary signs are prohibited except as
29 authorized by Chapter 9.34 LCMC and this title and do not include any form of prohibited
30 sign listed in LCMC 17.72.040(A).

31 Undeveloped Lots or Parcels. A lot or parcel is undeveloped unless: (1) lawful business
32 operations are conducted on the lot in good faith; and (2) the lot either contains
33 development that has been approved through site plan review pursuant to LCMC
34 17.52.240 or contains development that would have been required to go through site plan
35 review if site plan review had existed at the time the development occurred.

36 "Wall sign" means a sign that is affixed parallel to the wall or printed on a wall of any
37 building, is affixed flat against the sloping surface of a wall, or is affixed to the face of a
38 building marquee, building awning, or a building canopy. A wall sign must not project
39 above the top of the wall or beyond the end of the building.

40 "Window sign" means a sign that is applied, printed, or affixed to a window, or placed
41 inside a window within three feet of the glass, facing the outside of the building and
42 visible from the outside.

~~“Windsock” means a light, flexible cylinder or cone mounted on a mast to show the direction and strength of the wind, especially at an airfield. (Ord. 2019-14 § 1)~~

~~17.72.040 — Prohibited signs.~~

~~A. Generally prohibited signs include the following:~~

~~1. Flashing signs (except as provided in LCMC 9.34.020(E)).~~

~~2. Moving signs.~~

~~3. Snipe signs.~~

~~4. Inflatable signs (except as provided in LCMC 9.34.020(E)).~~

~~5. Pennants, strings and streamers.~~

~~6. Signs that emit smoke, visible vapors, particulate matter, sound, odor, or contain open flames.~~

~~7. Signs that prevent free ingress or egress from any door, window, or fire escape, or that prevent free access from one part of a roof to any other part.~~

~~8. Reflective signs or signs that contain mirrors.~~

~~9. Flying signs.~~

~~10. Projected image signs.~~

~~11. Beacon signs.~~

~~12. Signs that imitate traffic control devices or can be confused with any authorized traffic control sign, signal or other device.~~

~~13. Signs that obstruct clear vision areas or that otherwise interfere with or obstruct the view of any authorized traffic control sign, signal or other device.~~

~~14. Signs on natural objects.~~

~~15. Sign that creates glare.~~

~~16. Parked vehicle signs.~~

~~17. Signs prohibited by state or federal law.~~

~~18. Temporary signs, except as provided in Chapter 9.34 LCMC and as authorized by city permit.~~

~~19. Feather banners, except when substituted for a flag as provided in LCMC~~

~~17.72.060(C)(2).~~

~~B. Specially prohibited signs by zoning district include the following:~~

~~1. Signs on undeveloped lots or parcels in the GC, PI, RC, PC, M-W, TVC, OPD and NPD zones. (Ord. 2019-14 § 1)~~

~~17.72.045 — Exempt signs and limits of exemptions.~~

~~A. Exempt Signs and Limits of Exemptions. The following signs are exempt from the permit requirement of this chapter, subject to the limitations in this code, including the definition of such signage:~~

~~1. Exempt temporary signs referenced in LCMC 9.34.020.~~

~~2. Government signs.~~

~~3. Signs that are designed to be read only from within buildings or other business premises such as parking and maneuvering areas and interior public spaces such as within multi-business complexes.~~

1 **4. Original art displays.**

2 **5. Markers in cemeteries and mausoleums. (Ord. 2019-14 § 1)**

3
4 **17.72.050 — Application and permit requirements for permanent and temporary signs.**

5 **~~A. Except as otherwise provided by this title and Chapter 9.34 LCMC, no person may erect~~**
6 **~~or re-erect, reconstruct, and/or structurally alter or replace any sign without a sign permit.~~**

7 **~~B. An applicant for a sign permit must supply the following information on or attached to~~**
8 **~~application forms provided by the planning department:~~**

9 **~~1. Size, height, location, description, and all dimensions, and weight of the materials of~~**
10 **~~the sign;~~**

11 **~~2. Name of manufacturer, erector, and owner;~~**

12 **~~3. Sketch and description of sign surface areas, sign structure and sign lighting.~~**

13 **~~Measurement of allowable sign surface area must include:~~**

14 **~~a. The actual geometric area contained within the borders of the sign, including blank~~**
15 **~~space, as well as sign surface;~~**

16 **~~b. Only one side of double-faced or back-to-back signs whose surfaces diverge at less~~**
17 **~~than 45 degrees;~~**

18 **~~c. For signs having an irregular shape or having no definite border, such as those painted~~**
19 **~~on the walls of buildings, a rectangle that completely encloses the sign;~~**

20 **~~4. Certification by the property owner and/or lessee that the information provided on the~~**
21 **~~application is accurate. (Ord. 2019-14 § 1)~~**

22
23 **17.72.060 — Special conditions, standards and limitations by zoning district.**

24 **A. General Standards Applicable to All Permanent Signs.**

25 **1. Illuminated signs must conform to electrical code and the permit fees required**
26 **thereunder.**

27 **2. Light from a sign must be directed away from all residential zones and must not detract**
28 **from a motorist's view of any traffic control device. All signs must be designed, located,**
29 **shielded, and directed so as to prevent the casting of glare or direct light from artificial**
30 **illumination upon public rights-of-way and surrounding property.**

31 **3. The maximum sign size for any sign requiring a permit under the provisions of this**
32 **chapter is 100 square feet.**

33 **4. The maximum protrusion of a sign over a street or alley or public property will be 24**
34 **inches, except along Highway 101, where no intrusion of a sign into or over the right-of-**
35 **way will be allowed. Where allowed, the sign must be at least eight feet above grade.**
36 **constructed, erected or maintained within the public right-of-way, except as installed by a**
37 **duly constituted governmental entity. No sign shall be**

38 **B. Permanent signs may be provided for businesses within the GC, PI, RC and PC zones as**
39 **follows:**

40 **1. Attached Signs.**

41 **a. Number. There is no limit on the number of attached signs each business may have,**
42 **subject to the aggregate total area limitation below.**

b. Area. ~~The total sign area for attached signs must not be more than one square foot of sign area for each lineal foot of legal business frontage not to exceed an aggregate total of 100 square feet per business. Sign area must not exceed 100 square feet for any one sign. A business with less than 25 feet of business frontage may have an aggregate total of 25 square feet of sign area. A business that does not have a freestanding sign may have an additional one square foot of attached signage for each two linear feet of business frontage in excess of 100 linear feet, not to exceed an additional aggregate total of 100 square feet. Where the aggregate total of attached signs is more than 100 square feet as provided above, a business cannot have a freestanding sign until the aggregate signage attached to buildings is reduced to 100 square feet or less.~~

c. Roof Signs. ~~No roof sign may extend more than six feet above a flat roof or the ridge of a pitched roof, and in no case may the combined height of the building and sign exceed the building height limitations of this title.~~

2. Freestanding Signs.

a. Number. ~~Each lot with a street frontage of 50 or more lineal feet may have one freestanding sign. Owners of two or more contiguous lots of less than 50 feet may combine them for purposes of meeting the foregoing standard. Owners of corner lots can count both street frontages in determining the lineal feet of street frontage, but may have only one freestanding sign. As an alternative to the foregoing provision applicable to corner lots, a lot with multiple street frontages each of 100 linear feet or more may have one freestanding sign for each such street frontage, placed so as to be read from the qualifying street frontage. In addition, if a lot's frontage on a street exceeds 200 linear feet, the lot may have a subordinate freestanding sign on that street. No freestanding sign may be within 100 linear feet of another freestanding sign on the same lot.~~

b. Area. ~~Signs must not exceed an area of one square foot for each lineal foot of street frontage, with a maximum area of 100 square feet per sign. A subordinate freestanding sign must not exceed an area of one square foot for each two lineal feet of street frontage in excess of 200 feet with a maximum area of 100 square feet per sign.~~

c. Placement. ~~Signs on corner properties also must comply with the vision clearance provisions of LCMC 17.52.060.~~

d. Height. ~~The maximum height of a freestanding sign is 20 feet measured as the vertical distance from the highest point of the sign, including any vertical projection thereof, to the level of the street upon which the sign faces, or the adjoining ground level, if it is above the street level.~~

e. ~~Where the adjoining ground level is the reference in determining the permissible height of a freestanding sign, it is unlawful to alter the grade or ground level below the sign so as to allow a higher sign.~~

C. Temporary Signs. ~~Businesses within the GC, PI, RC, PC, TVC, OPD and NPD (except NCR) zones may have the following temporary signs:~~

1. ~~The exempt temporary sign permitted by LCMC 9.34.020(D) may not exceed 32 square feet in size in the above zones.~~

2. Flags/Windsocks. ~~In a commercial zone, up to three temporary flags are permitted per business location. In a commercial zone a flagpole must be shown on the approved site~~

plan. A flagpole and flag may not project into a public right-of-way or onto abutting property and no flagpole may exceed the maximum building height in the underlying zone. Up to two windsocks are permitted, when securely attached to a pole or structure. A property owner in a commercial zone may substitute two feather banners not to exceed 16 square feet for two temporary flags. The allowance in this subsection to substitute two feather banners for two flags is affirmed, extended and reinstated and shall sunset on **October 8, 2020.**

3. Temporary Banner Signs Requiring a Permit. A temporary banner sign is allowed subject to all the provisions of this title other than the requirement to pay a fee. Specifically, a temporary banner sign must be consistent with the sign requirements for the zone, including total signage and maximum size per sign type. All such signage must be securely attached to a structure. A permit for a temporary banner sign will be good for a time certain not to exceed 60 days. The owner of any such signs must remove such signage no later than one day following the expiration date on the temporary permit. The city may deny a request for such a temporary banner sign if the sign would obstruct a public right-of-way. The city will issue no more than two temporary permits per business in a calendar year. A temporary banner sign permitted under this section may be located on an undeveloped lot or parcel.

4. Portable signs require a permit and are subject to the following standards and limitations:

- a. **Number.** Each legal lot may have one sign of this type.
- b. **Area.** The sign must not exceed an area of 12 square feet, and no dimension of the sign face may exceed four feet.
- c. **Placement.** The sign must comply with the clear vision provisions of this title, may not obstruct vehicular or pedestrian circulation and must comply with the Americans with Disabilities Act administrative guidelines.
- d. **Prohibition.** No portable sign may be placed in a street, alley, public right-of-way or on public property, unless granted a permit by the city and/or the Oregon Department of Transportation.
- e. **Attachments.** The portable sign may not be supplemented with lights, balloons, flags, ribbons, streamers, or other attachments.

5. Additional Seasonal Signs. A person holding a seasonal permit issued under LCMC 5.04.150(B) for the temporary outside display of merchandise may obtain permits for up to two signs whose combined areas total not more than 64 square feet, in addition to any other signs allowed for a lot. Any such signs may be displayed only during the same period as the seasonal permit for the temporary outside display of merchandise. The permittee must remove any such signs no later than one day following the expiration date on the permit.

D. Additional Sign Regulations in the R-1, R-1-RE, R-M, R-R, VR, and NCR Zones.

1. Any lighting provided for signs in the above zones must be indirect. No flashing lights, electronic message centers or moving or rotating parts are allowed on signs in the above zones.

~~2. For the exempt temporary sign permitted by LCMC 9.34.020(A), a property owner may make such temporary sign permanent, provided the sign dimensions are not exceeded and building permit requirements are not triggered.~~

~~3. For the exempt temporary sign permitted by LCMC 9.34.020(D), the size of such sign is limited to eight square feet.~~

~~4. An authorized nonresidential use in the above zones may have a sign not exceeding 50 square feet in area.~~

~~5. In an R-M zone, sites with three or more residential units in a building may have one additional sign not to exceed 20 square feet and one additional sign per building, not to exceed 10 square feet for each sign. A permit is required.~~

~~6. Flags/Windsocks. In residential zones the limit is three temporary flags per residential lot and two windsocks when such windsocks are attached to a pole or structure. A flagpole 25 or more feet in height triggers building permit requirements. A flag two square feet or less is not counted as a flag. No flagpole may exceed the maximum building height in the underlying zone. (Ord. 2019-34 § 1; Ord. 2019-14 § 1)~~

~~17.72.070 — Permit fees.~~

~~A. Application Fees. The application for a new sign permit must be accompanied by a fee set by resolution of the council.~~

~~B. Nonconforming Signs. If an existing nonconforming sign that was previously permitted under a prior ordinance is brought into conformity with this chapter or replaced with a sign meeting the requirements of this chapter, a permit will be required but no fee will be charged. (Ord. 2019-14 § 1)~~

~~17.72.080 — Sign maintenance.~~

~~A. Premises Maintenance. The owner must maintain all signs and the surrounding premises in a clean and inoffensive condition, free and clear of all obnoxious substances, rubbish and weeds.~~

~~B. Unsafe and Unlawful Signs. If the planning director finds that any permanent or temporary sign or other sign structure on private property regulated by this chapter or Chapter 9.34 LCMC is unsafe or insecure, is a threat to the public health or safety, is abandoned or maintained in a dilapidated condition, or has been constructed, erected, or maintained in violation of the provisions of this chapter or Chapter 9.34 LCMC, the planning director will give written notice to the permittee or property owner thereof. If the permittee or property owner fails to remove, repair, replace or alter the sign so as to comply with the standards of the municipal code within the time specified in such notice (not less than 10 days nor more than 30 days), the planning director or designee may issue a citation pursuant to Chapter 1.16 LCMC. Such an offense is a Class B violation. Each day the violation persists is a separate offense. The planning director may also, but is not required to, after appropriate due process with a right to appeal, enter and remove, repair or alter the sign to comply at the expense of the owner or permittee which will constitute a lien upon the property. The planning director or his/her representative may declare any sign or other structure that is an immediate peril or imminent threat to persons or~~

property to be a public nuisance and may remove it without notice. The owner or lessee of any sign removed without notice has the right to a post-seizure administrative hearing to determine whether there was probable cause to remove the sign.

C. Summary Abatement. The city may remove without notice any unauthorized temporary or permanent sign in a public right-of-way to a place of storage. If the city reasonably estimates the value of the sign materials to be less than \$10.00, the city may immediately dispose of the sign without notice. For a sign of greater estimated value, a notice of removal will be sent to any owner known to the city, notifying that the sign will be destroyed unless claimed within 20 days of the notice. If the owner is unknown to the city, the sign may be destroyed without notice, if unclaimed after 20 days from the date of removal. No sign removed from the right-of-way will be returned to the owner, unless the owner pays a removal fee to the city in an amount set by council resolution. Nothing in this section prohibits citation of the sign owner under Chapters 1.16 and 9.34 LCMC.

D. Inspection Requests. Any person may file a written request with the planning director requesting an inspection of one or more existing permanent signs as identified in the request. In each such instance, the city will inspect such sign(s) to determine compliance with the provisions of this chapter; however, no existing permanent sign needs to be inspected more than once annually. The planning director will report the results of the inspection to both the owner of the inspected sign and to the person filing the request for inspection. (Ord. 2019-14 § 1)

17.72.090 — Nonconforming signs.

Nonconforming signs are not subject to the provisions of Chapter 17.64 LCMC. All permanent signs and sign structures must be brought into conformance with this chapter when and if any of the following occurs:

A. The sign is removed, relocated, or significantly altered. Significant alteration includes, but is not limited to, changing the size or dimension of the sign, replacing a structural member, adding a sign cabinet, or changing the electrical facilities, or type of illumination. Changes to sign copy or the replacement of a sign face with a sign face of identical material are not significant alterations.

B. Damage to the sign by any cause to the extent of 50 percent of the replacement value of the sign.

C. An alteration in the sign structure.

D. A change in the material of the sign face.

E. No nonconforming single-sided sign may be converted to a two-sided or double-faced sign.

F. Expansion or change in use of one or more buildings at the site that requires a building permit or site plan review at that site. A nonconforming sign used by multiple entities at a multi-business complex must be brought into conformance prior to any expansion of the multi-business complex that requires site plan or planning commission review. (Ord. 2019-14 § 1)

17.72.100 — Nuisance signs.

~~Any sign that is located, constructed, maintained, repaired or used in violation of this chapter constitutes a nuisance. The city may take action against such signs as provided in Chapter 17.84 LCMC or as provided in Chapter 8.12 LCMC.~~

SECTION 2. Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.34 (*Nelscott Plan (NP) District*), Section 17.34.150 (*Signs*) is hereby amended to read as follows:

17.34.150 Signs.

Signs shall be allowed subject to the provisions of Chapter 9.34 LCMC and Chapter 17.72 LCMC.

17.34.150 Signs.

~~**A. Intent.** The number, size, configuration, placement, color, materials and illumination of signs all play a part in shaping the built environment. Signs in Nelscott should function primarily as cues for pedestrian wayfinding and business identification. Business identification does not require that owners maximize the size or number of signs. The highway streetscape has built-in traffic calming features that, together with the building design standards, will enable motorists and pedestrians to notice signs at a relatively small scale. Signs designed to a "highway scale" are not necessary and are discouraged through the following standards.~~

~~**B. Standards.** Signs shall not be installed without a sign permit. Where a sign permit is required as part of a larger project, the sign package shall be reviewed with the site plan under the applicable provisions of Chapter 17.72 LCMC and the following guidelines and standards. Where a sign permit is requested apart from any other development application, it shall be processed administratively under the applicable provisions of the Lincoln City Municipal Code and the following guidelines and standards:~~

~~**1. Building Signs.** Building-mounted signs shall be positioned to emphasize established architectural elements such as entrances, windows, gables, etc. Signs should appear to fit within "frames" created by components of the facade design. Signs should not obscure building details. An individual building shall have no more than six building-mounted signs totaling not more than 48 square feet.~~

~~**2. Freestanding Signs.** New freestanding signs shall not exceed six feet in height, except that signs suspended from an awning, canopy or similar architectural feature may be approved subject to applicable building codes. Portable signs shall conform to LCMC 17.72.060 (C)(4).~~

~~**3. Contextual Design.** Signs should complement Nelscott's natural surroundings. For example, signs engraved or sculpted from metal or wood (natural or painted wood) are preferred over those that are predominately made of plastic, Plexiglas, or similar~~

reflective materials. Pictographic symbols are encouraged, as they often communicate more than text and add visual interest to the street. Fluorescent (e.g., day-glow), sparkling, reflective, or similar colors or finishes are not permitted. Banner signs, streamers, moving signs, video or animated signs, flashing signs, and similar sign types are considered a nuisance and traffic safety hazard and are therefore not permitted.

4. Pedestrian Signs. Pedestrian-scale signs, such as blade signs, wood cutout signs, door signs and permanent stylized window signs (allowing at least 50 percent transparency throughout the window) are encouraged. Such signs are exempt from the overall sign area limitations.

5. Signs for buildings with multiple tenants should be designed to allow for new business names to be added or replaced easily.

6. Illuminated Signs. When signs are to be illuminated, external light sources shall be used. Light sources shall be placed close to and directed onto the sign they are intended to illuminate, and shielded to minimize glare into the street or onto adjacent properties. Where possible, lights should be incorporated into the sign bracket. Lights placed below any sign (up-lighting) shall be cut off to minimize spillover into the night sky. Lights in canisters and backlit signs, except for those existing prior to the effective date of the ordinance codified in this chapter, are prohibited. See also LCMC 17.34.160, Exterior lighting.





Figure 17.34.150: Examples of encouraged sign types (from top, left to right: mural, blade, wood cutout, hanging sign).

SECTION 3. Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.45 (*Taft Village Core (TVC) Zone*) Section 17.45.070 (*Signs*) is hereby amended to read as follows:

17.45.070 Signs.

Signs shall be allowed subject to the provisions of Chapter 9.34 LCMC and Chapter 17.72 LCMC.

~~17.45.070 Signs.~~

~~Signs are allowed within the TVC zone in compliance with the provisions of Chapter 17.72 LCMC, except that:~~

~~A. Freestanding pole signs and internally illuminated signs are prohibited.~~

~~B. Sign Area.~~

~~1. Attached Signs. The total cumulative square footage allowable for attached signs per commercial establishment in the TVC zone is 32 square feet. There is no limit to the number of attached signs.~~

~~2. Freestanding Signs. The total cumulative square footage allowable for freestanding signs per commercial establishment in the TVC zone is 32 square feet. The maximum number of freestanding signs is one per lot. The maximum height is six feet.~~

~~C. Sign Area Bonus. For commercial establishments that do not have an on-site freestanding sign, the maximum allowable sign area for attached signs can be increased to 64 square feet.~~

~~D. Pedestrian-Oriented Sign Bonus. The maximum size for any one bonus pedestrian sign shall be six square feet, up to a total of 12 square feet for all such signs. Pedestrian-oriented signs include: window signs, small wall-mounted or projecting signs located not more than 10 feet above grade, signs placed on awning valances, and signs suspended under canopies and awnings. Signs that are suspended above pedestrian walkways shall provide a minimum of seven and one-half feet of clearance.~~

SECTION 4. Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.50 (*Oceanlake Plan (OP) District*) Section 17.50.150 (*Signs*) is hereby amended to read as follows:

17.50.150 Signs.

Signs shall be allowed subject to the provisions of Chapter 9.34 LCMC and Chapter 17.72 LCMC.

17.50.150 Signs.

A. Intent. The number, size, configuration, placement, color, materials and illumination of signs all play a part in shaping the built environment. Signs in Oceanlake should function primarily as cues for pedestrian wayfinding and business identification. Business identification does not require that owners maximize the size or number of signs. The highway streetscape has built-in traffic calming features that, together with the building design standards, will enable motorists and pedestrians to notice signs at a relatively small scale. Signs designed to a highway scale are not necessary and are discouraged through the following standards.

B. Standards. Signs shall not be installed without a sign permit. Where a sign permit is required as part of a larger project, the sign package shall be reviewed with the site plan under the applicable provisions of Chapter 17.72 LCMC and the following guidelines and standards. Where a sign permit is requested apart from any other development application, it shall be processed administratively under the applicable provisions of the Lincoln City Municipal Code and the following guidelines and standards:

1. Building Signs. Building-mounted signs shall be positioned to emphasize established architectural elements such as entrances, windows, gables, etc. Signs should appear to fit within frames created by components of the facade design. Signs should not obscure building details. An individual building shall have no more than four building-mounted signs totaling not more than 48 square feet.

2. Freestanding Signs. New freestanding signs shall not exceed six feet in height, except that signs suspended from an awning, canopy or similar architectural feature may be approved subject to applicable building codes. Portable signs shall conform to LCMC 17.72.060 (C)(4).

3. Contextual Design. Signs should complement Oceanlake's natural surroundings. For example, signs engraved or sculpted from metal or wood (natural or painted wood) are preferred over those that are predominantly made of plastic, Plexiglas, or similar reflective materials. Pictographic symbols are encouraged, as they often communicate more than text and add visual interest to the street. Fluorescent (e.g., day-glow), sparkling, reflective, or similar colors or finishes are not permitted. Banner signs, streamers, moving signs, video or animated signs, flashing signs, and similar sign types are considered a nuisance and traffic safety hazard and are therefore not permitted.

~~4. Pedestrian Signs. Pedestrian-scale signs, such as blade signs, wood cutout signs, door signs and permanent stylized window signs (allowing at least 50 percent transparency throughout the window) are encouraged. Such signs are exempt from the overall sign area limitations.~~

~~5. Signs for buildings with multiple tenants should be designed to allow for new business names to be added or replaced easily.~~

~~6. Illuminated Signs. When signs are to be illuminated, external light sources shall be used. Light sources shall be placed close to and directed onto the sign they are intended to illuminate, and shielded to minimize glare into the street or onto adjacent properties. Where possible, lights should be incorporated into the sign bracket. Lights placed below any sign (up-lighting) shall be cut off to minimize spillover into the night sky. Lights in canisters and backlit signs, except for those existing prior to the effective date of the design standards, are prohibited. See also LCMC, 17.50.160 Exterior lighting.~~

SECTION 5. Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.16 (*Single Family Residential (R-1) Zone*), Section 17.16.080 (*Signs*), is hereby amended to read as follows:

17.16.080 Signs.

Signs shall be allowed ~~permitted~~ subject to the provisions of Chapter 9.34 LCMC and Chapter 17.72 LCMC. ~~as set forth in Chapter 17.72 LCMC.~~

SECTION 6. Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.17 (*Single Family Residential Roads End (R-1-RE) Zone*), Section 17.17.080 (*Signs*), is hereby amended to read as follows:

17.17.080 Signs.

Signs shall be allowed subject to the provisions of Chapter 9.34 LCMC and Chapter 17.72 LCMC. The regulations of Chapter 17.72 LCMC apply to the permitting, use, and characteristics of signs.

SECTION 7. Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.18 (*Vacation Rental (VR) Zone*), Section 17.18.080 (*Signs*), is hereby amended to read as follows:

17.18.080 Signs.

Signs shall be allowed, subject to the provisions of Chapter 9.34 LCMC and Chapter 17.72 LCMC. ~~permitted as set forth in Chapter 17.72 LCMC.~~

SECTION 8. Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.24 (*Professional Campus (PC) Zone*), Section 17.24.070 (*Signs*), is hereby amended to read as follows:

17.24.070 Signs.

Signs shall be allowed subject to the provisions of Chapter 9.34 LCMC and Chapter 17.72 LCMC. ~~permitted in accordance with the provisions of Chapter 17.72 LCMC.~~

SECTION 9. Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.28 (*Recreation Commercial (RC) Zone*), Section 17.28.080 (*Signs*), is hereby amended to read as follows:

17.28.080 Signs.

Signs shall be allowed subject to the provisions of Chapter 9.34 LCMC and Chapter 17.72.
~~permitted in accordance with the provisions of Chapter 17.72 LCMC.~~

SECTION 10. Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.32 (*General Commercial (GC) Zone*), Section 17.32.090 (*Signs*), is hereby amended to read as follows:

17.32.090 Signs.

Signs shall be allowed subject to the provisions of Chapter 9.34 LCMC and Chapter 17.72
~~LCMC. permitted in accordance with the provisions of Chapter 17.72 LCMC.~~

SECTION 11. Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.36 (*Planned Industrial (PI) Zone*), Section 17.36.060 (*Signs*), is hereby amended to read as follows:

17.36.060 Signs.

Signs shall be allowed subject to ~~permitted in accordance with~~ the provisions of Chapter
9.34 LCMC and Chapter 17.72 LCMC.

SECTION 12. Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.64 (*Nonconforming Situations*), Section 17.64.010 (*General Provisions*), is hereby amended to read as follows:

17.64.010 General provisions.

These provisions apply to nonconforming sites, structures, and uses, including accessory uses, ~~commercial and~~ design standards, but not signs. See LCMC 17.72.~~090050~~ for nonconforming sign regulations.

SECTION 13. Chapter 17.08 (*Definitions*) Section 17.08.010 (*Definitions*), are hereby amended to add, remove or amend, and insert into the Chapter, in the appropriate location in alphabetical order, the following defined signage term:

Undeveloped Lot(s) or Parcel(s). A lot or parcel is undeveloped unless: (1) lawful business operations are conducted on the lot in good faith; and (2) the lot either contains development that has been approved through site plan review pursuant to City Code, including but not limited to LCMC 17.52.240, or contains development that would have been required to go through site plan review if site plan review, or its equivalent had existed at the time the development occurred.

SECTION 14. Measure 49 Reservation.

Notwithstanding the amendment and removal of existing sign regulations as set forth in this ordinance, LCMC 17.72 as it existed on the date of this ordinance adoption, is preserved in its

entirety for purposes of application of such regulations to residential compensation claims, if any, made pursuant to Ballot Measure 49. This reservation does not modify or alter previous Measure 49 reservations concerning this chapter.

SECTION 15. Findings Adopted.

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

SECTION 16. Severability.

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

SECTION 17. Savings.

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

SECTION 18. Ordinance Effective Date.

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

SECTION 19. Codification.

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

The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section 9.2 of the City of Lincoln City Charter on the 13th day of July, 2020 (First Reading) and on the 21st day of September, 2020 (Second Reading).

1 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 21st day of
2 September, 2020.

3
4
5
6
7 _____
8 DICK ANDERSON, MAYOR

9 ATTEST:

10
11
12 _____
13 CATHY STEERE, CITY RECORDER

14
15 APPROVED AS TO FORM:

16
17
18 _____
19 RICHARD APPICELLO, CITY ATTORNEY
20

Council Communication

Ordinance 2020-22 Signs 9.34

Meeting Date: September 21, 2020 Primary Staff Contact: Richard Appicello
 Department: City Attorney E-Mail: RAppicello@lincolncity.org
 Secondary Dept: Planning Department Secondary Contacts: Richard Townsend
 Approval: Ronald F Chandler Estimated Time: 5 minutes

Question(s):

Should the City Council conduct and approve First and Second Reading and adopt Ordinance 2020-22 entitled:

ORDINANCE NO. 2020-22

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 9 (PUBLIC PEACE, MORALS, AND WELFARE), REVISING CHAPTER 9.34 (SIGNAGE) TO ADD ADDITIONAL EXEMPTIONS FOR SIGNAGE TO BE CONSISTENT WITH TITLE 17 (ZONING).

Staff Recommendation:

Staff recommends Council conduct First Reading of Ordinance 2020-22 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:

LCMC Chapter 9.34 concerns exempt temporary signs. Title 17 included provisions for issuance of permits for certain other temporary signs. In Ordinance 2020-14, the Planning staff removed all such temporary sign permit language and replaced it with this:

17.72.055 Temporary and Portable Signs.

Temporary and portable sign allowances are given in Chapter 9.34 LCMC.
Definitions are listed in LCMC 17.08.010.

Provisions removed from Title 17 concerning Temporary signs include, but are not limited to, the following:

~~17.72.050 — Application and permit requirements for permanent and temporary signs.~~

~~A. Except as otherwise provided by this title and Chapter 9.34 LCMC, no person may erect or re-erect, reconstruct, and/or structurally alter or replace any sign without a sign permit.~~

~~B. An applicant for a sign permit must supply the following information on or attached to application forms provided by the planning department:~~

~~1. Size, height, location, description, and all dimensions, and weight of the materials of the sign;~~

~~2. Name of manufacturer, erector, and owner;~~

~~3. Sketch and description of sign surface areas, sign structure and sign lighting.~~

~~Measurement of allowable sign surface area must include:~~

~~a. The actual geometric area contained within the borders of the sign, including blank space, as well as sign surface;~~

~~b. Only one side of double-faced or back-to-back signs whose surfaces diverge at less than 45 degrees;~~

~~c. For signs having an irregular shape or having no definite border, such as those painted on the walls of buildings, a rectangle that completely encloses the sign;~~

~~4. Certification by the property owner and/or lessee that the information provided on the application is accurate. (Ord. 2019-14 § 1)~~

In addition, LCMC 17.72.060.C was removed which provides:

~~C. Temporary Signs. Businesses within the GC, PI, RC, PC, TVC, OPD and NPD (except NCR) zones may have the following temporary signs:~~

~~1. The exempt temporary sign permitted by LCMC 9.34.020(D) may not exceed 32 square feet in size in the above zones.~~

~~2. Flags/Windsocks. In a commercial zone, up to three temporary flags are permitted per business location. In a commercial zone a flagpole must be shown on the approved site plan. A flagpole and flag may not project into a public right-of-way or onto abutting property and no flagpole may exceed the maximum building height in the underlying~~

zone. Up to two windsocks are permitted, when securely attached to a pole or structure. A property owner in a commercial zone may substitute two feather banners not to exceed 16 square feet for two temporary flags. The allowance in this subsection to substitute two feather banners for two flags is affirmed, extended and reinstated and shall sunset on October 8, 2020.

3. Temporary Banner Signs Requiring a Permit. A temporary banner sign is allowed subject to all the provisions of this title other than the requirement to pay a fee. Specifically, a temporary banner sign must be consistent with the sign requirements for the zone, including total signage and maximum size per sign type. All such signage must be securely attached to a structure. A permit for a temporary banner sign will be good for a time certain not to exceed 60 days. The owner of any such signs must remove such signage no later than one day following the expiration date on the temporary permit. The city may deny a request for such a temporary banner sign if the sign would obstruct a public right-of-way. The city will issue no more than two temporary permits per business in a calendar year. A temporary banner sign permitted under this section may be located on an undeveloped lot or parcel.

4. Portable signs require a permit and are subject to the following standards and limitations:

- a. **Number.** Each legal lot may have one sign of this type.
- b. **Area.** The sign must not exceed an area of 12 square feet, and no dimension of the sign face may exceed four feet.
- c. **Placement.** The sign must comply with the clear vision provisions of this title, may not obstruct vehicular or pedestrian circulation and must comply with the Americans with Disabilities Act administrative guidelines.
- d. **Prohibition.** No portable sign may be placed in a street, alley, public right-of-way or on public property, unless granted a permit by the city and/or the Oregon Department of Transportation.
- e. **Attachments.** The portable sign may not be supplemented with lights, balloons, flags, ribbons, streamers, or other attachments.

5. Additional Seasonal Signs. A person holding a seasonal permit issued under LCMC 5.04.150(B) for the temporary outside display of merchandise may obtain permits for up to two signs whose combined areas total not more than 64 square feet, in addition to any other signs allowed for a lot. Any such signs may be displayed only during the same period as the seasonal permit for the temporary outside display of merchandise. The permittee must remove any such signs no later than one day following the expiration date on the permit.

D. Additional Sign Regulations in the R-1, R-1-RE, R-M, R-R, VR, and NCR Zones.

- 1. Any lighting provided for signs in the above zones must be indirect. No flashing lights, electronic message centers or moving or rotating parts are allowed on signs in the above zones.
- 2. For the exempt temporary sign permitted by LCMC 9.34.020(A), a property owner may make such temporary sign permanent, provided the sign dimensions are not exceeded and building permit requirements are not triggered.

3. ~~For the exempt temporary sign permitted by LCMC 9.34.020(D), the size of such sign is limited to eight square feet.~~

4. ~~An authorized nonresidential use in the above zones may have a sign not exceeding 50 square feet in area.~~

5. ~~In an R-M zone, sites with three or more residential units in a building may have one additional sign not to exceed 20 square feet and one additional sign per building, not to exceed 10 square feet for each sign. A permit is required.~~

6. ~~Flags/Windsocks. In residential zones the limit is three temporary flags per residential lot and two windsocks when such windsocks are attached to a pole or structure. A flagpole 25 or more feet in height triggers building permit requirements. A flag two square feet or less is not counted as a flag. No flagpole may exceed the maximum building height in the underlying zone. (Ord. 2019-34 § 1; Ord. 2019-14 § 1)~~

Several additional exemptions are added to Chapter 9.34 to cover the temporary signs previously allowed by permit, removed from Title 17.

In short:

- The substitution of 2 feather banners for 2 flags in commercial zones is now permanent. (It is to expire on October 2, 2020). In commercial zones the number of flags and therefore feather banners is based on the number of licensed businesses physically located on the site, i.e. per business. For residential, three flags and two wind socks are authorized per property.

Although it has not been a problem, Council could impose a numeric cap on such flags/feather banners on a property, regardless of the number of businesses: e.g. Notwithstanding the above, the total number of flags/feather banners on a legal lot or parcel shall not exceed **X** per **X** square feet.

- The permit for portable (A frame) signs is converted to an exemption. (1 per business).

Although it has not been a problem, Council could impose a numeric cap on such portable signs on a legal lot or parcel of property, regardless of the number of businesses: e.g. Notwithstanding the above, the total number of flags/feather banners on a legal lot or parcel shall not exceed **X** per **X** square feet.

- The permit allowing for a 60 day temporary banner (which would have to cover existing signage) is not continued as such. Instead, a 32 square foot banner may be substituted for 4 small, 8 square foot signs allowed during the 60 days prior to elections – in commercial zones.
- For clarity language is added stating expressly that – temporary signs are permitted on undeveloped lots. Ordinance 2020-14 has been modified to restore the prohibition on permanent signs on undeveloped lots, (signs are accessory – you cannot have an accessory use without a principal use.)

- Temporary signs, like permanent signs addressed in Ordinance 2020-14, are not permitted in the right of way. The provisions of Title 17 do allow minor encroachment of a permanent sign into the city right-of-way under certain conditions - if approved by the city engineer – and provided all applicable fees, charges and necessary paperwork for the encroachment is addressed -i.e. license agreement. Temporary signs in the right-of-way such as flags, feather banners, elections signs, real estate signs, commercial advertisements, are not there with the permission of the right-of-way authority. Such signs are generally distracting to motorists and hazardous to pedestrians and motorists alike. Summary abatement language removed from Chapter 17 is restored in Chapter 9.34 primarily to address unauthorized signs in the right-of-way.
- While there has been some discussion of acquiring jurisdiction over ODOT right-of-way (to facilitate US flags sold by nonprofits or feather banners sought by merchants to be placed in Highway 101 right-of-way – such effort is ill-advised. The Court in Karuk Tribe /TriMet case made it clear that a government cannot discriminate as regards the message permitted on such public property (Agency sought to restrict messages on TriMet buses successfully challenged by Tribe seeking to place environmental message on such buses.)

Council Options:

1. Conduct and approve First Reading. Read changes, if any. Conduct and Approve Second Reading and Adopt the Ordinance.
2. Conduct and approve First Reading. Read changes, if any. Continue Second Reading to September 28, 2020 [or]
3. Continue First Reading to September 28, 2020.
4. Do not proceed with proposed ordinance.

Potential Motions:

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

ORDINANCE NO. 2020-22

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 9 (PUBLIC PEACE, MORALS, AND WELFARE), REVISING CHAPTER 9.34 (SIGNAGE) TO ADD ADDITIONAL EXEMPTIONS FOR SIGNAGE TO BE CONSISTENT WITH TITLE 17 (ZONING).

Council:

1. Motion to approve First Reading of Ordinance 2020-22.

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 2020-22.

[or]

2. Motion to set Second Reading for September 28, 2020.

Attachments:

3798 Ordinance 2020-22 9.34 9-16-20 (DOCX)

ORDINANCE NO. 2020-22

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY
MUNICIPAL CODE, TITLE 9 (PUBLIC PEACE, MORALS, AND WELFARE),
REVISING CHAPTER 9.34 (SIGNAGE) TO ADD ADDITIONAL EXEMPTIONS FOR SIGNAGE TO
BE CONSISTENT WITH TITLE 17 (ZONING).

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, sign regulations for permanent signage structures, including signage associated with development may be located in the Lincoln City Zoning Code (Title 17) or other land development regulations. Regulations of temporary signs placed on private property are not development and are located in Chapter 9.34 of the Municipal Code. Private signage is generally not permitted in the public right-of-way.

WHEREAS, The amendments in this ordinance are intended to add exemptions concerning additional types of temporary signs, and to clarify prohibitions relative to items removed from Title 17.

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. Lincoln City Municipal Code Title 9 (*Public Peace, Morals, and Welfare*), Chapter 9.34 (*Signage*), Section 9.34.005 (*Purpose/Applicability/Interpretation*) is amended to read as follows:

9.34.005 Purpose/Applicability/ Interpretation. The purpose of this ordinance is to clarify the standards, conditions and limitations on content-neutral temporary signs which do not constitute land development and therefore are not subject to Title 17 or other applicable land development regulations. The purpose of this chapter is to regulate the size, illumination, movement, location, and condition of all exempt temporary signs placed on private or public property for exterior observation, thus ensuring the protection of property values, the character of neighborhoods, and furthering public safety, including pedestrian and traffic safety. This chapter does not regulate permanent ~~or temporary~~ signs or signs requiring a permit. This chapter must be interpreted in a manner consistent with the United States and Oregon Constitutional guarantees of free speech and expression. If any provision of this chapter is found by a court of competent jurisdiction to be invalid, such finding must not affect the validity of other provisions of this article which can be given effect without the invalid provision.

SECTION 2. Lincoln City Municipal Code Title 9 (*Public Peace, Morals, and Welfare*), Chapter 9.34 (*Signage*), Section 9.34.010 (*Definitions*) is amended to read as follows:

9.34.010 Definitions.

The definitions concerning signs set forth in LCMC ~~Chapter 17.08 17.72.030~~ apply to this chapter and are incorporated herein by this reference.

SECTION 3. Lincoln City Municipal Code Title 9 (*Public Peace, Morals, and Welfare*), Chapter 9.34 (*Signage*), Section 9.34.020 (*Temporary Signage Exempt from Land Use Permitting*) is amended to read as follows:

9.34.020. Temporary Signage Exempt from Land Use Permitting.

Subject to compliance with the standards, conditions and limitations set forth in this chapter, the following signs are not considered land development and are permitted and exempt from land use permitting requirements:

- A.** Temporary Signs allowed at any time: A property owner may place one temporary sign with a sign face not exceeding four (4) square feet on the owner's property at any time. If such temporary sign becomes dilapidated, it must be removed or replaced. There is no restriction on the content of such sign.

However, such signs shall also conform to all general standards, conditions and limitations of this chapter. This section does not permit snipe signs.

B. Temporary Signs allowed at any time: Subject to design standards, a property owner may place signs in a window on the property that is visible from the right-of-way at any time. There is no restriction on the content of such sign. However, such signs shall also conform to all general standards, conditions and limitations of this chapter. **~~Note: Some zoning districts have design standards which limit coverage of windows. See Title 17.~~**

C. Temporary Signs placed outside during specified state and local election periods. Temporary signs with a sign face not exceeding eight (8) square feet in area, for each such sign, may be erected on private property, with the permission of the property owner, for a period of sixty (60) days prior to a state or local official election day and for five days following the day of the election. There is no restriction on the content of such signs. **No more than four (4) such signs may be placed on a legal lot or parcel. In a commercial zone, a temporary banner sign, not to exceed 32 square feet, may be substituted for such signage during the above referenced sixty-five day period, provided such banner is securely attached to a structure.** However, **All** such signs shall also conform to all general standards, conditions and limitations of this chapter.

D. A single Temporary Sign placed outside during the period of time a real property is being marketed, in good faith, for sale or lease. Such temporary sign shall not exceed eight (8) square feet in sign face area when located on a residential property as defined in Title 17 and thirty-two (32) square feet in sign face area when located on a commercial property as defined in Title 17. Such signage may be erected beginning the day the property is offered for sale or lease and must be removed within thirty (30) days after the property is no longer for sale or lease. There is no restriction on the content of such sign. However, such signs shall also conform to all general standards, conditions and limitations of this chapter.

E. Exempt Flags and Feather Banners

1. A property owner may place up to three temporary flags, and two windsocks-attached to a flagpole or structure, on the owner's property at any time. If such temporary sign becomes dilapidated, it must be removed or replaced. There is no restriction on the content of such signs. However, such signs shall also conform to all general standards, conditions and limitations of this chapter. **~~A property owner in a commercial zone may substitute two feather banners not to exceed 16 square feet for two temporary flags. The allowance in this~~**

~~subsection to substitute two feather banners for two flags shall sunset on October 8, 2019.~~

2. In a commercial zone the number of flags allowed under E 1. above may be increased based on the number of licensed businesses physically present on the property, not to exceed three flags per business. In such commercial zone, two feather banners (not to exceed 16 square feet each) may be substituted for two temporary flags, per business. In a commercial zone a flagpole must be shown on the approved site plan. A flagpole, feather banner, flag, or windsock shall not be located in, or project into, a public right-of-way, including sidewalk or street, or onto abutting property. No flagpole may exceed the maximum building height in the underlying zone. Up to two windsocks per business are permitted, when securely attached to a pole or structure.

F. A single Portable Sign is permitted per legal lot or parcel in a commercial zone. The portable sign shall not exceed 12 square feet in area, and no dimension of the sign face may exceed four feet. Such signs may not obstruct clear vision, vehicular or pedestrian circulation or Americans with Disabilities Act administrative regulations. No portable sign may be supplemented with any form of attachments such as lights, balloons, flags, ribbons, streamers. No portable sign may be placed in a street, alley, public right-of-way or on public property, unless pursuant to a permit issued by the city and all license fees and charges are paid. There is no restriction on the content of such sign. However, such signs shall also conform to all general standards, conditions and limitations of this chapter.

G. A person holding a permit issued under LCMC 5.04.150(B) (Temporary outside display of merchandise) or under LCMC 5.16.020 (Special Event Permit) may display signage for the duration of the seasonal display or special event, as specified in the permit; provided in the case of LCMC 5.04.150, such signage shall be limited to two (2) signs whose combined areas shall not total more than 64 square feet, in addition to any other signs allowed for the legal lot or parcel. Special Event permits shall specify the maximum amount of square footage of signage authorized; however the limit shall be the same as LCMC 5.04.150, if not otherwise specified and justified in the permit. Such permits cannot authorize signage at other public or private locations or in right-of-way. The permittee must remove any such signs no later than one day following the expiration date on the permit.

SECTION 4. Lincoln City Municipal Code Title 9 (*Public Peace, Morals, and Welfare*), Chapter 9.34 (*Signage*), Section 9.34.030 (*Prohibited Signs*) is amended to read as follows:

9.34. 030 Prohibited signs.

- A.** Temporary Signs are prohibited in the City except when specifically **authorized by permit under Title 17 of this Municipal Code or when** exempted under this chapter. A Temporary Sign authorized by this chapter may not include any form of prohibited sign listed in LCMC ~~17.72.040.A.~~ **17.72.060 (Prohibitions).**
Temporary signs are permitted on undeveloped lots.

SECTION 5. Lincoln City Municipal Code Title 9 (*Public Peace, Morals, and Welfare*), Chapter 9.34 (*Signage*), Section 9.34.040 (*Reserved*) is amended to read as follows:

9.34. 040 ~~Reserved. Temporary Signs based on zoning and requiring a permit.~~

See LCMC 17.72.060. which provides for some temporary signage with a permit.

SECTION 6. Lincoln City Municipal Code Title 9 (*Public Peace, Morals, and Welfare*), Chapter 9.34 (*Signage*), Section 9.34.070 (*General Standards, Conditions and Limitations for Temporary Signs*), paragraph B is amended to read as follows:

- B.** This chapter does not authorize signs which require land use or building permits for the sign structure. **An exempt temporary sign shall not include any form of prohibited sign such as specified in LCMC 17.72.060 (Prohibitions), including but not limited to flashing signs, moving signs, snipe signs, signs that imitate traffic control, signs that obstruct clear vision areas, signs that create glare, parked vehicle signs, or signs prohibited by state or federal law. A Temporary Sign authorized by this chapter may not include any form of prohibited sign listed in LCMC 17.72.040.A.** Placement of prohibited signs subjects both the sign owner and property owner to citation and abatement proceedings by the city.

SECTION 7. Lincoln City Municipal Code Title 9 (*Public Peace, Morals, and Welfare*), Chapter 9.34 (*Signage*), Section 9.34.090 Violation-Penalty-Abatement) is amended to add a new Paragraph F. to read as follows:

- F. Summary Abatement. The city may remove without notice any unauthorized temporary sign in a public right-of-way, or from any city park, parking lot, or other city property, to a place of storage. Evidence of the violations / crimes shall be held in accordance with the laws of the state and police procedures for use in any subsequent criminal or violation prosecutions. After prosecution, or in the case**

when no prosecution is commenced, if city reasonably estimates the value of the sign materials to be less than \$10.00, the city may immediately dispose of the sign removed without notice. For a sign of greater estimated value, a notice of removal will be sent to any owner known to the city, notifying that the sign will be destroyed unless claimed within 20 days of the notice. If the owner is unknown to the city, the sign may be destroyed without notice, if unclaimed after 20 days from the date of removal. No sign removed from the right-of-way will be returned to the owner, unless the owner pays a removal fee in the amount of the actual personnel and storage cost to the City; said fee may be periodically set by council resolution. Nothing in this section prohibits criminal prosecution of a person or organization illegally placing signage on public right-of-way or other public property for the crime of criminal mischief or other offense.

SECTION 8. Findings Adopted.

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

SECTION 9. Severability.

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

SECTION 10. Ordinance Effective Date.

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

SECTION 11. Codification.

Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided that any Whereas clauses and boilerplate provisions (i.e. Sections 8-11) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section 9.2 of the City of Lincoln City Charter on the 21st day of September, 2020 (First Reading). The Ordinance was again read by title only and on the 21st day of September, 2020 Council approved Second Reading and adoption of the Ordinance.

1 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 21st day of
2 September, 2020.

3
4
5 _____
6 DICK ANDERSON, MAYOR

7
8 ATTEST:

APPROVED AS TO FORM:

9
10 _____
11 CITY RECORDER

RICHARD APPICELLO, CITY ATTORNEY

Council Communication

Ordinance 2020-15 Procedures

Meeting Date:	September 21, 2020	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Planning Department	Secondary Contacts:	Richard Townsend
Approval:	Ronald F Chandler	Estimated Time:	5 minutes

Question(s):

Should the City Council conduct and approve Second Reading and adopt Ordinance 2020-15 entitled:

ORDINANCE NO. 2020-15

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.76 (ADMINISTRATIVE PROVISIONS), REPLACING EXISTING PROCEDURES WITH A NEW A UNIFORM PROCEDURAL CHAPTER 17.76 (PROCEDURES), ADDING A NEW CHAPTER 17.77 (APPLICATIONS), MODIFYING, CONSOLIDATING, RELOCATING OR REMOVING PROCEDURES AND STANDARDS FOR A MORE EFFICIENT REVIEW PROCESS

Staff Recommendation:

Option 1: After reading a delayed effective date change, approve Second Reading with changes and adopt the Ordinance.

Option 2: Continue Second Reading to November 23, 2020.

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:

First Reading was approved on July 13, 2020. Second Reading was continued to August 10, 2020, August 24, 2020, September 14, 2020 and September 21, 2020.

The Planning Director initiated a re-write of the procedural provisions of the Municipal Code to establish a more uniform process. The process is essentially now consistent with many other jurisdictions in the state – which should reduce confusion and simplify review processes. There was no objection (written or oral) submitted regarding this amendment during the public hearing process. The Planning Commission recommended approval on July 7, 2020.

For several reasons, legal staff recommends either: (1) adding a delayed effective date of January 1, 2021, or (2) delaying second reading until November 23, 2020.

Read Changes:

WHEREAS, the City Council held a public hearing on June 22, 2020. On June 22, 2020 Council closed the record and deliberated on the proposed amendments. All persons were given an opportunity to provide written and/or oral testimony on the proposed ordinance. After deliberation, Council provided direction and ordinances were returned for required readings. **on July 13, 2020 and August 10, 2020.**

SECTION 28. Ordinance Delayed Effective Date.

Notwithstanding the ordinary effective date provisions of Chapter IX, Section 9.3 of the City Charter, this ordinance shall take effect on January 1, 2021.

SECTION 29. Codification.

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

Either option will give staff time to change forms and prepare for implementation, give staff and Code publishing time to make all necessary cross reference changes, and allow for the recruitment of the new Planning Director to near completion.

Council Options:

1. Read changes, if any. Conduct and Approve Second Reading and Adopt the Ordinance.
2. Continue Second Reading to November 23, 2020 [or]
3. Do not proceed with proposed ordinance.

Potential Motions:

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

ORDINANCE NO. 2020-15

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.76 (ADMINISTRATIVE PROVISIONS), REPLACING EXISTING PROCEDURES WITH A NEW A UNIFORM PROCEDURAL CHAPTER 17.76 (PROCEDURES), ADDING A NEW CHAPTER 17.77 (APPLICATIONS), MODIFYING, CONSOLIDATING, RELOCATING OR REMOVING PROCEDURES AND STANDARDS FOR A MORE EFFICIENT REVIEW PROCESS

Council:

1. Motion to approve Second Reading, with changes as read, and adopt Ordinance 2020-15.

[or]

2. Motion to continue Second Reading for November 23, 2020.

Attachments:

FINAL Ext. A Findings 2020-1314 and 15_ (DOCX)
Ordinance 2020-15 Procedures 9-15-20 (DOCX)

EXHIBIT A - FINDINGS

Findings for Ordinances 2020-13 (Parking and Landscaping), 2020-14 (Permanent signs) and 2020-15 (Procedures)

The above referenced proposed ordinances were properly noticed pursuant to ORS 197.610 and were part of a city-wide Measure 56 notice to property owners. However, the ordinances are primarily housekeeping as the new Planning Director sought to better organize the development code; as such, notice to DLCD and the city-wide notices were probably not required as the statewide planning goals do not appear to be implicated by the re-organization. Notice was primarily done in an abundance of caution.

Ordinance 2020-13 moves landscaping requirements from the current numerous (scattered) locations to one uniform chapter. Similarly, the ordinance moves all parking and loading requirements to one existing chapter.

Ordinance 2020-14 reorganizes the sign code. Some years ago the City placed temporary signage in Chapter 9.34 in the Municipal Code – outside of the land use code processes which regulates permanent signage structures. The city maintained the requirements for temporary signage in both Title 17 and Title 9. The City now removes this duplication and places all temporary signage in Chapter 9.34 outside the land use chapter.

Ordinance 2020-15 reorganizes the administrative procedural requirements of the code and brings the city more in line with other jurisdictions in the valley by recognizing type 1-4 land use processes. Again, substantively requirements are not changing – the organization of the code is changing.

The public was exceedingly uninterested in the proposed amendments, with very little public comment or questions on the proposals.

A. Statewide Planning Goals

(1) Goal 1: Citizen Involvement

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

All documents relating to the proposal(s) (amendments) were made available for public review and/or purchase, and were posted on the city’s website. Staff was available to interpret and explain the technical information. The city sent notice to all affected property owners regarding the public hearings on the proposed zoning ordinance amendments and the local newspaper published hearing notices in accordance with notice requirements. The planning commission and the city council each held 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 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 city is currently is designated and zoned for urban development. There is no agricultural land in Lincoln City. The amendments do not affect agricultural lands. Goal 3 is not applicable.

(4) Goal 4: Forest Lands

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

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

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

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

The amendments affect only areas already committed to urban development. They do not by themselves permit development in any areas of protected natural resources, scenic or historic areas, or open spaces. The amendments are 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 amendments will not adversely affect the quality of the air or water. They do not by themselves permit development that might affect water or air quality. The existing

ordinances and plan requirements relating to water and air quality will continue to apply to all properties that might be affected. Therefore, the amendments are consistent with Goal 6.

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

“To protect people and property from natural hazards.”

The amendments do not by themselves allow development within any natural hazard area. The existing ordinances and plan requirements relating to natural hazards will continue to apply to all properties that might be affected by natural hazards. Therefore, they are 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 amendments do not relate to recreation as that term is used in this goal and do not adversely affect the provision of or ability to site recreational areas in the City. The amendments are consistent with Goal 8.

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 amendments are intended to address and remedy confusing and disjointed code provisions that the city believes are impeding development in the city. By better organizing the code and clarifying processes and requirements the city hopes the amendments will encourage development. The proposed amendments are consistent with Goal 9.

(10) Goal 10: Housing

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

The amendments do not relate directly to the housing needs of the people of Lincoln City, except that clarity as noted above may encourage new development. Goal 10 therefore met or is not applicable.

(11) Goal 11: Public Facilities and Services

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

The amendments do not relate directly to public facilities and services. Goal 11 is not applicable.

(12) Goal 12: Transportation

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

The amendments do not relate directly to the development of the city’s transportation system. Goal 12 is not applicable.

(13) Goal 13: Energy Conservation

“To conserve energy.”

The amendments do not relate directly to energy conservation. Goal 13 is not applicable.

(14) Goal 14: Urbanization

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

The amendments do not relate directly to urbanization. Goal 14 is not applicable.

(15) Goal 15: Willamette River Greenway

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

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

(16) Goal 16: Estuarine Resources

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

The amendments by themselves do not allow development in areas adjacent to the city’s designated estuarine resource (i.e., Siletz Bay). All development in such areas already is controlled by existing ordinances and comprehensive plan standards. The amendments, therefore, are consistent with Goal 16.

(17) Goal 17: Coastal Shorelands

Exhibit A

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

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

(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 amendments do not, by themselves, allow any development in or near beach and dune areas. All development in such areas already is controlled by existing ordinances and comprehensive plan standards. The amendments are consistent with Goal 18.

(19) Goal 19: Ocean Resources

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

The amendments do not, by themselves, affect any ocean resources and, therefore, are consistent with Goal 19.

B. Comprehensive Plan Goals

(1) Planning Goal

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

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

The proposed amendments do relate directly to public services and utilities. This goal is 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 amendments, by themselves, do not allow development in hazardous areas. Development in such areas is controlled by existing comprehensive plan and zoning ordinance standards, as well as building code requirements. The amendments are consistent with this goal.

(6) Housing Goal

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

The amendments do not relate directly to the housing needs of the people of Lincoln City. The amendments do not substantively alter such requirements. The housing goal is met or does apply.

(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 amendments are intended to address and remedy code provisions that are in need of clarity and better organization. By improving the clarity and organization of the code, the city hopes to encourage new development in the city. These amendments, therefore, are 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 amendments do 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 amendments do not relate directly to transportation. This goal is not applicable.

(10) Energy Goal

“To conserve energy.”

The amendments do 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 amendments, by themselves, do not allow development in sensitive natural resource areas. The existing ordinances and plan requirement relating to protecting the natural environment will continue to apply to all properties that might be affected. These amendments contribute to this goal.

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

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

The amendments by themselves do not allow development in areas adjacent to the city’s designated estuarine resource (i.e., Siletz Bay), in the city’s coastal shorelands, beach and dune areas, or in ocean resource areas. The existing ordinances and comprehensive plan standards would be applied to any areas affected by these amendments, thereby protecting these resources. The amendments are consistent with this goal.

ORDINANCE NO. 2020-15

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.76 (ADMINISTRATIVE PROVISIONS), REPLACING EXISTING PROCEDURES WITH A NEW UNIFORM PROCEDURAL CHAPTER 17.76 (PROCEDURES), ADDING A NEW CHAPTER 17.77 (APPLICATIONS), MODIFYING, CONSOLIDATING, RELOCATING OR REMOVING PROCEDURES AND STANDARDS FOR A MORE EFFICIENT REVIEW PROCESS

*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 February 11, 2020, the City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610, of its consideration of the proposed

1 amendment(s) and on February 26, 2020; notice of the proposed amendments was included in
 2 an ORS 227.186(4) notice to all affected property owners.

3
 4 **WHEREAS**, the Planning Commission, on June 16, 2020, held a public hearing and considered
 5 the amendments contained within this ordinance. On July 7, 2020, the Planning Commission
 6 voted to transmit the amendments to the City Council with a recommendation that the
 7 ordinance be split between content-based corrections and other provisions to be incorporated
 8 into the design review process; and

9
 10 **WHEREAS**, the City Council held a public hearing on June 22, 2020. On June 22, 2020 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 and ordinances were returned for required readings.

14
 15 **THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:**

16
 17
 18 **SECTION 1.** Chapter 17.76 (*Administrative Provisions*) is hereby amended to replace the existing
 19 provisions with a new uniform procedural chapter, as follows:

20 **Chapter 17.76 Procedures.**

21
 22 **17.76.010 Purpose.**

23 **17.76.020 Summary of Procedure Types.**

24 **17.76.030 Type I Procedure.**

25 **17.76.040 Type II Procedure.**

26 **17.76.050 Type III Procedure.**

27 **17.76.060 Type IV (Legislative).**

28 **17.76.070 [Reserved].**

29 **17.76.080 Initiation of an Application.**

30 **17.76.085 Withdrawal of an Application.**

31 **17.76.090 Pre-Application Conference.**

32 **17.76.100 [Reserved].**

33 **17.76.110 Application Submittal and Completeness Review.**

34 **17.76.120 Conditions of Approval.**

35 **17.76.130 Effective Date of Decision.**

36 **17.76.140 Expiration of Decision.**

37 **17.76.150 Extension of Decision.**

38 **17.76.160 Public Hearings.**

39 **17.76.170 Public Hearings on Cases Remanded from LUBA.**

40 **17.76.180 Appeals.**

17.76.010 Purpose,

A. Purpose. The purpose of this chapter is to establish standard decision-making procedures for review and processing land use applications and permits, for the following reasons:

- 1. To make the review process clear and understandable for applicants and property owners;**
- 2. To enable the public to effectively participate in the local decision-making process; and**
- 3. To facilitate timely review of land use applications and permits by the city.**

17.76.020 Summary of Procedure Types,

A. General. All land use applications and approvals shall be decided by using Type I, II, III, or IV procedures. The procedure types govern the decision-making process for that application.

B. Description of Procedure Types. There are four types of decision-making procedures:

- 1. Type I Procedure. Type I procedures apply to "ministerial" permits and applications. Decisions on ministerial permits and applications are made by the director, based on approval criteria that do not require exercise of policy or legal judgment.**
- 2. Type II Procedure. Type II procedures apply to "administrative" permits and applications. Decisions on administrative applications are made by the director, based on reasonably objective criteria that require only limited discretion in applying approval criteria. Type II procedures require public notice and an opportunity for appeal, but do not require a public hearing.**
- 3. Type III Procedure. Type III procedures apply to "quasi-judicial" applications. Decisions on quasi-judicial applications are made by either the Planning Commission or the City Council, and require substantial exercise of discretion and judgment in applying approval criteria. Type III procedures require public notice and one or more public hearings.**
- 4. Type IV Procedure. Type IV procedures apply to "legislative" matters. Legislative decisions are made by the City Council, taking into consideration a recommendation from the Planning Commission, and involve the adoption or amendment of policy by ordinance. Legislative decisions may also apply to applications involving a large geographic area containing many properties. Type IV procedures require public notice and one or more public hearings.**

1
2 **C. Determination of Proper Procedure Type.** Unless already specified in Table 17.76.020-
3 **1, the director shall determine whether an application is processed as a Type I, II, III, or**
4 **IV procedure based on the descriptions in subsection B, above. Questions regarding**
5 **the appropriate procedure shall be resolved in favor of the procedure type providing**
6 **the widest notice and opportunity to participate.**

7
8 **D. Consolidated Reviews.**

- 9
10 **1. Multiple Type II or III applications for a single proposal shall be consolidated and**
11 **processed concurrently under the highest numbered procedure required for any**
12 **part of the application. For example, a proposal requesting both Development**
13 **Review (Type II) approval and Conditional Use Permit (Type III) approval is**
14 **processed concurrently as a Type III procedure.**
- 15
16 **2. When consolidated, the following processes shall be applied:**
17 **a. Separate responses to the applicable criteria shall be submitted for each**
18 **application;**
19 **b. The public notice shall identify each application to be decided; and**
20 **c. Separate findings and decisions shall be made on each application.**
- 21
22 **3. If the consolidated proposal includes an application for a comprehensive plan map**
23 **amendment, the final decision on the plan map amendment shall precede any**
24 **decision on a proposed zone change and all other decisions on a proposed**
25 **development. Similarly, the final decision on a zone change shall precede a**
26 **decision on proposed development review or any other action.**

27
28 **E. Summary Table.** Table 17.76.020-1 summarizes land use applications and permits by
29 **procedure.**

30
31 **F. Application Elevation.** Notwithstanding Table 17.76.020-1 or the director's
32 **determination, an applicant may request to elevate a Type I or II application to a higher**
33 **numbered procedure type, and the request shall be granted if the director determines**
34 **that the statutory timelines for reaching a final decision can be met.**

35
36 **G. Application of Days in Procedures.** Timelines in this chapter are expressed in 24-hour
37 **calendar days, unless the deadline for an action falls on a weekend or legal holiday, in**
38 **which case the deadline will be considered to be the (calendar) day after the weekend or**
39 **legal holiday.**

Table 17.76.020-1: Land Use Applications and Procedure Types

<u>Application</u>	<u>Procedure Type</u>	<u>Review Authority</u>
<u>Adjustment</u>	<u>Type II</u>	<u>Director</u>
<u>Annexation</u>	<u>Type IV</u>	<u>Planning Commission recommends</u> <u>City Council decides</u>
<u>Appeal</u>	<u>Type III</u>	<u>Planning Commission</u>
<u>Bed and Breakfast Accommodations</u>	<u>Type I</u>	<u>Director</u>
<u>Comprehensive Plan Map Amendment</u>	<u>Type III or IV</u>	<u>Planning Commission recommends</u> <u>City Council decides</u> <u>Regardless of Type III or Type IV</u>
<u>Conditional Use Permit Application</u>	<u>Type III</u>	<u>Planning Commission</u>
<u>Development Review Application</u>	<u>Type II</u>	<u>Director</u>
<u>Director's Interpretation</u>	<u>Type II</u>	<u>Director</u>
<u>Geologic Hazard Report and/or Beach Protective Structure Review</u>	<u>Type II</u>	<u>Director</u>
<u>Home Occupation Application</u>	<u>Type I</u>	<u>Director</u>
<u>Lot Line Adjustment</u>	<u>Type II</u>	<u>Director</u>
<u>Mobile Food Unit Application</u>	<u>Type I</u>	<u>Director</u>
<u>Modification of Approved applications, plans, or conditions of approval</u>	<u>Type II or Type III, based upon the procedure type of the original application</u>	<u>Director if Type II</u> <u>Planning Commission if Type III</u>
<u>Natural Resource Development Review</u>	<u>Type II</u>	<u>Director</u>
<u>Partition</u>	<u>Type II</u>	<u>Director</u>
<u>Nonconforming – Determining that nonconforming use, site, or structure is lawful</u>	<u>Type II</u>	<u>Director</u>

Table 17.76.020-1: Land Use Applications and Procedure Types

<u>Application</u>	<u>Procedure Type</u>	<u>Review Authority</u>
<u>Nonconforming – Restoration of a Substantially Damaged Lawful, Nonconforming Structure or Use</u>	<u>Type II – Single-unit dwelling or duplex</u> <u>Type III – Multi-unit dwelling, mixed use, or commercial</u>	<u>Director</u> <u>Planning Commission</u>
<u>Planned Unit Development Preliminary Master Plan</u> <u>Final Master Plan</u>	<u>Type III</u> <u>Type I</u>	<u>Planning Commission</u> <u>Director</u>
<u>Subdivision Preliminary Plat</u> <u>Final Plat</u>	<u>Type III</u> <u>Type I</u>	<u>Planning Commission</u> <u>Director</u>
<u>Text Amendment</u>	<u>Type IV</u>	<u>Planning Commission recommends</u> <u>City Council decides</u>
<u>Tree Permit</u>	<u>Type I</u>	<u>Director</u>
<u>Vacation Rental Dwelling</u>	<u>Type II</u>	<u>Director</u>
<u>Variance</u>	<u>Type III</u>	<u>Planning Commission</u>
<u>Zone Change</u>	<u>Type III or IV</u>	<u>Planning Commission recommends</u> <u>City Council decides</u> <u>Regardless of Type III or Type IV</u>
<u>Zoning Sign Permit</u>	<u>Type I</u>	<u>Director</u>

17.76.30 Type I Procedure.

A. General Description. Type I procedures apply to “ministerial” permits. Decisions are made by the director, based on clear and objective approval criteria, and do not require interpretation or the exercise of policy or legal judgment.

B. When Applicable. Table 17.76.020-1 identifies Type I applications. Applications not listed on Table 17.76.020-1 may be identified as Type I by the director based on the general description in this section.

C. Pre-Application Conference. A pre-application conference is not required for Type I applications.

D. Application Requirements. Type I applications shall:

- 1. Be submitted on application forms provided by the department and shall include all information, exhibits, plans, reports, and signatures requested on the application form.**
- 2. Be accompanied by the required fee adopted by City Council resolution.**
- 3. Be subject to the completeness review procedures set forth in subsections 17.76.110.D and E.**

E. Public Notice. Type I applications do not require public notice.

F. Review Authority. The review authority for Type I applications shall be the director. The director shall approve, approve with conditions, or deny a Type I application within 15 days of being deemed complete.

G. Notice of Decision. The notice of decision consists of the approved permit or application signed by the director or a copy of the permit or application marked "denied" and signed by the director.

H. Effective Date. A Type I decision is final on the date it is signed by the director.

17.76.040 Type II Procedure.

A. General Description. Type II procedures apply to "administrative" permits and applications. Decisions on administrative applications are made by the director, based on reasonably objective approval criteria that require only limited discretion. Type II procedures require public notice and an opportunity for appeal, but do not require a public hearing or a public meeting.

B. When Applicable. Table 17.76.020-1 identifies Type II applications. Applications not listed on Table 17.76.020-1 may be identified as Type II by the director based on the general description in this section.

C. Pre-Application Conference. A pre-application conference is not required for Type II procedures.

D. Application Requirements. Type II applications shall:

- 1. Be submitted on application forms provided by the department and shall include**

all information, exhibits, plans, reports, and signatures requested on the application forms.

2. Be accompanied by the required fee as adopted by City Council resolution.

3. Be subject to the completeness review procedure set forth in subsections 17.76.110.D. and E.

E. Public Notice of Application and Comment Period. Type II applications require public notice of receipt of a complete application with an opportunity for area property owners and other interested parties to provide written comment prior to issuance of the decision.

1. After a Type II application has been accepted as complete under subsection 17.76.110.E, the department shall mail a written public notice to the following:

- a. The applicant and applicant's representative;**
- b. The owners of record of the subject property;**
- c. Property owners of record within 250 feet of the perimeter property line of the property or properties subject to the application, using the most-recently provided property tax assessment roll of the Lincoln County Assessor's Office as provided to the City to determine property owners of record; and**
- d. Any neighborhood or community organization or association recognized by the governing body and whose boundaries include the site.**

2. The written public notice shall include the following:

- a. A brief description of the request;**
- b. The applicable criteria from the ordinance and the comprehensive plan that apply to the application at issue;**
- c. The street address or other easily understood geographical reference to the subject property;**
- d. Statement that failure of an issue to be raised in writing prior to the expiration of the public comment period, or failure to provide statements or evidence sufficient to afford the review authority an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA);**
- e. The name of a department staff member to contact and the telephone number where additional information may be obtained; and**
- f. Statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.**

- 1 **3. An affidavit of mailing of the public notice of receipt of a complete application**
2 **shall be prepared with the mailing date noted and the list of parties to whom the**
3 **notice was mailed attached to the affidavit, along with the notice itself.**
4
- 5 **4. Public notices for receipt of complete Type II applications shall include a written**
6 **comment period of 14 days from the date the notice was mailed for the submission**
7 **of written comments before the decision is issued.**
8

9 **F. Review Authority. The review authority for Type II applications shall be the director.**

10
11 **G. Decision.**

- 12
13 **1. Based on the criteria and facts contained within the record, the director shall**
14 **approve, approve with conditions, or deny the request. The decision shall address**
15 **all relevant approval criteria and consider written comments submitted before the**
16 **close of the comment period.**
17
- 18 **2. The decision is considered final for purposes of appeal on the date the notice of**
19 **the decision is mailed. Within seven days after the director has issued the decision,**
20 **a notice of the decision shall be sent by mail to the following:**
21 **a. The applicant and applicant's representative;**
22 **b. The owners of record of the subject property;**
23 **c. Any person, group, agency, association, or organization who submitted written**
24 **comments during the comment period; and**
25 **d. Any person, group, agency, association, or organization who submitted a**
26 **written request to receive notice of the decision.**
27
- 28 **3. The notice of the decision shall include the following:**
29 **a. A brief description of the request;**
30 **b. A statement of the decision and the applicable approval criteria used in making**
31 **the decision;**
32 **c. The street address or other easily understood geographical reference to the**
33 **subject property;**
34 **d. A statement that the decision is final, unless appealed as provided in LCMC**
35 **17.76.180;**
36 **e. The requirements for filing an appeal of the decision, including a statement of**
37 **the date and time by which an appeal must be filed;**
38 **f. A statement that the complete file is available for review; and**
39 **g. The name of a department staff member to contact and the telephone number**
40 **where additional information may be obtained.**
41

1 **H. Appeal.**

- 2
- 3 1. **The decision may be appealed by the applicant, property owner of the subject**
- 4 **property, or any person who provided written comments during the public**
- 5 **comment period, prior to its closure.**
- 6
- 7 2. **The decision shall become final unless an appeal is filed.**
- 8
- 9 3. **The review authority for an appeal of a Type II application is the Planning**
- 10 **Commission.**
- 11
- 12 4. **The appeal shall follow the requirements and procedures of subsection 17.76.180.**
- 13
- 14 5. **The decision of the review authority on the appeal shall be the final decision of the**
- 15 **city. Any further appeal shall be made to the Land Use Board of Appeals (LUBA).**
- 16

17 **17.76.050 Type III Procedure.**

- 18
- 19 **A. General Description. Type III procedures apply to “quasi-judicial” permits and**
- 20 **applications. Decisions on quasi-judicial permits and applications are made by either**
- 21 **the Planning Commission or the City Council, and require substantial exercise of**
- 22 **discretion and judgment in applying approval criteria. Type III procedures require**
- 23 **public notice and one or more public hearings.**
- 24
- 25 **B. When Applicable. Table 17.76.020-1 identifies Type III applications. Applications not**
- 26 **listed on Table 17.76.020-1 may be identified as Type III by the director based on the**
- 27 **general description in this section.**
- 28
- 29 **C. Pre-Application Conference. A pre-application conference is not required prior to**
- 30 **application submittal of a Type III application, but is strongly encouraged. Guidelines**
- 31 **for pre-application conferences are set forth in LCMC 17.76.090.**
- 32
- 33 **D. Application Requirements. Type III applications shall:**
- 34
- 35 1. **Be submitted on application forms provided by the department and shall include**
- 36 **all information, exhibits, plans, reports, and signatures requested on the**
- 37 **application forms.**
- 38
- 39 2. **Be accompanied by the required fee as adopted by City Council resolution.**
- 40
- 41 3. **Be subject to the completeness review procedure set forth in subsections**

17.76.110.D. and E.

E. Notice of Public Hearing.

- 1. After a Type III application has been accepted as complete under subsection 17.76.110.E, the department shall mail a written notice of public hearing to the following:**
 - a. The applicant and applicant's representative;**
 - b. Owner of record of the subject property;**
 - c. Property owners of record within 250 feet of the perimeter property line of the property or properties subject to the application, using the most-recently provided property tax assessment roll of the Lincoln County Assessor's Office as provided to the City to determine property owners of record;**
 - d. Any neighborhood or community organization recognized by the governing body and whose boundaries include the site;**
 - e. At the discretion of the applicant, the department also shall provide notice to the Oregon Department of Land Conservation and Development.**
- 2. The notice of public hearing provided shall include the following:**
 - a. A brief description of the request;**
 - b. A list of the applicable criteria from the ordinance and the comprehensive plan that apply to the application at issue;**
 - c. The street address or other easily understood geographical reference to the subject property;**
 - d. The date, time, and location of the hearing;**
 - e. A statement that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue;**
 - f. The name of a department staff member to contact and the telephone number where additional information may be obtained;**
 - g. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;**
 - h. A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and**
 - i. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.**

F. Public notices for Type III applications shall be mailed a minimum of 20 days prior to the first evidentiary public hearing.

G. Decision Authority. Table 17.76.020-1 identifies the decision authority for each Type III application.

H. Public Hearing Procedure. The public hearing shall be conducted in accordance with the procedures set forth in subsection 17.76.160.

I. Notice of the Decision.

1. Following a decision on the application, a written decision in the form of a Final Order shall be prepared by the department. The Final Order shall include the following information:

- a. The decision to deny or to approve the application and if approved, any conditions of approval necessary to ensure compliance with applicable criteria;**
- b. A list of the applicable approval criteria by code section number;**
- c. A statement or summary of the facts upon which the decision authority relied to determine whether the application satisfied or failed to satisfy the applicable approval criteria; and to justify any conditions of approval. The decision authority may adopt or incorporate by reference a staff report or written findings prepared by any party to the proceeding into the Final Order to satisfy this requirement; and**
- d. A statement of conclusions based on the facts and findings.**

2. A Notice of the Decision, including the full Final Order, shall be mailed to the applicant and to all parties of record within 7 days of the date of signing the final order. The decision is final for purposes of appeal on the date the notice of the decision is mailed. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith effort was made to mail the notice.

3. The Notice of the Decision shall include the following:

- a. A summary of the decision and a list of any conditions of approval;**
- b. A description of the subject site reasonably sufficient to inform the reader of its location, including Assessor's Tax Map, Tax Lot number, and site address if available;**
- c. A statement that the decision is final unless appealed as provided in subsection 17.76.180;**
- d. The requirements for filing an appeal of the decision, including a statement of the date and time by which an appeal must be filed; and**
- e. A statement noting that only those persons who made an appearance of record, either in person or by written comment, are entitled to appeal the decision.**

4. Final Recommendation on Comprehensive Plan Map Amendments and Zone Changes. A Final Recommendation from the Planning Commission is issued to the City

Council for Type III comprehensive plan map or zone changes. Notice of the public hearing for Type III comprehensive plan map or zone changes before City Council is done concurrently with the notice of public hearing before the Planning Commission.

J. Appeal.

- 1. The decision of the Planning Commission may be appealed to the City Council. Only the applicant, property owner, persons who made an appearance of record at the public hearing before the review authority, or persons who submitted written comment for consideration of the review authority have standing to appeal.**
- 2. The appeal shall follow the requirements and procedures of subsection 17.76.180.**
- 3. The City Council decision shall be the final local decision. Any further appeal shall be made to LUBA.**

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.**

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

4
 5 **I. Notice of Decision.**

- 6
 7 1. Not more than seven days after the date the City Council approves a Type IV
 8 application, the director shall mail a notice of decision to persons of record who
 9 appeared orally or in writing before either the Planning Commission or the City
 10 Council.
 11 2. The director shall also notify DLCD of the decision within the timeframe and
 12 method prescribed by DLCD.
 13 3. The City Council's decision is final for purposes of appeal on the date the notice is
 14 mailed.

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

18
 19 **17.76.070 [Reserved].**

20
 21 **17.76.080 Initiation of an Application.**

- 22
 23 **A. Applications may be initiated by either the property owner of record or the contract**
 24 **purchaser of the subject property, or any person authorized in writing to act as agent**
 25 **of the owner or contract purchaser. All applications shall be signed by all property**
 26 **owners of record as shown on the most-current recorded deed, as well as all contract**
 27 **purchasers if applicable, prior to submittal. Type IV applications may also be initiated**
 28 **by the city.**

29
 30 **17.76.085 Withdrawal of an Application.**

- 31
 32 **A. An application may be withdrawn by the applicant, applicant's representative, or**
 33 **property owner of record or contract purchaser at any time prior to adoption of a final**
 34 **city decision if the director determines that:**

- 35
 36 1. The applicant, applicant's representative, and property owners or contract
 37 purchasers have all consented in writing to withdraw the application; and
 38 2. The application is not intended to correct an identified code violation on the
 39 subject property which would remain unresolved were the application withdrawn.

- 40 **B. The city may withdraw a city-initiated application at any time.**

- 41
 42 **C. Fees for withdrawn applications are not refundable.**

17.76.090 Pre-Application Conference.

A. Purpose. The purposes of pre-application conferences are:

- 1. To acquaint property owners and applicants with the general requirements of the code, including applicable approval criteria; and**
- 2. To advise the property owners and applicants of previous land use applications associated with the subject property.**

B. Pre-application conferences are strongly advised for all applications, but are not required.

C. Pre-application conferences are intended to be advisory only, and are specifically not intended to be an exhaustive review of all potential issues. Participation in a pre-application conference does not absolve the property owners or applicants of any responsibility for legal or technical due diligence investigation.

D. Participation in a pre-application conference does not bind the City to provision of any level of service or approval, nor does it preclude the city from enforcing all applicable regulations or from applying regulations differently than may have been indicated at the pre-application conference.

E. Pre-Application Conference Guidelines.

- 1. Applicants should provide any available plans for the proposed development. Any plans provided to the City before, during, or after the pre-application conference may be considered public information, unless specifically requested in writing by the property owners or applicants to remain confidential.**
- 2. The director will coordinate attendance by City staff responsible for development review and infrastructure and building construction requirements as applicable.**
- 3. Pre-application conferences are not open to the general public and are not public meetings. Pre-application conferences are not recorded.**
- 4. The city may or may not provide a brief written summary of the pre-application conference. If provided, the purpose of the written summary is to provide a preliminary assessment of a proposal and shall not be construed as a recommendation by the City or by any other outside agency or service provider on the merits of the proposal.**

1 **17.76.100 [Reserved]**
2

3 **17.76.110 Application Submittal and Completeness Review.**
4

5 **A. Application Forms and Checklists.**
6

- 7 1. **Forms for the submittal of all land use applications shall be available in the**
8 **department. The department shall ensure that these forms comply with applicable**
9 **standards in state law and city code.**
10
11 2. **Land use applications may include checklists or information sheets detailing**
12 **specific information and plans to be contained in that application, including**
13 **document formats.**
14

15 **B. Fees. A fee schedule for land use applications and other department services provided**
16 **by the city shall be adopted by resolution of the City Council. Required fees shall be**
17 **paid at the time of application submittal or at the time of request for a particular**
18 **service.**
19

20 **C. Application Submittal. Land use applications or permits shall be submitted on the**
21 **appropriate forms from the department.**
22

23 **D. Application Materials. All of the following items must be submitted to initiate the 30**
24 **day completeness review of the application, and all information supplied shall be**
25 **complete and correct as to the applicable facts:**
26

- 27 1. **Completed application form, including the signature of all property owners shown**
28 **on the most-current recorded deed, and, if applicable, the signature of all**
29 **prospective purchases shown on the purchase contract;**
30
31 2. **Payment in full of the appropriate land use application or permit fee(s), based on**
32 **the fee schedule in effect on the date of application submittal;**
33
34 3. **A written narrative listing the criteria and development standards applicable and**
35 **relevant to the application and stating the evidence demonstrating the**
36 **application's compliance with each criterion and standard. If compliance with a**
37 **criterion or standard is stated to be demonstrated in a plan, drawing, or technical**
38 **study in the application, the citation in the narrative to the demonstration must be**
39 **sufficiently specific to allow convenient reference;**
40

1 **4. Required plans and drawings for the particular type of application as noted on the**
 2 **application checklist. Such plans generally include, but are not limited to, the**
 3 **following:**

- 4
- 5 **a. Existing conditions plan,**
- 6 **b. Site plan,**
- 7 **c. Building elevations,**
- 8 **d. Landscaping plan,**
- 9 **e. Exterior lighting plan,**
- 10 **f. Grading and erosion control plan, and**
- 11 **g. Public infrastructure and utilities plan.**
- 12

13 **5. Required technical reports, analyses, assessments, etc. for the particular type of**
 14 **application as noted on the application checklist (e.g., traffic impact analysis,**
 15 **floodplain or wetland delineation, significant natural resource report, geotechnical**
 16 **report, tree survey, noise study, etc.) and/or as required by city code.**

17

18 **6. Upon written request by the applicant prior to application submittal, the director**
 19 **may modify application requirements based on the nature of the proposed**
 20 **application, development, site, or other factors. Any such waiver must be**
 21 **specifically approved by the director in writing prior to submittal.**

22

23 **E. Determination of Completeness and Commencement of Review.**

24

25 **1. To be deemed complete, an application must include all materials, information,**
 26 **and fees listed in subsection 17.76.110.D.1 through 6, unless a specific waiver has**
 27 **been granted by the director under subsection 17.76.110.D.6.**

28

29 **2. The department shall review the application submittal and advise the applicant in**
 30 **writing whether the application is complete or incomplete within 30 days after the**
 31 **department receives the submittal.**

32

33 **3. If the application is deemed complete, the completeness notice shall advise the**
 34 **applicant of the commencement of application review and the date of the public**
 35 **hearing if required by the particular application.**

36

37 **4. Determination that an application is complete indicates only that the application is**
 38 **ready for review on its merits, not that the city will make a favorable decision on**
 39 **the application.**

40

41 **5. If an application is deemed to be complete upon initial submittal, approval or**
 42 **denial of the application shall be based on the code standards and criteria that**

1 were in effect on the date of submittal. See subsection 17.76.110.F.4 for
2 incomplete applications upon initial submittal.

- 3
- 4 6. Pursuant to ORS 227.178, the City will reach a final decision on an application
5 within 120 days from the date the application is determined to be or deemed
6 complete unless the applicant agrees to extend the 120 day timeline or unless state
7 law provides otherwise.
- 8
- 9 7. Pursuant to ORS 227.178, the 120-day timeline may be extended at the written
10 request of the applicant. The total of all extensions may not exceed 245 days
11 beyond the first 120 day extension, or 365 days from the date the application was
12 deemed complete.

13

14 **F. Determination of Incompleteness.**

15

- 16 1. If an application is determined to be incomplete, that determination shall be based
17 solely on failure to pay required fees, failure of the applicant's narrative to address
18 the relevant approval criteria or development standards, or failure to supply the
19 required signatures, information, documents listed on the application, application
20 checklist, or in city code. A determination of incompleteness shall not be based on
21 differences of opinion as to the quality or accuracy of the application.
- 22
- 23 2. If an application is deemed incomplete, the incompleteness notice shall list what
24 information is missing and allow the applicant to submit the missing information.
25 The incompleteness notice shall also include a statement to the applicant of the
26 need to indicate to the director whether or not the applicant intends to amend or
27 supplement the application.
- 28
- 29 3. If an application is deemed incomplete upon initial submittal, it shall be deemed
30 complete for purposes of this section when the city receives the following:
31 a. All of the missing information listed in the completeness notice; or
32 b. Some of the missing information, together with written notice from the
33 applicant that no other information will be provided; and a request to proceed
34 with review of the application; or
35 c. Written notice from the applicant that none of the missing information will be
36 provided, and a request to proceed with review of the application.
- 37
- 38 4. If the applicant submits the additional information within 180 days of the date the
39 application was first submitted, approval or denial of the application shall be based
40 on the code standards and criteria that were in effect at the time the application
41 was first submitted.
- 42

1 **5. The application will be deemed void if it has been on file with the city for 181 days**
2 **or more and the applicant has not submitted, pursuant to paragraph 3 above, some**
3 **or all of the required additional information and/or a request to proceed with**
4 **application review.**

6 **17.76.120 Conditions of Approval.**

8 **A. Imposition of Conditions. Conditions may be imposed on any Type I, II or III approval,**
9 **in accordance with relevant city code, to ensure that the proposal complies with the**
10 **applicable approval criteria and code standards and requirements.**

12 **B. Nexus and Proportionality of Conditions. All conditions imposed must have a clear**
13 **nexus with the development's impacts. Certain conditions must also be proportional**
14 **to the development's impacts if the conditions affect interests in real property.**

16 **C. Challenge to Condition(s). If an applicant asserts that he/she cannot legally be**
17 **required, as a condition of land use approval, to provide improvements or real**
18 **property interests at the level required by the code, the applicant shall provide a**
19 **"development impact analysis" report, prepared by a qualified civil or traffic engineer,**
20 **as appropriate, showing:**

- 22 1. **The estimated extent to which the improvements will be used by persons served by**
23 **the building or development, whether the use is for safety or for convenience;**
- 25 2. **The estimated level of improvements needed to meet the estimated extent of use**
26 **by persons served by the building or development;**
- 28 3. **The estimated impact of the building or development on the public infrastructure**
29 **system of which the improvements will be a part; and**
- 31 4. **The estimated level of improvements needed to mitigate the estimated impact on**
32 **the public infrastructure system.**

34 **D. Development Impact Analysis Consideration. The development impact analysis shall be**
35 **considered by the review authority in making a determination whether the**
36 **condition(s) and required improvements are reasonably related and roughly**
37 **proportional to the impacts of the proposed development.**

39 **E. Modification of Conditions. Modification of conditions of approval may be sought by**
40 **any of the following methods:**

- 42 1. **Upon appeal of the original application, pursuant to subsection 17.76.180.E; or**

1 **2. As a new development application.**

- 2
- 3 **F. Violation of Conditions of Approval. Failure to fulfill any conditions of approval within**
 4 **any time limits provided shall constitute a violation of the code and the subject**
 5 **approval will be subject to code enforcement proceedings. Enforcement proceedings**
 6 **may include revocation of the approval.**

7

8 **17.76.130 Effective Date of Decision.**

- 9
- 10 **A. Land use action and permit decision on Type I procedures are effective on the date of**
 11 **the director's decision approving or denying the application or permit, as signified by**
 12 **the dated signature of the director. Land use action and permit decisions on Type II**
 13 **and III procedures shall become effective the day after the appeal period expires if no**
 14 **appeal is filed. Type IV legislative actions shall become effective 30 days after the date**
 15 **of adoption, unless specified otherwise in the adopting ordinance.**
- 16
- 17 **B. If an appeal is filed on a land use action or permit decision on a Type I, II or III**
 18 **procedure, the decision shall become final and effective upon the date of the written**
 19 **decision of the final local appeal body.**
- 20
- 21 **C. Each land use action or permit for a Type II or III procedure shall specify the approval**
 22 **granted or development authorized and shall be subject to the standards and**
 23 **conditions set forth in this code, together with any conditions imposed by the review**
 24 **authority, excepting only those variances or adjustments authorized by the review**
 25 **authority.**

26

27 **17.76.140 Expiration of Decision.**

- 28
- 29 **A. Unless a different period of time is established within the decision, or under**
 30 **subsection D below, a land use action or permit granted pursuant to this subchapter**
 31 **expires and becomes void automatically as provided under Table 17.76.140-1 unless**
 32 **one of the following circumstances has occurred:**
- 33
- 34 **1. Substantial construction, which includes required infrastructure construction, has**
 35 **begun and is actively in progress in compliance with the land use action or permit**
 36 **approval; or**
- 37
- 38 **2. The approved land use has commenced and is in active operation in compliance**
 39 **with any applicable conditions of approval; or**
- 40
- 41 **3. An extension application has been filed pursuant to LCMC 17.76.150; or**
- 42

4. A copy of the recorded final plat has been submitted to the department within one year of approval of a partition or subdivision or a copy of the recorded survey map has been submitted to the department within one year of approval of the lot line adjustment.

B. If multiple applications are processed concurrently, the review authority shall specify in the Notice of Decision a uniform expiration period for the concurrent applications.

C. If a final local decision is on appeal, the effective date of the decision and corresponding valid period before expiration shall begin when the final decision is issued on the appeal.

D. A comprehensive plan amendment, map amendment, or zone change processed under LCMC 17.77.160 is not subject to expiration or extension.

Table 17.76.140-1 Decision Expirations and Extensions

	<u>Decision Expiration</u>	<u>Extensions Allowed</u>	<u>Review Authority</u>
<u>Type I</u>	<u>1 year</u>	<u>None</u>	<u>Not applicable</u>
<u>Type II</u>	<u>2 years</u>	<u>One extension for 2 years</u>	<u>Director</u>
<u>Type III</u>	<u>2 years</u>	<u>One extension for 2 years</u>	<u>Planning Commission</u>
<u>Type IV</u>	<u>None</u>	<u>Not applicable</u>	<u>Not applicable</u>

17.76.150 Extension of Decision.

A. Written Request for Extension Required. A request for an extension of the expiration date of a decision must be submitted to the department, on the appropriate form provided by the department, prior to the expiration date of the decision.

B. Extension. One extension request may be granted for the applicable period of time as specified in Table 17.76.140-1. If granted, an extension is vested against any code changes adopted since the original decision. The extension is subject to the following approval criteria:

1. The extension is necessary because it is not practicable to begin development within the allowed time for reasons beyond the applicant's reasonable control; and
2. The previous land use decision will not be modified in design, use, or conditions of approval.

1 **17.76.160 Public Hearings.**

2
3 **A. Purposes. The purposes of this section are:**

- 4
5 1. **To describe rules of conduct, order of proceedings, and action required for**
6 **legislative and quasi-judicial hearings; and**
7
8 2. **To provide clear and consistent rules to ensure the legal rights of individual**
9 **property owners and the general public are protected.**

10
11 **B. Applicability. The provisions of this section shall apply to all proceedings on land use**
12 **applications requiring public hearings under the procedures of this subchapter.**

13
14 **C. Responsibilities of the Director for Public Hearings. For all land use applications**
15 **requiring public hearings, the Director shall:**

- 16
17 1. **Schedule the land use application for review and public hearing before the**
18 **appropriate review authority as required by Table 17.76.020-1;**
19
20 2. **Provide public notice of the public hearing or appeal hearing as required by this**
21 **code;**
22
23 3. **Prepare and make available to the public a staff report summarizing the proposal,**
24 **the relevant criteria and issues, and any comments received prior to the public**
25 **hearing;**
26
27 4. **Mail notice of the decision to those entitled to such notice as specified for the**
28 **particular application procedure type;**
29
30 5. **Maintain a record of the proceedings; and**
31
32 6. **Prepare minutes of the proceedings, including the decision on the matter heard.**

33
34 **D. Provision of Public Notice. Notice of public hearings shall be provided for applications**
35 **or appeals as specified in the applicable section of this chapter, based on the**
36 **procedure type.**

37
38 **E. Compliance with Notice Requirements. Mailed notice shall be deemed to have been**
39 **provided upon the date the notice is deposited in the mail. Failure of the addressee to**

1 receive such notice shall not invalidate the proceedings if it can be demonstrated by
2 affidavit that such notice was given.

3
4 **F. Rules of Procedure. Public hearings shall be conducted in accordance with the rules of**
5 **procedure adopted by the applicable review authority, if any, and with applicable state**
6 **law.**

7
8 **G. Procedural Rights. Subject to the specific standards and limitations set forth in this**
9 **code, the following procedural rights shall be provided at the public hearing:**

10
11 **1. A reasonable opportunity for those persons participating in the decision to present**
12 **and rebut evidence; and**

13
14 **2. An impartial review authority.**

15
16 **H. Review Authority Disclosures. Prior to the beginning of a public hearing, the Review**
17 **Authority members shall disclose any ex parte contacts, biases or conflicts of interest.**

18
19 **1. Review Authority members shall disclose the substance of any significant pre-**
20 **hearing ex-parte contacts regarding the application as early as reasonably possible**
21 **during the public hearing on the application, so that persons wishing to participate**
22 **in the hearing have an opportunity to respond. The member shall state whether the**
23 **contact has impaired his/her impartiality or ability to vote on the matter and shall**
24 **participate or abstain accordingly.**

25
26 **2. A member of the Review Authority shall not participate in any proceeding or action**
27 **in which member has an actual conflict of interest as defined in state law. Any**
28 **actual or potential conflicts of interest shall be disclosed at the meeting of the**
29 **Review Authority where the action is being taken.**

30
31 **3. A review authority member may be disqualified due to actual conflicts of interest**
32 **or actual bias based on a motion if a majority of the review authority members**
33 **present and voting approve such a motion. The member who is the subject of the**
34 **motion may not vote.**

35
36 **I. Presentations.**

37
38 **1. The Review Authority may set reasonable time limits for oral presentations. The**
39 **Review Authority may choose not to receive cumulative, repetitious, immaterial,**
40 **derogatory or abusive testimony. Persons may be required to submit written**
41 **testimony in lieu of oral testimony.**
42

2. No testimony shall be accepted after the close of the public hearing unless the Review Authority sets a deadline for receipt of such testimony and provides an opportunity for review and rebuttal prior to making a decision.
3. Counsel for the Review Authority may be consulted on legal or procedural issues without reopening the public hearing. Objections alleging that counsel is discussing or testifying as to factual matters shall be heard at the discretion of the Review Authority.
4. Staff may confer with the Review Authority after the close of the record on technical review or procedural matters, but may not engage in argument or present additional evidence.
5. The presiding officer shall preserve order at all public hearings and shall decide questions of order subject to a majority vote of the Review Authority. Persons who become disruptive or abusive may be removed from the hearing.

J. Continuance of Public Hearing. Public hearings may be continued in accordance with the rules of procedure adopted by the applicable Review Authority, if any, and with applicable state law.

K. Evidence and Argument. Evidence and argument shall be received and reviewed in accordance with the rules of procedure adopted by the applicable Review Authority and with applicable state law.

L. Burden of Proof. The applicant shall bear the burden of proof that the proposal complies with all applicable approval criteria and development standards.

M. Action by Review Authority Following Public Hearing.

1. An action of the Review Authority on a land use application or appeal may be to:
 - a. Approve the application as submitted or uphold the appeal;
 - b. Approve the application with conditions or uphold the appeal with conditions;
 - c. Approve the application with modified conditions or approve the appeal with modified conditions; or
 - d. Deny the application or the appeal.
2. Findings in support of any decision shall be made in accordance with the Review Authority's adopted rules of procedure and with applicable state law.

N. Record.

1. **Absent mechanical failure or inadvertent error, a verbatim written or mechanical record of the hearing shall be made. In addition, written minutes accurately citing the statements of the participants shall be taken. Such minutes may substitute for a verbatim record in the event of mechanical failure or inadvertent error.**
2. **An interested party may request a verbatim transcript of the recorded proceedings before the review authority on the matter. Requests for transcripts shall be accompanied by a deposit separate from the appeal fee, as specified in the adopted fee schedule. The City shall maintain an accurate record of the costs of the transcript preparation, and any unexpended portion of the deposit or additional amount due shall be refunded to or payable by the interested party.**

17.76.170 Public Hearings on Cases Remanded from LUBA.

- A. The procedures in this section shall be used for hearings involving cases either voluntarily or involuntarily remanded from the Land Use Board of Appeals (LUBA).**
- B. Upon receipt of the remand opinion, the director shall present the opinion directly to the City Council. The director shall inform the City Council of the nature of the remand, and the City Council shall make a formal decision regarding procedures prior to any hearing to decide the matter. The Council may decide to do any of the following:**
 1. **Send the matter to a lower review authority; or**
 2. **Set a date to decide the matter without re-opening the public hearing on the case;**
 - or**
 3. **Set a hearing date and re-open the public hearing for consideration.**
- C. When considering a remand, the Review Authority may consider the case in whole or in part.**
- D. Procedures for public notice and order of proceedings for remands shall comply with LCMC 17.76.160. In cases where a public hearing is held, required notices shall be mailed a minimum of 20 days in advance of any public hearing on the remand.**

17.76.180 Appeals.

- A. In General. Appeals of director decisions are heard by the Planning Commission. Appeals of Planning Commission decisions are heard by City Council. There is no local appeal of City Council decisions. The City Council decision is the final local decision.**

1
2 **B. Notice of Appeal. Where the appeal authority is the city, Notices of Appeal shall be**
3 **filed with the department within 12 days of the mailing date of the written notice of**
4 **the decision. Appeals must be received in the department no later than 5:00 p.m. of**
5 **the 12th day of the mailing date of the written notice of the decision. At a minimum,**
6 **the Notice of Appeal shall include the following items:**
7

- 8 1. **Identification of the decision being appealed, including the case file number, the**
9 **Review Authority which made the decision, and the date of the Decision;**
- 10 2. **Documentation that the appellant was a party to the initial proceedings;**
- 11 3. **A detailed statement on the basis of the appeal, including which approval criteria,**
12 **development standards, or conditions of approval were allegedly improperly**
13 **evaluated or applied to the decision; and**
- 14 4. **Payment of the appropriate fee, as adopted by City Council resolution.**

15
16
17
18
19 **C. Failure to File Notice of Appeal. Failure to file a notice of appeal that fully complies**
20 **with subsection B above, by 5:00 p.m. on the due date, with the fee specified in the**
21 **Notice of Decision, shall be a jurisdictional defect.**
22

23 **D. Request for Transcript. Pursuant to Subsection 17.76.160.N.2, the appellant or any**
24 **interested party may request a verbatim transcript of the recorded proceedings before**
25 **review authority on the matter.**
26

27 **E. General Procedures Applicable to All Appeals.**
28

- 29 1. **Public Hearing Required for Appeals. Appeal hearings before the appropriate**
30 **review body as specified in subsection 17.76.180.A shall be conducted in**
31 **accordance with the public hearing provisions in applicable state law and in LCMC**
32 **17.76.160.**
- 33 2. **Notice of Public Hearing on Appeal. Notices of appeal hearings shall be sent in**
34 **accordance with the notification requirements in subsection 17.76.050.E.**
- 35 3. **Staff Report. At least 7 days before the date of the appeal hearing, the director**
36 **shall prepare and make available to the public a copy of the staff report regarding**
37 **the appeal. A copy of the staff report and recommendation shall be provided to the**
38 **appeal body, the applicant, and to the appellant. Copies of the staff report shall**
39 **also be provided at reasonable cost to the public upon request to the department.**
40
41

4. Action of Appeal Body. At the conclusion of the hearing on the appeal, the appeal body shall take one of the following actions:

- a. Reverse or affirm the decision under appeal at the conclusion of the initial appeal hearing, with or without conditions or changes; or**
- b. Continue the appeal hearing to a date, time, and location certain, which shall be announced by the presiding officer. Notice of the date, time, and location certain of the continued hearing is not required to be mailed or published;**
- c. Continue the appeal hearing without announcing a date, time and location certain, in which case notice of the continued hearing shall be provided as was the notice for the initial hearing;**
- d. Provisions for continuing an appeal hearing or holding the record open as set forth in Subsection 17.76.160.J shall apply under this Code in a manner consistent with state law.**

5. Written Decision of Appeal Body. After the public record on the appeal closes, a written decision regarding the appeal shall be prepared. The written decision shall contain the following:

- a. A statement of the facts relied upon by the appeal body, which demonstrate the reasons why the decision under appeal is reversed or affirmed based on the applicable criteria and/or standards;**
- b. A statement of conclusions based on the findings; and**
- c. An explanation of the basis for any changes in the earlier decision:**
 - i. Denial reversed to approval; with or without conditions;**
 - ii. Approval changed to denial; or**
 - iii. Additions, deletions or revisions to conditions of approval.**

6. Mailing Notice of the Decision. Following the adoption of a decision by the appeal authority, the department shall mail the signed and dated decision to the appellant, the applicant, and any other persons who appeared orally or in writing in the record of the appeal.

F. Withdrawal of an Appeal.

- 1. At any time before the close of an appeal hearing held by any Review Authority, any appellant may withdraw the appeal. Withdrawal of the appeal is subject to the following:**
 - a. If requested before the hearing, the withdrawal must be submitted in writing;**
 - b. Any unexpended portion of the appeal fee will be refunded only if the withdrawal is received before the public notice of the hearing has been sent; and**
 - c. Where multiple people or parties sign and file a single Notice of Appeal, all the parties must consent to the withdrawal of the appeal.**

2. A withdrawn appeal cannot be re-filed by any party.

3. If all appeals in a matter are withdrawn, no decision by the Review Authority is necessary.

4. If all appeals are withdrawn, the department shall issue a Notice of Appeal Withdrawal to the applicant, the appellant, and the parties listed in Subsection 17.76.050.F. The Notice of Appeal Withdrawal shall specify the new effective date of the original decision to be the date of the withdrawal of the appeal(s).

SECTION 2. Chapter 17.77 (*Applications*) is hereby added to the Title, as follows:

Chapter 17.77 Applications

17.77.010 Adjustment.

17.77.020 Annexation.

17.77.030 Appeal.

17.77.040 Bed and Breakfast Accommodations Application.

17.77.050 Comprehensive Plan Map Amendment.

17.77.060 Conditional Use Permit.

17.77.070 Development Review.

17.77.080 Director's Interpretation.

17.77.090 Geologic Hazard Report and/or Beach Protective Structure Review; Natural Resources Development Review.

17.77.100 Home Occupation Application.

17.77.110 Modification of Approved Applications, Plans, Or Conditions Of Approval.

17.77.115 Nonconforming – Determination That Nonconforming Use, Site, or Structure is Lawful.

17.77.120 Planned Development.

17.77.130 Text Amendment.

17.77.140 Variance.

17.77.150 Zone Change.

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 17.74.050, 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.

17.77.020 Annexation.

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

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

C. Submittal Requirements.

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

4
5 **D. Zone Change Process Concurrent with Annexation Application. A request for zone**
6 **change from the county zone to an applicable city zone must be submitted with the**
7 **annexation application on the zone change form prescribed by the department.**

8
9 **E. Approval Criteria. The City may or may not approve an annexation application at its**
10 **discretion based upon the following:**

11
12 **1. The subject site must be contiguous to city limits.**

13
14 **2. The subject site must be within the urban growth boundary.**

15
16 **3. The city must be willing and able to provide services to the newly annexed area.**

17
18 **4. The deficit of income against expense to the city must not be unreasonable.**

19
20
21 **5. The advantages of annexing the subject site, both to the city and the subject site,**
22 **must outweigh the disadvantages of annexation.**

23
24 **F. Conditions of Approval. Approval of an annexation application cannot be conditioned**
25 **by the city.**

26
27 **G. Appeal of a Decision. The final decision on an annexation application may be appealed**
28 **to the Land Use Board of Appeals.**

29
30 **H. Expiration of a Decision. The final decision on an annexation application is not subject**
31 **to expiration.**

32
33 **I. Extension of a Decision. The final decision on an annexation is not subject to**
34 **extension.**

35
36 **17.77.030 Appeal.**

37
38 **A. Procedure. Appeals are subject to the Type III procedure, as described in LCMC**
39 **17.76.050.**

40 **B. Submittal Requirements:**
41

- 1 **1. Type III application submittal requirements are set forth in LCMC 17.76.050.**
2 **Specific submittal requirements are provided on application forms and checklists**
3 **as authorized in LCMC 17.76.110.**
4

5 **17.77.040 Bed and Breakfast Accommodations Application.**
6

7 **A. Purpose. The purpose of a bed and breakfast accommodations application is to allow**
8 **owners of dwellings to use their dwelling as a bed and breakfast accommodation,**
9 **while establishing criteria and standards to ensure that bed and breakfast**
10 **accommodations are subordinate to the residential use, and are in appearance and**
11 **operation neither detrimental nor disruptive to neighboring properties and residents.**
12

13 **B. Procedure. Bed and breakfast accommodation applications are subject to the Type I**
14 **procedure as described in LCMC 17.76.030.**
15

16 **C. Submittal Requirements. Type I application submittal requirements are set forth in**
17 **LCMC 17.76.030 and more specific submittal requirements are provided on application**
18 **forms and checklists as authorized in LCMC 17.76.110.**
19

20 **D. Approval Criteria. To approve a bed and breakfast accommodation application, the**
21 **review authority shall review the submitted materials to ensure that the following**
22 **criteria are satisfied:**

- 23 **1. The zoning of the subject property lists a bed and breakfast accommodation as an**
24 **allowed use;**
25
26 **2. The proposal complies with the standards for bed and breakfast accommodations**
27 **in LCMC 17.80.060.**
28

29 **E. Conditions of Approval. The review authority may impose conditions on approval of a**
30 **bed and breakfast accommodation application to ensure compliance with the approval**
31 **criteria.**
32

33 **F. Appeal of a Decision. Refer to LCMC 17.76.180.**
34

35 **G. Expiration of a Decision. Refer to LCMC 17.76.140.**
36

37 **H. Extension of a Decision. Refer to LCMC 17.76.150.**
38

39 **I. Invalidation of a Decision. Approval of a bed and breakfast accommodation**
40 **application is site-specific to the property and the original applicant. If an applicant**
41 **moves, the bed and breakfast accommodation application approval becomes invalid**
42 **unless a new bed and breakfast accommodation application is approved for the**
43 **subsequent occupant of the property.**

17.77.050 Comprehensive Plan Map Amendment.

A. Purpose. A Comprehensive Plan Map Amendment application provides a process to consider a proposed amendment to the Comprehensive Plan Map.

B. Procedure. A Comprehensive Plan Map Amendment application is reviewed using either the Type III or Type IV procedure.

C. Submittal Requirements. Type III application submittal requirements are set forth in LCMC 17.76.050. Type IV application submittal requirements are set forth in LCMC 17.76.060.

D. Approval Criteria. To approve a Comprehensive Plan Map Amendment, the Review Authority shall make findings of fact, based on evidence provided, that the request is consistent with the comprehensive plan and with the statewide planning goals.

E. Conditions of Approval. Approval of a Comprehensive Plan Map Amendment application cannot be conditioned by the city.

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

G. Expiration of a Decision. An approved Comprehensive Plan Map Amendment does not expire.

H. Extension of a Decision. An approved Comprehensive Plan Map Amendment is not subject to extension.

17.77.060 Conditional Use Permit.

A. Purpose. In all zones, conditional uses listed in that zone may be permitted subject to the granting of a conditional use permit. Because of their unusual characteristics, or the special characteristics of the area in which they are to be located, conditional uses require special consideration so that they may be properly located with respect to the objectives of this title and their effect on surrounding properties.

B. Procedure. Conditional use permit requests are subject to the Type III procedure, as described in LCMC 17.76.050.

C. Submittal Requirements.

1. Type III application submittal requirements are set forth in LCMC 17.76.050. Specific submittal requirements are provided on application forms and checklists as authorized in LCMC 17.76.110.

2. At a minimum, an application for a conditional use shall include the following:

a. An application form signed by the applicant and every current property owner of record as shown on the most-current recorded deed;

- b. Full payment of the application fee, based on the fee schedule in effect on the date of submittal;
- c. Existing Conditions Plan;
- d. Site Plan;
- e. Landscape Plan;
- f. Building Elevations (for new construction);
- g. Phasing Plan (if phasing is proposed);
- h. Traffic Impact Study pursuant to LCMC 17.52.300; and
- i. Narrative addressing compliance with each approval criterion and applicable standard.

D. Approval Criteria. In order to grant any conditional use, the Planning Commission must find, based upon evidence, both factual and supportive, provided by the applicant, that:

- 1. The proposal is in compliance with the comprehensive plan;
- 2. The site for the proposed use is adequate in size and shape to accommodate the use and all required setbacks, common spaces, retaining walls, parking and loading areas, landscaping, and other features required by this title;
- 3. The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use;
- 4. The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination, the review authority shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height and mass of buildings, retaining walls, fences, landscaping, screening, exterior lighting, and signage;
- 5. In areas designated as requiring preservation of historic, scenic or cultural attributes, proposed structures will be of a design complementary to the surrounding area.

E. Conditions of Approval. Pursuant to LCMC 17.76.120, the Planning Commission may impose, in addition to regulations and standards expressly specified in this title, other conditions found necessary to protect the best interests of the surrounding properties or neighborhood, or the city as a whole. These conditions may include, but not be limited to, the following:

- 1 **1. Increasing required lot size, setbacks, common open spaces, or screening and**
2 **buffering areas;**
3
- 4 **2. Requiring fences, screening walls, landscaping, or screening/buffering where**
5 **necessary to reduce noise and glare from the use, and maintain the property in a**
6 **character in keeping with the surrounding area;**
7
- 8 **3. Requiring landscaping and maintenance thereof;**
9
- 10 **4. Increasing street widths and/or controlling the location and number of vehicular**
11 **access points to the property for ingress/egress;**
12
- 13 **5. Requiring means of pedestrian/bicycle pathways to serve the property;**
14
- 15 **6. Increasing the number of off-street parking and loading spaces required; surfacing**
16 **and proper drainage of parking area;**
17
- 18 **7. Limiting size, location, and number of signs;**
19
- 20 **8. Limiting the location, coverage, or height of buildings because of obstruction to**
21 **view and reduction of light and air to adjacent properties;**
22
- 23 **9. Limiting or prohibiting openings in sides of buildings or structures;**
24
- 25 **10. Enclosure of outdoor storage areas and limitation of outside displays and/or**
26 **storage of merchandise;**
27
- 28 **11. Requiring maintenance of grounds;**
29
- 30 **12. Regulation of noise, vibration, odors, etc.;**
31
- 32 **13. Regulation of time for certain activities;**
33
- 34 **14. Establishing a time period within which the proposed use shall be developed;**
35
- 36 **15. The requirement of a bond for removal of such use within a specified period of**
37 **time;**
38
- 39 **16. Increase the size, type, or capacity of any or all utility services, facilities, or**
40 **appurtenances;**

17. Requirements under which any future enlargement or alteration of the use shall be reviewed by the review authority and new conditions imposed;

18. Requirements for providing the city a performance bond with a contractual agreement to assure its share of the development of streets, curbs, gutters, sidewalks, water, sanitary sewers, storm sewers, or other necessary and essential public improvements to city standards; and/or

19. Any such other conditions that will make possible the development of the city in an orderly and efficient manner and in conformity with the intent and purposes set forth in this title and the comprehensive plan.

F. Appeal of a Conditional Use 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.

I. Use permit to run with the land. A conditional use permit granted pursuant to the provisions of this chapter shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the use permit application.

17.77.070 Development Review.

A. The purpose of development review is to establish a coordinated process to ensure that new development is in compliance with the requirements of this title prior to the submittal of structural permit applications, or in instances where structural permit applications are not necessary prior to the commencement of any development. The development review application shall demonstrate that the proposed development will comply with all of the applicable requirements of this title, and that the arrangement of all buildings, structures, access points, parking and loading facilities, landscaping, exterior lighting, stormwater facilities will avoid traffic congestion and will provide for pedestrian and vehicular safety and welfare.

1. Development review does not replace, or excuse applicants, property owners, or developers from obtaining, any other permits or approvals required by this title, by the Lincoln City Municipal Code, or by any other local, state, or federal law or authority applicable to the proposed development, including but not limited to sign, tree removal, structural, demolition, grading and erosion control, conditional use, planned development, and/or land division permits.

B. Applicability. Except as exempted below in subsection (C) of this section, development review approval is required before any structural permit is issued authorizing development and before any outdoor storage area or parking lot development commences in the R-M, PC, RC, GC, PI, M-W, P, OS, TVC, NPD, and OPD zones, and before any nonresidential structural permit is issued authorizing development and before any nonresidential outdoor storage area or parking lot development commences in any other zone.

C. Exemptions. The activities, development and construction projects listed below are exempt from development review:

- 1. Detached single-unit dwellings, attached single-unit dwellings, manufactured homes, and duplexes;**
- 2. Routine repairs and maintenance;**
- 3. Interior remodeling of an existing building or structure (also called tenant improvements) or building alterations required to meet ADA or Oregon Residential Specialty Code or Oregon Structural Specialty Code requirements as applicable;**
- 4. Temporary structures associated with temporary uses;**
- 5. Accessory structures that don't require a structural permit;**
- 6. Construction, alteration, or maintenance of public infrastructure including streets, traffic control devices, drainage ways, sanitary and storm sewers, stormwater quality facilities, water lines, electrical power or gas distribution lines, or telephone or television cable systems;**
- 7. Type I applications;**
- 8. Exterior remodeling of a structure where no portion of the remodeled area is visible to public right-of-way; or**
- 9. Development meeting all of the following criteria:**
 - a. The development proposes no new structures that require a structural permit; and**
 - b. The development involves either no expansion of an existing structure or expansion of an existing structure by 800 square feet or less; and 800 square feet or less in total; and**
 - c. The development does not change existing on-site traffic circulation patterns; and**

d. The development adds less than three additional parking spaces.

D. Procedure. Development review applications are subject to the Type II procedure as described in LCMC 17.76.040, unless any of the following circumstances apply:

1. The applicant chooses to submit as a Type III procedure; or
2. A Type III application is necessary to approve one or more of the uses proposed in the development, in which case the development review application shall be processed concurrently with the Type III application as a Type III procedure.

E. Submittal Requirements. Type II application submittal requirements are set forth in LCMC 17.76.040 and more specific submittal requirements are provided on application forms and checklists as authorized in LCMC 17.76.110.

F. Concurrent Applications for Adjustments. Requests for adjustments to standards required in Chapter 17.74 LCMC shall be processed concurrently with the development review application.

G. Approval Criteria. To approve an application for development review, the review authority must find that the development, as described in the submitted application, either complies with all of the requirements of this title or will comply with all of the requirements of this title subject to conditions that shall ensure compliance with all of the requirements of this title.

H. Conditions of Approval. Pursuant to LCMC 17.76.120, the review authority may impose conditions on the approval of a development review application to ensure compliance with the requirements of this title.

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

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

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

17.77.080 Director's Interpretation.

A. Purpose. The purpose of the director's interpretation application is to provide a process to clarify terms or phrases within this title which may require further interpretation. The director's interpretation (DI) application also provides a means to assign new or noncategorized uses to permitted, accessory, or conditional uses in a zone. Interpretations of code terms, intent, or meaning are different from other land use applications in that they are an interpretation of language and policy, as opposed

1 to an evaluation of a use or development. A DI application may be submitted in
 2 advance of, or concurrent with, an application, permit, or other action.
 3

4 **B. Director's Authority to Initiate an Interpretation.** The director may initiate a director's
 5 interpretation on behalf of the city, either specific or not specific to a particular
 6 property or circumstance. The director may also initiate an interpretation when there
 7 is a reasonable dispute or lack of clarity regarding permitted uses on a property. If
 8 initiated by the director, the director's interpretation shall be processed as either a
 9 Type I or Type II application under the requirements of this section, and shall include
 10 the materials specified in subsection E with the exceptions of an application form and
 11 payment.
 12

13 **C. Director's Authority to Decline an Application.**
 14

- 15 1. The director has the authority to consider the request for an interpretation, and
 16 shall respond within 30 days following the date of the request, as to whether or not
 17 a requested interpretation will be issued.
 18
- 19 2. The director may issue or decline to issue a requested interpretation. The director's
 20 decision to decline to issue an interpretation is final when the decision is mailed to
 21 the party requesting the interpretation. The decision to decline to issue an
 22 interpretation is not subject to local appeal.
 23

24 **D. Procedures.** A director's interpretation not specific to a particular property or
 25 circumstance, is subject to the Type I procedure, as described under LCMC 17.76.030.
 26 A director's interpretation for a particular property is subject to the Type II
 27 procedure, as described in LCMC 17.76.040.
 28

29 **E. Submittal Requirements.** Type I application submittal requirements are set forth in
 30 LCMC 17.76.030. Type II application submittal requirements are set forth in LCMC
 31 17.76.040. More specific submittal requirements are provided on application forms
 32 and checklists as authorized in Section 17.76.110.
 33

34 **F. Standards for Assignment of a Use.** The assignment of a use to a particular zone,
 35 either as permitted or conditional, by the director shall be based on findings that the
 36 proposed use:
 37

- 38 1. Shares common characteristics with other permitted or conditional uses in the
 39 zone;
 40
- 41 2. Has intensity, density and off-site impacts similar to other permitted or conditional
 42 uses in the zone; and

- 1
2 **3. Has impacts on public facilities, including streets; sewer, water and stormwater**
3 **systems; schools; and police and fire services similar to other permitted or**
4 **conditional uses in the zone.**
5

6 **G. Standards for Interpretation. An interpretation of terms, intent, or meaning shall be as**
7 **consistent as possible with the standards listed below. Not all of the standards need to**
8 **be met for an interpretation to be issued.**
9

- 10 **1. The proposed interpretation is consistent with the common meaning of the words**
11 **or phrases at issue.**
12
13 **2. The proposed interpretation is consistent with relevant policy direction from**
14 **official city documents such as the Comprehensive Plan and its supporting**
15 **documents.**
16
17 **3. The proposed interpretation is consistent with the interpretation of other portions**
18 **of this title.**
19
20 **4. The proposed interpretation is consistent with regional, state, and federal laws and**
21 **court rulings that affect the words or phrases at issue.**
22

23 **H. Limitations on Director's Interpretation.**
24

- 25 **1. The director may interpret provisions of this title, but shall not issue any legal**
26 **opinion or interpretation of case law.**
27
28 **2. A director's interpretation does not establish precedent, and does not bind any**
29 **review authority in current or future decisions regarding the subject property or**
30 **application or similar properties or applications.**
31
32 **3. A director's interpretation does not run with the land unless the development is**
33 **substantially consistent with the description in the director's interpretation.**
34

35 **I. Expiration of a Decision. A director's interpretation does not expire unless superseded**
36 **by a subsequent director's interpretation, comprehensive plan amendment, or**
37 **ordinance amendment.**
38

39 **J. Appeal of a Decision. Refer to LCMC 17.76.180.**
40

17.77.090 Geologic Hazard Report and/or Beach Protective Structure Review; Natural Resources Development Review.

A. Procedure. Geologic hazard report, beach protective structure review, and natural resources development review are subject to the Type II procedure as described in LCMC 17.76.040.

B. Submittal Requirements. Type II application submittal requirements are set forth in LCMC 17.76.040 and more specific submittal requirements are provided on application forms and checklists as authorized in LCMC 17.76.110, as well as Chapter 17.46 and Chapter 17.47 LCMC.

C. Approval Criteria.

1. See Chapter 17.47 LCMC for approval criteria for geologic hazard report and beach protective structure review.

2. See LCMC 17.46.050 for approval criteria for natural resources development review.

D. Conditions of Approval. The review authority may impose conditions of approval to ensure compliance with the approval criteria.

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

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

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

17.77.100. Home Occupation Application.

A. Purpose. The purpose of a home occupation application is to allow residents an opportunity to use their dwelling unit to conduct small-scale business activities, while establishing criteria and standards to ensure that home occupations are subordinate to the residential use of the dwelling unit, and are in appearance and operation neither detrimental nor disruptive to neighboring properties and residents.

B. Procedure. Home occupation applications are subject to the Type I procedure as described in LCMC 17.76.030.

C. Submittal Requirements. Type I application submittal requirements are set forth in LCMC 17.76.030 and more specific submittal requirements are provided on application

forms and checklists as authorized in LCMC 17.76.110. At a minimum, a home occupation application shall include the following:

1. An application form signed by every current property owner as listed on the most-current recorded deed;
2. Payment in full of the appropriate application fee, based on the fee schedule in effect on the date of submittal; and
3. A floor plan of the dwelling unit to be used for the home occupation with the areas to be used for the home occupation clearly indicated.

D. Approval Criteria. To approve a home occupation application, the review authority shall review the submitted materials to ensure that the following criteria are satisfied:

1. The zoning of the subject property lists a home occupation as an allowed use;
2. The proposal complies with the standards for home occupations in LCMC 17.52.010.E and the definition for home occupations in LCMC 17.08.010.

E. Conditions of Approval. The review authority may impose conditions on approval of a home occupation application to ensure compliance with the 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.

I. Invalidation of a Decision. Approval of a home occupation application is site-specific to the property and the original applicant. If an applicant moves, the home occupation application approval becomes invalid unless a new home occupation application is approved for the subsequent occupant of the property.

17.77.110 Modification of Approved applications, plans, or conditions of approval.

A. Purposes. The modification process allows approved applications, plans, or conditions of approval to be modified under an appropriate review process without initiating repetition of the original application.

B. Applicability. The following applications, approved through the provisions of this code, may be modified pursuant to this section:

1
2 **1. Development Review;**

3
4 **2. Conditional Use;**

5
6 **3. Planned Development.**

7
8 **C. Procedure for Modifications. Modification applications are subject to the Type II**
9 **procedure as described in LCMC 17.76.040 or the Type III procedure as described in**
10 **LCMC 17.76.050, based upon the procedure type of the original application.**

11
12 **D. Submittal Requirements. Type II and Type III application submittal requirements are**
13 **set forth in LCMC 17.76.040 and 17.76.050, respectively.**

14
15 **E. Scope of Review. The scope of review for a modification shall be limited to the**
16 **modification request.**

17
18 **F. Approval Criteria. To approve modification application, the review authority shall**
19 **make findings of fact, based on evidence provided, that the following criteria are**
20 **satisfied:**

21
22 **1. The location, size, and functional characteristics of the modified development can**
23 **be made reasonably compatible with, and would have a minimal impact on,**
24 **properties surrounding the subject site; and**

25
26 **2. New elements are provided that functionally compensate for any negative effects**
27 **caused by the requested modification(s). New elements used to compensate for a**
28 **negative effect shall be of at least equal value to the elements proposed to be**
29 **changed.**

30
31 **3. The criteria in paragraphs 1 and 2 above shall be applied only to the area and/or**
32 **lots within the development that are affected by the proposed modification.**

33
34 **4. The proposed modification shall demonstrate compliance with the approval criteria**
35 **of the original application.**

36
37 **G. Conditions of Approval. Pursuant to LCMC 17.76.120, the review authority may impose**
38 **conditions on the approval of a modification application to ensure compliance with**
39 **the original approval criteria.**

40
41 **H. Appeal of a Decision. Refer to LCMC 17.76.180.**

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

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

17.77.115 Nonconforming – Determination That Nonconforming Use, Site, or Structure is Lawful.

A. Procedure for Determination that a nonconforming situation is lawful. Determination that a nonconforming use, site, or structure is lawful is subject to the Type II procedure as described in LCMC 17.76.040.

B. Submittal Requirements. Type II application submittal requirements are set forth in LCMC 17.76.040.

C. Approval Criteria. To determine that a nonconforming use, site, or structure is lawful, the review authority shall make findings of fact, based on evidence provided, showing that:

- 1. The nonconforming situation was permitted by the standards and regulations in existence at the time established; and**
- 2. The nonconforming situation continued without discontinuance or abandonment as provided under Chapter 17.64 LCMC.**

D. Conditions of Approval. Determinations of nonconforming situations are not conditioned.

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

F. Expiration of the Decision. The decision for determination of a nonconforming situation does not expire.

G. Extension of a Decision. The decision for determination of a nonconforming situation is not subject to extension.

17.77.120 Planned Development

A. Purpose. It is the purpose of this section to allow master planned developments in any residential or commercial zone, or any combination of them, and in doing so, to allow a more flexible approach to land development than that which is normally accomplished through the subdivision and zoning ordinances of the city. The planned development approach is intended to provide more desirable environments by

encouraging creative site planning and building designs; to make possible greater diversification between buildings and open spaces; and to conserve land and minimize development costs. In addition to the uses allowed in residential zones, the planned development approach may allow certain commercial uses subject to the specific limitations of this section.

B. Allowable Density. The allowable residential density in a planned development that meets only the minimum planned development standards is the “maximum base residential density” and shall be determined in the following manner:

1. Determine the gross square footage of the project site.
2. Subtract from the gross square footage the square footage of any areas proposed for nonresidential development, including commercial uses, places of worship, schools, and public buildings and their associated parking areas and grounds (including required yards and landscaping areas). The result is the “preliminary gross residential area.”
3. Subtract from the preliminary gross residential area the square footage of any areas of significant natural resources as identified in the comprehensive plan. The result is the “final gross residential area.”
4. Multiply the final gross residential area by 0.83. The result is the “final net residential area.”
5. Divide the final net residential area by the minimum lot size of the underlying zone. The result is the “maximum base residential density” expressed in dwelling units. Any number not a whole number shall be rounded down to a whole number.

C. Residential Density Bonuses.

1. Density in excess of the maximum base residential density for the underlying zone may be considered for projects that comply with the density bonus standards. The amount of density bonus shall be determined by the type of density bonus standards incorporated in the development proposal.
2. Except with respect to the “affordable housing bonus,” in no case shall the density bonus or bonuses cause the overall project density to exceed the maximum allowed residential density, which in the R-1-5 zone is 8.71 units per gross project acre, in the R-1-7.5 zone is 5.81 units per acre, and in the R-1-10 zone is 4.36 units per acre.

- 1 3. If an applicant requests one or more density bonuses the review authority shall
2 determine, based on evidence supplied by the applicant, any other person, or staff,
3 whether the applicant has complied with the bonus density standards. If the review
4 authority determines that the applicant has complied with one or more bonus
5 density standards it shall assign the applicable density bonus points and multiply
6 the maximum base residential density by the applicable density bonus points. The
7 result is the total number of additional residential units allowed for the project
8 above the maximum base residential density.
9
- 10 4. Density Bonus Standards. If an applicant desires to be allowed to develop a
11 number of residential units above the maximum base residential density the
12 applicant shall comply with one or more of the following bonus density standards.
13 The density bonus points for each density bonus standard are in parentheses at the
14 end of each standard.
15
 - 16 a. Floodplain.
17 i. Requirement. For projects where part(s) of the site is located within the
18 100-year floodplain as defined and mapped by the Federal Emergency
19 Management Agency, the portions in the floodplain must be developed
20 according to the National Flood Insurance Program requirements.
21 ii. Density Bonus Standard. For projects where part(s) of the site is located
22 within the 100-year floodplain as defined and mapped by the Federal
23 Emergency Management Agency, develop only on portions of the site that
24 are not in the 100-year floodplain or on portions that have been previously
25 developed. (0.01 point.)
26 b. Steep Slopes.
27 i. Requirement. On portions of the project site with pre-project slopes
28 greater than 15 percent that are not previously developed, do not disturb
29 slopes greater than 40 percent and do not disturb portions of the project
30 site within 50 feet of the top of such slopes, and 75 feet from the toe of
31 such slopes.
32 ii. Density Bonus Standard. On portions of the project site with pre-project
33 slopes greater than 15 percent that are not previously developed sites, limit
34 development to no more than 40 percent of slopes between 25 percent and
35 40 percent, and to no more than 60 percent of slopes between 15 percent
36 and 25 percent, and locate development such that the percentage of the
37 development footprint that is on pre-project slopes less than 15 percent is
38 greater than the project's total percentage of buildable land that has pre-
39 project slopes less than 15 percent. (0.01 point.)
40 c. Protected Species Habitat.
41 i. Requirement. If designated critical habitat for species that are listed or are
42 candidates for listing under state or federal endangered species acts is
43 found on or adjacent to the project site, do not disturb that critical habitat

or portions of the site within an appropriate buffer around the critical habitat.

ii. Density Bonus Standard. If habitat for species that are listed or are candidates for listing under state or federal endangered species acts is found on the project site, do not disturb that habitat or portions of the site within an appropriate buffer around the habitat, with habitat connections or corridors (including connections to habitat on adjacent parcels) in mind. The geographic extent of the habitat and the appropriate buffer shall be identified by a qualified biologist (as determined by the planning and community development director) or the appropriate federal or state agency. Protect the habitat and its identified buffers from development in perpetuity by donating or selling the land or a conservation easement on the land to an accredited land trust or relevant public agency. (0.02 points.)

d. Public Transit.

i. Requirement. Design streets so that pullouts and public transit shelters may be added in the future without the need to acquire additional rights-of-way or relocate any sidewalks or utility lines.

ii. Density Bonus Standard. Provide covered and at least partially enclosed public transit shelters, adequate to buffer wind and rain, at appropriate locations within the project boundaries. If public transit does not serve the area of the project, provide pullouts at appropriate locations within the project boundaries so that public transit shelters may be added in the future. (0.01 point.)

e. Accessible Design.

i. Requirement. Design and build all buildings to comply with the minimum requirements of the Americans with Disabilities Act.

ii. Density Bonus Standard. For each residential unit type developed, design 20 percent (and not less than one) of each type to comply with the accessible design provisions of the Fair Housing Amendments Act (FHAA) and Section 504 of the Rehabilitation Act (Rehabilitation Act), as applicable. Separate residential unit types include: single-family, duplex, triplex, multi-unit row or townhouses, and mixed use buildings that include residential units. All paths of travel between residential units and other buildings within the project shall comply with the accessible design provisions of the FHAA and Rehabilitation Act, as applicable; and facilities and rights-of-way shall comply with the accessible design provisions of the FHAA, the Rehabilitation Act, or the Americans with Disabilities Act, as applicable. (0.01 point.)

f. Energy Efficiency.

i. Requirement. None.

ii. Density Bonus Standard. (0.02 point).

(A) For new residential structures of three stories or fewer, build and equip the structures to qualify as an Energy Star Home by either a performance

path (through a HERS Index rating) or a prescriptive path (Building Option Package or BOP); and

(B) For nonresidential structures and residential structures of more than three stories, demonstrate a minimum 10 percent improvement in the proposed building performance rating compared to the baseline building performance rating per ASHRAE/IESNA Standard 90.1-2007 (without addenda) by a whole building project simulation using the Building Performance Rating Method in Appendix G of the Standard. Appendix G requires that this energy analysis include all of the energy costs within and associated with the building project. The proposed design must comply with the mandatory provisions (Sections 5.4, 6.4, 7.4, 8.4, 9.4 and 10.4) in Standard 90.1-2007 (without addenda), must include all the energy costs within and associated with the building project, and must be compared against a baseline building that complies with Appendix G to Standard 90.1-2007 (without addenda).

The default process energy cost is 25 percent of the total energy cost for the baseline building. For buildings where the process energy cost is less than 25 percent of the baseline building energy cost, the applicant must provide supporting documentation substantiating that process energy inputs are appropriate. For the purposes of this analysis, process energy is considered to include, but is not limited to, office and general miscellaneous equipment, computers, elevators and escalators, kitchen cooking and refrigeration, laundry washing and drying, lighting exempt from the lighting power allowance (e.g., lighting integral to medical equipment) and other (e.g., waterfall pumps). Regulated (nonprocess) energy includes lighting (such as for the interior, parking garage, surface parking, facade, or building grounds, except as noted above), HVAC (such as for space heating, space cooling, fans, pumps, toilet exhaust, parking garage ventilation, kitchen hood exhaust, etc.) and service water heating for domestic or space heating purposes.

g. Outdoor Water Conservation.

i. Requirement. For irrigation, design and install all irrigation systems in the project so that they do not spray onto or otherwise directly place irrigation water onto impervious surfaces such as roads, driveways, parking lots, and sidewalks.

ii. Density Bonus Standard. For irrigation, design and install all irrigation systems in the project that use only captured rainwater, recycled wastewater, recycled graywater, or install landscaping that does not require permanent irrigation systems. Temporary irrigation systems used for plant establishment are allowed only if removed within one year of installation. (0.01 point.)

h. Indoor Water Conservation.

i. Requirement. None.

1 ii. Density Bonus Standard. Design and construct at least 90 percent of all
 2 buildings in the project such that they meet one of the following
 3 requirements according to the appropriate category (0.01 point):

4 (A) For nonresidential buildings and residential buildings over three stories,
 5 employ strategies that in aggregate use 30 percent less water than the
 6 water use baseline calculated for the building (not including irrigation) after
 7 meeting the Energy Policy Act of 1992 fixture performance requirements.
 8 Calculations are based on estimated occupant usage and shall include only
 9 the following fixtures (as applicable to the building): water closets, urinals,
 10 lavatory faucets, showers, and kitchen faucets.

11 (B) For residential buildings three stories or fewer, install fixtures that
 12 comply with all of the following requirements:

13 (1) The average flow rate for all lavatory faucets must be no more than 2.0
 14 gpm.

15 (2) The average flow rate for all shower heads must be no more than 2.0
 16 gpm.

17 (3) The average flow rate for all toilets, including dual-flush toilets, must be
 18 no more than 1.3 gpf.

19 i. Tree Preservation.

20 i. Requirement. Comply with the requirements of LCMC 17.52.220.

21 ii. Density Bonus Standard. For each two percent of canopy cover provided
 22 by trees that are preserved and incorporated into a development plan, a
 23 0.01 point density bonus may be granted. The bonus is not applicable to
 24 trees preserved in areas that would otherwise be precluded from
 25 development, including floodplains, slopes greater than 25 percent,
 26 drainage ways, or wetlands. No more than a 0.10 point density bonus may
 27 be granted for any one development.

28
 29 D. Affordable Housing Bonus. An additional density bonus of 10 percent above the
 30 maximum base residential density shall be available for projects incorporating an
 31 affordable housing element. For the purposes of this section an affordable housing
 32 element must include the following components:

33
 34 1. At least five percent of the total number of dwelling units in the project must be
 35 affordable units.

36
 37 2. The affordable units must be incorporated into the overall project and not be
 38 clustered into a separate area of the project. This provision is not intended to
 39 prohibit "cottage clusters" of affordable units; provided, that such clusters are
 40 themselves incorporated into the overall project and not clustered into a separate
 41 area of the project. To be considered "affordable" a unit must meet affordability
 42 standards as adopted by the city. Alternatively the developer may transfer title to
 43 individual lots dedicated to affordable housing to the Lincoln County Land Trust or

other organization approved by the planning and community development director for development by that entity as affordable housing.

E. Large-Scale, Mixed Use Planned Developments. This subsection sets forth special provisions for large-scale, mixed use planned developments that provide additional amenities for residents, visitors, and the larger Lincoln City community while ensuring that impacts can be internalized and mitigated through master planning and coordinated on-site management.

1. Applicability. Subsection (H) of this section may be applied only to an existing or proposed planned development that is 100 acres or larger, has direct access to an arterial street, and designates at least 35 percent of the gross planned development site area as open space.

2. Limited Recreational Commercial Uses Permitted.

a. Uses Allowed. In addition to residential uses, the following recreational commercial uses may be permitted in large-scale, mixed use planned developments located in residential or commercial zones, subject to the limitations in subsection (G)(2)(b) of this section:

i. Motels, hotels, and resorts;

ii. Cabins and yurts used for overnight accommodations;

iii. Eating or drinking establishments without drive-up service facilities;

iv. Retail sales, exclusive of drive-up service facilities;

v. Day spas;

vi. Child day care facilities;

vii. Religious institutions and houses of worship;

viii. Convention centers and meeting facilities;

ix. Time-share units;

x. Bed and breakfast accommodations;

xi. Public use or public utility;

xii. Utility substation;

xiii. Outdoor commercial amusement establishments;

xiv. Essential emergency communications and warning facilities;

xv. Emergency shelters;

xvi. Mixed use incorporating one or more of the uses listed here.

b. Limitations. In addition to such conditions and restrictions as the planning commission may deem appropriate, the following limitations apply to commercial uses in large-scale, mixed use planned developments located in residential or commercial zones:

i. The combined area of commercial uses, including associated parking areas, may not exceed 15 percent of the gross site area;

- ii. Commercial uses must be located a minimum of 100 feet from existing off-site residential buildings;
- iii. No commercial or mixed use buildings may exceed 45 feet in height (unless approved by a vote of the people pursuant to the provisions of LCMC 17.52.190); and
- iv. Recreational commercial uses are subject to the design standards of Chapter 17.74 LCMC.

3. Applications for large-scale, mixed use planned developments shall meet the requirements of OAR 660-012-0060, and be subject to the following:

- a. A transportation impact analysis (TIA) shall be required at the time of application to determine if the proposed change would significantly affect an existing or planned transportation facility. The TIA shall demonstrate that the development does not significantly impact the transportation system as defined by OAR 660-012-0060(1); or the development shall be made consistent with the transportation system as allowed in OAR 660-012-0060(2). The TIA, findings of significant effect/no significant effect, and proposed mitigation measures shall be sent to the Oregon Department of Land Conservation and Development and the Oregon Department of Transportation for acknowledgment (concurrence).
- b. To be consistent with OAR 660-012-0060, the analysis as indicated in subsection (G)(3)(a) of this section shall include a review process that includes adequate public notice and a public hearing, with the right to appeal.
- c. Where access to US-101 is proposed as part of a large-scale, mixed use PUD, a valid ODOT highway approach road permit must be provided to Lincoln City before development permits may be issued.

F. Preliminary Master Plan Application. The preliminary master plan, which must include a drawing showing the layout of the proposed planned development, must contain the following information:

- 1. Proposed name of the planned development;
- 2. Date, north point and scale of drawing;
- 3. Appropriate identification clearly stating that the drawing is a preliminary planned development master plan;
- 4. Location of the planned development by section, township and range; a legal description sufficient to define the location and boundaries of the proposed planned development tract; and the tract designation or other description according to the real estate records of the county assessor;

- 1
- 2
- 3 5. A vicinity sketch map at a scale of one inch equals 400 feet showing adjacent
- 4 property boundaries and land uses;
- 5
- 6 6. The following:
 - 7 a. Location, widths and names of all existing streets or other public ways
 - 8 within or abutting the planned unit development;
 - 9 b. Contour lines having the following minimum intervals:
 - 10 i. Two-foot contour intervals for ground slopes less than 10 percent; and
 - 11 ii. Five-foot contour intervals for ground slopes 10 percent or greater.
 - 12 Contours shall be based on contour maps provided by the city or other
 - 13 data approved by the city engineer;
 - 14 c. Location of at least one temporary benchmark within the planned unit
 - 15 development boundaries or the source of the contour line data shown.
 - 16 (Source and accuracy subject to city engineer's approval);
 - 17 d. Location and direction of all water courses and natural features such as
 - 18 rock outcroppings, marshes and wooded areas; and the approximate
 - 19 locations of trees or stands of trees having a trunk cross-sectional diameter
 - 20 of eight inches (approximately 25 inches in circumference) or more,
 - 21 measured at a point 54 inches above the base of the trunk on the uphill
 - 22 side. The plan must identify those water courses, natural features and areas
 - 23 of trees meeting the described criteria which are to remain and those which
 - 24 may be altered or removed;
 - 25 e. Proposed streets, including location, widths and approximate radii or
 - 26 curves;
 - 27 f. Location of existing and proposed easements on the site or abutting
 - 28 property, showing the width and purpose of each easement;
 - 29 g. The types of housing proposed within the planned development, the
 - 30 approximate location or locations proposed for each type of housing, and
 - 31 the approximate housing density proposed at each location;
 - 32 h. Sites, if any, allocated for:
 - 33 i. Places of worship;
 - 34 ii. Public or private Parks, schools, and playgrounds;
 - 35 iii. Public buildings;
 - 36 iv. Open space;
 - 37 v. Commercial uses, specifying the type of each.
 - 38 i. Area coverage of existing and proposed structures, lots, streets or other
 - 39 development.

40 G. Supplemental Preliminary Master Plan Information. The applicant also shall submit the
 41 following information to supplement the preliminary master plan. This information can be
 42 submitted in separate statements accompanying the preliminary master plan:
 43

1. Proposed restrictions to be filed in the county deed records, in outline form, such as deed restrictions, conditions, covenants and restrictions, and homeowners' association agreements. The outline restrictions shall identify the time at which the restrictions will be filed in the county deed records; generally who will have authority to enforce the restrictions; specifically which restrictions, if any, are proposed to be enforceable by the city; the time at which the restrictions will become enforceable; and which restrictions, if any, will not be subject to amendment without the consent of the city;
2. Approximate locations and anticipated grades of all streets. Typical cross sections of the proposed streets showing widths of roadways, curbs, location and widths of sidewalks and the location and size of utility mains;
3. Approximate plan of proposed sanitary sewers, storm drains, storm water detention and drainage pretreatment facilities and the water distribution system;
4. A general description of property intended to be dedicated to the city or public, other than street rights-of-way, including proposed dedication restrictions;
5. A description of any residential density bonus the applicant is requesting, including evidence demonstrating compliance with applicable density bonus standards;
6. Proposed number of residential units;
7. An approximate tabulation of all dwelling units by type;
8. A narrative description of the planned development and the manner in which it meets the purpose set out in subsection (A) of this section;
9. A statement describing the present and proposed ownership;
10. A preliminary landscape plan, covering both areas to retain undisturbed their natural vegetation and areas to be relandscaped;
11. A circulation plan and traffic impact analysis identifying likely circulation patterns for and traffic impacts from traffic generated by the development including patterns and impacts within the development, in the area surrounding the development, and in other affected areas of the city;
12. A statement whether the applicant proposes to submit the final master plan for review as a single master plan or in phases; a statement of the date or dates by which the applicant proposes to submit the final master plan or final master plan phases for review; and a statement of the date or dates by which the applicant

anticipates that the development and related improvements or each phase thereof will be substantially completed.

13. A tree maintenance and protection plan, which shall contain the following information:

a. An accurate topographical survey, subdivision map or plat map, that bears the signature of a qualified, registered surveyor or engineer, and which shows:

i. The shape and dimensions of the property, and the location of any existing and proposed structures or improvements;

ii. The location of the individual trees, with a diameter of six inches or more, on the site, and indicating species, approximate height, d.b.h., canopy spread and common name;

iii. The location of unique trees or stands of trees; and

iv. The location of existing and proposed easements, as well as setbacks required by existing zoning requirements.

b. In lieu of the map or survey, an applicant proposing to remove trees may provide aerial photographs with overlays, GIS documentation, or maps approved by the director, and clearly indicating the information required by this subsection.

c. Tree Protection. Unless specifically exempted by the director, a statement describing how trees intended to remain will be protected during tree removal and construction and how remaining trees will be maintained.

d. Replacement Trees. A description of the proposed tree replacement program with a detailed explanation including the number, size, species, and cost. In lieu of replacing trees, the applicant may propose to pay into the city tree fund an amount equivalent to the value of the replacement trees after installation, as provided in this subsection.

e. Covenants, Conditions and Restrictions (CC&Rs). Where the applicant is proposing to remove trees on common areas, the applicant shall provide a copy of the applicable CC&Rs, including any landscaping provisions.

f. Waiver of Documentation. The director may waive an application document where the required information has already been made available to the city, or where the director determines the information is not necessary to review the application.

H. Consideration of Preliminary Master Plan. Preliminary master plans shall be processed as a Type III procedure as set forth in LCMC 17.76.050. The planning commission's consideration of the preliminary master plan shall be subject to the following:

1. The planning commission shall approve, or approve with conditions, the plan if it finds that the plan, either as submitted or with conditions, meets all of the following criteria. The planning commission shall disapprove the plan if it finds that the plan, either as submitted or with conditions, does not meet any one or more of the following criteria:

1 a. The proposed planned development will be substantially compatible with
2 existing development in the surrounding area; and undeveloped land in the
3 surrounding area can be developed in a manner substantially compatible with the
4 proposed planned development.

5 b. Construction of the planned development can be accomplished in a manner that
6 does not create unreasonable negative impacts on the area surrounding the
7 development or in the city. In order to assure the avoidance or mitigation of
8 negative construction impacts on the area surrounding the development or in the
9 city, the planning commission may impose conditions including but not limited to:

10 i. Requirements that removal of existing landscaping during construction be
11 limited to areas of the planned development to be constructed shortly
12 following removal and to portions of those areas on which construction will
13 occur;

14 ii. Prohibitions of open burning on the site during construction;

15 iii. Prohibitions or limitations on construction track-out;

16 iv. Restrictions on construction noise; and

17 v. Restrictions on construction traffic.

18 c. The development will not create unreasonable negative impacts on the area
19 surrounding the development or in the city. In order to assure the avoidance or
20 mitigation of negative impacts, the review authority may require the filing of
21 restrictions in the county deed records including but not limited to restrictions:

22 i. Prohibiting the removal of specified landscaping; and

23 ii. Prohibiting open burning during construction.

24 d. Street, water, sewer, drainage and drainage pretreatment, storm water
25 detention, and other similar facilities in the area surrounding the development and
26 in the city are or will be adequate to provide for the health, safety and welfare for
27 the development's population densities and the type of development proposed,
28 taking into consideration existing and projected future demands on those facilities.

29 e. Street, water, sewer, drainage and drainage pretreatment, storm water detention
30 and other similar facilities proposed to be constructed as part of the development
31 are adequate to provide for the health, safety and welfare for the population
32 densities and the type of development proposed.

33 f. The proposed number of residential units does not exceed the maximum
34 permitted number of residential units; and at least 15 percent of the gross area is
35 dedicated to landscaping. For purposes of computing area dedicated to
36 landscaping, dedicated open space and protected resource areas may be treated as
37 area dedicated to landscaping, but parking areas may not.

38
39 2. The planning commission, in approving a preliminary master plan, may attach
40 conditions it finds are necessary or appropriate to carry out the purposes of this
41 title.
42

I. Procedure Following Expiration of Preliminary Master Plan. If an approved preliminary master plan expires, whether as to the entire area proposed for development or as to as-yet unbuilt portions of the development, then a complete new application must be submitted prior to development of the undeveloped portions. This complete new application shall be treated as an original application for the undeveloped portions of the site and shall be subject to all of the procedures and requirements in place at the time of submittal.

J. Submission of Tentative Subdivision Plan. If an approved preliminary planned development master plan provides for the subdivision of land within the planned development, then within such period or periods of time as required by the preliminary planned development master plan approval, an applicant shall file a tentative subdivision plan for the planned development or for phases of the development, if phasing is permitted. The submittal requirements, procedures and approval requirements for the tentative subdivision plan shall be as set out in LCMC Title 16.

K. Consideration of Final Master Plan.

1. Following preliminary master plan approval, and prior to issuance of a development permit and commencement of development, a final master plan must be submitted following the Type I procedure as set forth in LCMC 17.76.030. The final master plan may be submitted in development phases; provided, that:

a. Each phase can exist as a separate entity capable of independently meeting all requirements and standards of this section and of the underlying zones in which the planned development is located; or

b. Prior to the development of any phase that will not exist as such a separate entity capable of independently meeting the requirements and standards, restrictions enforceable by the city and in a form approved by the city have been filed in the county deed records, such as conditions, covenants and restrictions. The restrictions shall be applicable to other areas of the planned development not yet proposed for development, and shall be sufficient to assure that:

i. The area within the phase proposed for development, when combined with the area not yet proposed for development, as subject to the deed restrictions, can exist as a combined entity capable of independently meeting the requirements and standards;

ii. The phase has met any applicable reevaluation requirement imposed during the preliminary master plan approval process; and

iii. The separate development of phases will not be detrimental to the total development nor to the adjacent properties in the event the remainder of the development is not completed.

2. The final master plan must be in sufficient detail to allow the review authority to determine whether the final master plan is consistent with the preliminary master plan and whether the final master plan meets all conditions applicable to the preliminary master plan. In addition, the final master plan shall include:
 - a. Detailed landscaping plans showing the type and size of all plant material and its location, the irrigation system, decorative materials, recreation equipment and special effects; and the schedule for removal and replanting of vegetation;
 - b. Detailed water, sewer, drainage and drainage pretreatment, storm water detention and street system plans, including:
 - i. Central line profiles showing finished grades of all streets;
 - ii. Cross sections of proposed streets showing widths of roadways, curbs, locations and widths of sidewalks and locations and sizes of utility mains;
 - iii. Profiles of sanitary sewer, street drainage, drainage pretreatment, storm water detention and water distribution systems, showing pipe size and location of valves and fire hydrants, all to conform to city standards;
 - iv. The estimated cost of street, sewer, drainage and drainage pretreatment, storm water detention, water, and other public infrastructure improvements within the planned development.
3. The review authority shall approve the final master plan if the final master plan meets all of the following criteria:
 - a. The plan is consistent with the preliminary master plan and all conditions applicable to it; and
 - b. All utility systems conform to city standards or are otherwise approved by the city engineer and landscaping conforms to city standards.

L. Requirements Following Final Master Plan Approval.

1. A certified print of the approved final planned development master plan shall be provided by the applicant without charge to the office of the city recorder.
2. Proposals to make changes in the final master plan after it has been approved shall be considered the same as a new planned development application.
3. Proposals to make minor changes in the final master plan after it has been approved may be approved by the city manager or the city manager's designated representative. Minor changes consist only of changes that will not have public visibility and that:
 - a. Do not increase densities;
 - b. Do not change boundaries;
 - c. Do not change any use, specific or general, described in the final master plan; and
 - d. Do not change the location or amount of land devoted to specific land uses.

4. A final planned development plat shall be filed with and approved by the city in accordance with the final platting requirements of LCMC Title 16 (Subdivisions) and recorded with Lincoln County, within one year of the approval of a final master plan. One extension of time for no more than one year may be granted, for good cause, through a Type III procedure. No additional extensions may be granted. If a final planned development plat is not filed, approved, and recorded as required by this section, then the planned development approval shall become void as of the date the filing requirement no longer can be met.

5. Prior to commencement of development, the developer shall provide to the city an improvement agreement and financial security instrument as described in LCMC 17.52.240(L) and shall obtain any required permits.

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.

17.77.140 Variance.

A. Procedure. Variance applications are subject to the Type III procedure, as described in LCMC 17.76.050.

B. Submittal Requirements. Type III application submittal requirements are set forth in LCMC 17.76.050 and more specific submittal requirements are provided on application forms and checklists as authorized in LCMC 17.76.110.

C. Approval Criteria. To approve a variance, the planning commission shall make findings of fact, based on evidence provided, that all of the following circumstances exist:

- 1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape legally existing prior to the date of the ordinance codified in this title, topography, or other circumstances over which the property owner has no control;**
- 2. The variance is necessary for the preservation of a property right of the property owner which is substantially the same as owners of other property in the same zone or vicinity possess;**
- 3. The variance should not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city planning policy;**
- 4. The variance requested is the minimum variance which would alleviate the hardship.**

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

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

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

17.77.150 Zone Change.

A. Purpose. Zone change applications provide a process for consideration of quasi-judicial or legislative amendments to the zoning map to implement property designations on the comprehensive plan map or to apply new zones reflecting changing community conditions, needs, and desires.

B. Procedure. Zone change applications are reviewed through the Type III or Type IV procedure.

1 **C. Submittal Requirements. Type III application submittal requirements are set forth in**
2 **LCMC 17.76.050. Type IV application submittal requirements are set forth in LCMC**
3 **17.76.060.**

4
5 **D. Approval Criteria. To approve a zone change, the City Council shall make findings of**
6 **fact, based on evidence provided, that the request is consistent with the**
7 **comprehensive plan and statewide planning goals.**

8
9 **E. Conditions of approval. Approval of a zone change application cannot be conditioned**
10 **by the city.**

11
12 **F. Appeal of a Decision. Refer to LCMC 17.76.180.**

13
14 **G. Expiration of a Decision. Zone changes are not subject to expiration.**

15
16 **H. Extension of a Decision. Zone changes are not subject to extension.**

17
18 **SECTION 3.** Chapter 17.12 (*Zoning Districts Established*), Section 17.12.010 (*Classification of*
19 *Zones*), Paragraph A., is hereby amended to read as follows:

20
21 **17.12.010 Classification of zones**
22

23 A. For the purpose of this title, the following zones are hereby established in the city.

Zone Description	Abbreviated Description
Residential, Single-family	R-1
Residential, Roads End	R-1-RE
Vacation Rental	VR
Recreation-Residential	R-R
Residential, Multifamily <u>Multiple unit dwelling</u>	R-M
Professional Campus	PC
Recreation Commercial	RC
General Commercial	GC
Nelscott Plan District	NP
Oceanlake Plan District	OP
Taft Village Core	TVC
Planned Industrial	PI
Marine-Waterway	M-W
Natural Resource Overlay	NR
Park	P
Open Space	OS

SECTION 4. Chapter 17.12 (*Zoning Districts Established*), Section 17.12.030 (*Boundaries of Zones*) is hereby amended to read as follows:

17.12.030 Boundaries of zones

If a zone boundary as shown on the map divides a lot between two zones, the entire lot shall be deemed to be in the zone in which the greater area of the lot lies, ~~provided, that this adjustment involves a distance not to exceed 20 feet from the mapped zone boundary.~~

SECTION 5. Chapter 17.12 (*Zoning Districts Established*), Section 17.12.050 (*Zoning of annexed areas*) is hereby amended to read as follows:

17.12.050 Zoning of annexed areas.

When requesting annexation of an area, a request for a city zoning designation shall be made and shall be processed concurrently with the annexation application. Areas annexed to the city will be classified with the underlying county zoning designation until rezoned by the city.

SECTION 6. Chapter 17.52 (*Supplemental Regulations and Exceptions*), Section 17.52.010 (*Accessory uses – General Provisions.*), Paragraph C, is hereby amended to read as follows:

17.52.010 Accessory uses – General provisions.

Accessory uses shall comply with all requirements for the principal use except where specifically modified by this title, and shall comply with the following limitations:

C. A guest house may be maintained accessory to a dwelling, provided there are no **portable, temporary, or permanent** cooking facilities in the guest house.

SECTION 7. Chapter 17.52 (*Supplemental Regulations and Exceptions*), Section 17.52.020 (*Authorization of similar uses*), is hereby deleted to read as follows:

~~17.52.020 Authorization of similar uses.~~

~~In response to an application in relation to a specific lot, the planning commission may rule by resolution that a use not specifically named in the allowed uses of a zoning district and not specified in any other zoning district shall be included among the allowed uses if the use is of the same general type and is similar to the allowed uses. Such ruling by resolution of the planning commission shall thereafter be presented to the city council for legislative enactment to amend this title to include such use. In addition, the ruling shall be entered in a registry available to the public that sets out the street address or other easily understood geographic reference to the lot, the date of the ruling, and a description of the ruling.~~

SECTION 8. Chapter 17.52 (*Supplemental Regulations and Exceptions*), Section 17.52.050 (*Storage in Front yard*), is hereby amended to read as follows:

17.52.050 Storage in front setback area. yard.

Boats, **RVs,** and trailers and house trailers shall not be stored in a required front **setback area** yard.

SECTION 9. Chapter 17.52 (*Supplemental Regulations and Exceptions*), Section 17.52.080 (*Maintenance of minimum requirements*), is hereby amended to read as follows:

17.52.080 Maintenance of minimum requirements.

No lot area, minimum setback area, ~~yards~~, ~~other~~ open space, or off-street parking or loading area existing on or after the effective date of the ordinance codified in this title shall be reduced below the minimum required for it by this title.

SECTION 10. Chapter 17.52 (*Supplemental Regulations and Exceptions*), Section 17.52.090 (*Dual use of required open space*), is hereby deleted to read as follows:

~~17.52.090 Dual use of required open space.~~

~~No lot area, yard or other open space or off-street parking or loading area which is required by this title for one use shall be utilized to satisfy requirements for lot area, yard or other open space or off-street parking or loading area for another use, except as provided in Chapter 17.56 LCMC~~

SECTION 11. Chapter 17.52 (*Supplemental Regulations and Exceptions*), Section 17.52.120 (*Utilities*), Paragraph A is hereby amended to read as follows:

17.52.120 Utilities.

A. In the single-family residential (R-1) zone, and the multiple-unit family residential (R-M) zone, when city services are not available or when only partial services are available, the minimum parcel size shall be five acres; except however, any existing lots of record less than five acres in area which do not front on a public sewer line but which will be connected to a public water line may be developed with a single-family dwelling utilizing an approved subsurface sewerage disposal system, provided a deferred improvement agreement is executed and recorded by the owner of record consenting to the establishment of a local improvement district to participate in future public sewer system extensions and connections.

SECTION 12. Chapter 17.52 (*Supplemental Regulations and Exceptions*), Section 17.52.160 (*Required yards*), is hereby amended to read as follows:

17.52.160 Required setbacks yards – Exceptions.

A. Architectural Features. Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, flues, awnings, and bay windows not more than four feet wide or high may project up to 18 inches into a required setback area. ~~yard~~.

B. Accessory ~~structures~~. ~~Buildings~~. A required side or rear setback yard may be reduced to three feet for an accessory structure building, provided the structure building is detached from other structures buildings by five feet or more and does not exceed a height of one story nor an area of 200 square feet.

C. Fences. Fences, which may be located within required setback areas yards up to the property line, may not exceed three and one-half feet from the grade of the street centerline in the required front setback area, yard, and shall not exceed six feet in other setback areas yards nor conflict with requirements of a clear vision area as provided in LCMC 17.52.060 or the clear vision areas of adjacent private driveways.

D. Retaining Walls. Retaining walls may be constructed in required setback areas, yards, subject to the following limitations:

1. One or more retaining walls, none of which individually exceeds four feet in height, may be used, provided each successive wall is set back or stepped from the next lowest wall at least one foot for each one foot of height for that wall;
2. Within side and rear building setbacks that are not adjacent to a street or right-of-way, the height of a retaining wall exposed toward the interior of the property may be allowed that is up to eight feet in height. Those exposed toward the exterior of the property shall be limited as in subsection (D)(1) of this section;

E. **Handicapped Disabled** Access Facilities. **Handicapped Disabled** access facilities may be constructed in required setback areas yards as additions to existing buildings if exclusive of railings they do not exceed the height of the building's ground floor and do not conflict with the clear vision requirements of LCMC 17.52.060. For purposes of this section **handicapped disabled** access facilities include ramps, sidewalks, curbing and entrances constructed for the purpose of making a building accessible to a **physically handicapped-disabled** person. **Handicapped Disabled** access facilities must be constructed in accordance with any applicable requirements of the building code in effect at the time of their construction. **Handicapped Disabled** access facilities constructed as additions to a nonconforming structure shall not be considered an alteration or extension of the nonconforming structure.

F. Bridges. Unenclosed and uncovered pedestrian or vehicular bridges for access to a dwelling may be constructed in a required setback area, yard. Such bridges may not have a slope up from the adjacent roadway exceeding the maximum allowed for driveways.

G. Porches, Decks, and Stairs. Unenclosed and uncovered porches, decks, and stairs may be constructed in a required setback area, yard, provided no part of the porch, deck, or stairs is more than 30 inches above the ground or otherwise requires a building permit.

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.~~

SECTION 13. Chapter 17.52 (*Supplemental Regulations and Exceptions*), Section 17.52.190 (*Building height limitations*), is hereby amended to read as follows:

17.52.190 Building height limitations.

- A. No structure used for human habitation that exceeds 45 feet in height shall be permitted in any zone unless consent is first approved by the voters of the city at a regular or special election. For the purpose of this section, "height" means the average vertical distance from the grade at the center of all walls of the building to the highest point of the roof, excluding those excepted in LCMC 17.52.200.
- B. No structure that exceeds 35 feet in height shall be permitted in a residential zone within 500 feet of any shoreline without prior approval **as a Type III procedure. of the planning commission at a public hearing.**
- C. No structure used for human occupancy shall be permitted to exceed the building height limitations of the zones in which they are located. To ensure that this standard is met the following rules apply:
 1. Building permit applications must include elevations of all exterior walls of the proposed structure showing:
 - a. The line of the approved grade in the plane of the wall; and
 - b. The highest part of the structure.

2. The grade may not rely on retaining walls, riprap, other artificial restraints, or berming to increase elevation at the point of height measurement.
3. For the purposes of this subsection, "approved grade" means:
 - a. The existing grade, meaning one of the following:
 - i. The ground level before any human disturbance as shown by survey or other reliable evidence; or
 - ii. The ground level shown on the city's 2009 LIDAR data (which is available from the planning and community development department); or
 - iii. If the proposed building site has existing structures or other disturbances to the land that existed lawfully prior to October 1, 2010, the ground level established when the structure or disturbance was created (which may be determined by any of the above means); or
 - iv. If there has been grading on the proposed building site, without a grading permit, the planning and community development director, in consultation with the city engineer, will determine the existing grade.
 - b. The grade shown on a grading plan approved as a part of one of the following:
 - i. A final master plan for a planned unit development under LCMC 17.77.120 ~~17.52.210~~; or
 - ii. A partition or subdivision under Chapter 16.08 LCMC; or
 - iii. A ~~site plan development review~~ under LCMC 17.77.070 ~~17.52.240~~; or
 - iv. A conditional use permit under LCMC 17.77.060 ~~Chapter 17.60 LCMC~~; or
 - v. A grading plan under Chapter 12.08 LCMC; or
 - vi. A building permit for a structure not subject to any of approvals in subsections (C)(3)(b)(i) through (v) of this section.

~~3. If a lawfully established single-family or duplex dwelling that does not conform to the requirements of this section is destroyed by calamity to an extent exceeding 50 percent of the appraised value as determined by the records of the county assessor for the year preceding destruction it may be rebuilt within the same footprint and to the same height, subject to compliance with the flood damage prevention requirements of Chapter 15.16 LCMC. To the extent any such rebuilt residence is expanded, including a vertical expansion, the area of expansion must conform to this section.~~

SECTION 14. Chapter 17.52 (*Supplemental Regulations and Exceptions*), Section 17.52.230 (*Public Infrastructure improvement requirements*), is hereby amended to read as follows:

17.52.230 Public infrastructure improvement requirements.

- A. Infrastructure Easement and Improvement Requirements. The issuance of a **structural building** permit for the addition, alteration, or repair, within any 12-month period, exceeding 50 percent of the assessed value ~~or market value, whichever is greater~~, of an existing building or structure, or for a new building or structure in connection with any

permitted or conditional use within any zone as described in this title, or of a **site-plan development review** approval for development for which **site-plan development** review is required under LCMC **17.77.070 17.52.240**, shall be subject to the following requirements:

1. The applicant shall submit, as part of a **structural building** permit application, a site plan drawn to scale showing the nature, size, and location of:
 - a. Proposed buildings and improvements,
 - b. Proposed access and off-street parking,
 - c. Proposed private and public utility lines, facilities, and easements,
 - d. Proposed curbs, gutters, pavement, and sidewalks, and related easements,
 - e. Proposed stormwater detention, treatment, and drainage features, facilities, and easements,
 - f. Existing private and public utility lines, facilities, and easements,
 - g. Existing stormwater detention, treatment, and drainage features, facilities, and easements,
 - h. Existing lot lines; and

2. Except as otherwise provided in subsections (B) and (C) of this section, the applicant shall agree to:
 - a. Install curbs and gutters along adjacent streets not having curbs and gutters, and also pave the roadways from the curbs to 12 feet beyond centerline of unpaved or partially unpaved streets contiguous to the property proposed for development, in accordance with applicable standards of this title, street design standards in the city's transportation system plan, public works/engineering standards, and LCMC Title 16 (Subdivisions). If existing rights-of-way for streets contiguous to the property are not adequate in width to meet the standards of this title and LCMC Title 16 (Subdivisions), the applicant shall dedicate right-of-way to the city sufficient to allow streets that are adequate in width; and
 - b. Dedicate to the city utility easements five feet in width along rear lot lines, or along front lot lines, as required by the city; and
 - c. Dedicate easements for drainage purposes, and provide storm water detention, treatment, and drainage features and facilities, as approved by the city engineer, in order to accommodate expected runoffs as determined by a registered professional engineer licensed in Oregon, according to generally accepted drainage accommodation principles; and
 - d. Install sidewalks in accordance with street design standards in the city's transportation system plan and public works/engineering standards along boundaries contiguous with streets, within existing right-of-way if adequate in width; and, if existing easements are not adequate in width, to deed easements to the city sufficient to allow sidewalks of required width;

Exceptions: In lieu of the sidewalks required by subsection (A)(2)(d) of this section, the applicant shall agree as follows:

- i. For properties in a commercial zone east of Highway 101 that abut the D River, to install sidewalks five feet in width adjacent to the river, and to deed easements to the city sufficient to allow the city to add additional width to the riverfront sidewalks so that they can be a total of 10 feet in width.
 - ii. [Reserved]
 - iii. [Reserved]
- and
- e. Install and connect to the city systems water and sewer lines and appurtenances that conform to adopted city standards; and
 - f. Place underground all existing electrical, telephone, and cable television utility service installations or connections between any building or structure and the utility distribution system, in accord with city standards, in addition to meeting the requirements of LCMC [17.52.120](#); and
 - g. Develop the site and construct all buildings and improvements in strict conformity to the tendered site plan; and
 - h. Provide any of the following transit-related improvements, if development includes or is adjacent to existing or planned transit stops shown in the city transportation system plan or an adopted plan prepared by a transit provider, as determined by the city engineer or community development director:
 - i. Reasonably direct pedestrian connections between the transit stop and building entrances of the site. For the purpose of this section "reasonably direct" means a route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for users;
 - ii. An easement or dedication for a passenger shelter or bench, if such an improvement is in an adopted plan; and
 - i. Maintain the sidewalk, landscape strip, and curb adjacent to the property to standards in LCMC Title [12](#), Streets, Sidewalks, and Public Places.

In lieu of a required improvement, the city manager or a designated representative may accept a deferred improvement agreement, fee-in-lieu agreement, or other cost-allocation agreement, in a form approved by the city manager or designate, for installation of curbs, gutters, sidewalks, street paving, water and sewer lines and appurtenances, and storm water detention, treatment, and drainage features and facilities, if the city manager or designate determines that a delay is appropriate prior to the commencement of construction of these improvements. The cost to the developer shall equal the cost of installation, including engineering and design, as determined by the city engineer, based on the applicable city standards in effect at the time of application. The applicant shall pay the fee or sign an alternative agreement prior to approval of the final plat or issuance of a building or development permit. Property owners who pay a "fee in lieu" of constructing a required specific improvement shall not

be responsible for any future additional costs associated with that same improvement. The city shall use all such fees for construction, repair, or maintenance of the public infrastructure improvements of the type identified above and located within the city which provide a benefit to the subject property; and

3. The city manager or a designated representative finds that the building site is not subject to natural hazards such as flooding, falling rock, landslides, or mass movement, and that the building site is capable of accommodating the proposed structure without danger to users of the site or to the citizens of the city; and

4. If no street is contiguous to the property from which safe and convenient access and egress can be obtained for pedestrians and vehicular traffic, the applicant shall agree, if required by the city manager or a designated representative, to dedicate a street right-of-way and to construct improvements to adopted city standards as provided in subsection (A)(2)(a) of this section.

5. As to applications for **site-plan development review** approval, if the site consists of more than one lot and any lot does not conform to the minimum access or lot requirements for the zone in which the lot is located, the owner shall agree that, prior to issuance of a **structural building** permit, or commencement of development if a **building structural** permit is not required, the owner will either:

- a. Provide to the city a covenant that the lots comprising the site, unless subsequently partitioned or subdivided, will be treated as a single lot for all purposes of the municipal code and this title and that the lots comprising the site will not be sold separately; or
- b. Reconfigure the lots comprising the site, in accord with the applicable legal procedures, so that all lots comprising the site will conform to the minimum lot and access requirements for the zone in which the lots are located.

- B. Limitations on Infrastructure Requirements. If the applicant asserts that it cannot legally be required, as a condition of **structural building** permit or **site-plan development review** approval, to provide easements or improvements at the level otherwise required by this section, then:

1. The **structural building** permit or **development site-plan** review application shall include a rough proportionality report, prepared by a qualified civil or traffic engineer, as appropriate, showing:
 - a. The estimated extent, on a quantitative basis, to which the improvements will be used by persons served by the building or development, whether the use is for safety or for convenience;
 - b. The estimated level, on a quantitative basis, of improvements needed to meet the estimated extent of use by persons served by the building or development;

- c. The estimated impact, on a quantitative basis, of the building or development on the public infrastructure system of which the improvements will be a part;
- d. The estimated level, on a quantitative basis, of improvements needed to mitigate the estimated impact on the public infrastructure system; and

- 2. The applicant shall, instead, be required to provide easements and improvements that are roughly proportional to what is needed for the safety or convenience of persons served by the building, structure, or development, plus those additional easements and improvements that are roughly proportional to what is needed to mitigate the impact of the building, structure, or development on the public infrastructure system of which the improvements will be a part, if the impacts are not fully mitigated by the easements and improvements needed for the safety or convenience of persons served by the building, structure, or development.

- C. Easements and Improvements Deferred from Land Divisions. If a prior land division approval under LCMC Title 16 affecting the building, structure, or development site has deferred, until submission of a structural building permit or site plan development review application, the definition of the level of easements or public infrastructure improvements required to be provided in relation to the land division, based on an assertion that the level of easements or improvements required cannot be defined until actual development is proposed for the divided land, then the owner shall provide with the application a report as described in subsection (B) of this section and, as a condition of application approval, shall be required to dedicate easements and provide public infrastructure improvements required under LCMC Title 16, to the extent the easements and improvements meet the standards set out in subsection (B)(2) of this section.

D. Appeals.

- 1. Any person aggrieved by that person's inability to obtain a building permit pursuant to this section or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of this section may appeal **as a Type III procedure pursuant to LCMC 17.76.050, which appeal must be in writing and filed pursuant to LCMC 17.76.040.**

- 2. Notwithstanding subsection (D)(1) of this section, decisions of the city manager, public works director, city engineer, or designated representative in the enforcement of deferred improvement agreements entered into under subsection (A)(2) of this section shall not be subject to appeal. ~~under LCMC 17.76.040.~~

- E. Limitations to Issuance of Certificate of Occupancy. No certificate of occupancy shall be **approved for issuance by the director or by the city engineer issued** until the applicant has fulfilled all requirements of, and has executed the agreements required by, this section,

and shall not be approved for issuance by the director or city engineer issued if there is any variance from the approved development review. site plan.

- F. Applicability. This section, except for subsection (C) of this section and proceedings under this section related thereto, shall not apply to **structural building** permit applications for building on land subdivided pursuant to a final subdivision plat approved or subdivision exemption granted by the planning commission and/or city council after November 1, 1989.

SECTION 15. Chapter 17.52 (*Supplemental Regulations and Exceptions*), Section 17.52.270 (*Wireless communications facilities*), is hereby relocated to a new Section 17.80.170 to read as follows:

17.52.270 Wireless communications facilities.

A. Purpose. ~~The purpose of this section is to protect the health, safety, and general welfare of the community while accommodating the communication needs of residents and businesses through facilitating the provision of wireless telecommunications services to the residents and businesses of the city, minimizing adverse visual effects of towers through careful design and siting standards, avoiding potential damage to adjacent properties from tower failure through structural standards and setback requirements, providing mechanisms for the mitigation of tower proliferation through tower sharing requirements for all new tower applicants and those existing towers that are physically capable of sharing.~~

B. Siting Preferences. ~~Wireless communications facilities shall be sited in accordance with the following priorities, in order of their preference:~~

~~1. Co-location by placement of antennas or other transmission and reception devices on an existing tower, building, or other structure, such as a utility pole, water tank, or similar structure.~~

~~2. Use of mini-cell or other similar alternate technology whereby transmission and reception devices are placed on existing structures or placed on new structures that are consistent in height with and situated similarly to types normally found in the surrounding area, such as telephone, electrical, or light poles.~~

~~3. Siting of a new tower in a visually subordinate manner. In this context, "visually subordinate" refers to the relative visibility of a wireless communication facility where that facility does not noticeably contrast with the surrounding landscape. Visually subordinate facilities may be partially visible, but not visually dominant in relation to their surroundings.~~

~~4. Siting of a new tower in a visually dominant location, but employing concealment technology. In this context, "concealment technology" means technology through which a wireless communication facility is designed to resemble an object present in the natural environment or to resemble a building of a type typically and customarily found in the area.~~

~~5. Siting of a new tower in a visually dominant location, not employing concealment technology.~~

C. Standards. All commercial wireless communications facilities shall comply with the following requirements:

- 1. The maximum height shall be 80 feet.**
- 2. Commercial wireless telecommunications service towers shall be of a monopole design unless the planning commission determines that an alternative design would better blend in to the surrounding environment.**
- 3. The proposed facilities must not exceed or cause other facilities to exceed federal radio frequency emission standards or American National Standards Institute standards, whichever are stricter.**
- 4. The proposed facilities must meet manufacturer's specifications and plans must be certified by an engineer licensed in the state of Oregon.**
- 5. The proposed facilities must meet the requirements of the Uniform Building Code and/or the Oregon Structural Specialty Code, including but not limited to the requirements relating to seismic and wind loads, and must be engineered so that, in the event they fail, the proposed facilities will collapse only within the property lines of the lot on which they are located.**
- 6. The proposed facilities must meet the standards contained in the American National Standards Institute "Structural Standards for Steel Antenna Tower and Steel Supporting Structures" (ANSI EIA/TIA 222 E-1996).**
- 7. All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of nonvegetative screening better reflects and complements the architectural character of the surrounding neighborhood.**
- 8. Wireless communications facilities shall not be illuminated by artificial means and shall not display any lighting other than such lighting as is specifically required by the Federal Aviation Administration or the Oregon Department of Aviation. Flashing strobe lighting is not allowed. If flashing strobe lighting otherwise would be required by the Federal Aviation Administration or the Oregon Department of Aviation, the tower height must be reduced to a level at which flashing strobe lighting is not required.**
- 9. Any lighting placed on a wireless communication facility pursuant to a requirement of the Federal Aviation Administration (FAA) or the Oregon Department of Aviation (ODA) may not exceed the minimum required. Prior to the issuance of a building permit, the applicant must submit documentation from the appropriate agency (i.e., the FAA or the ODA) that the lighting is the minimum required. Any required aviation lighting must be shielded to the maximum extent allowed by the Federal Aviation Administration or the Oregon Department of Aviation.**
- 10. A commercial wireless communication facility shall be designed, structurally, electrically, and in all other respects, to accommodate antennas for at least three users, and must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.**

~~11. A finish (paint/surface) must be provided for the wireless communication facility that reduces the visibility of the facility, including the antenna arrays. In most circumstances this condition may be satisfied by painting the tower and antenna arrays with flat light haze gray paint. If the tower is unpainted it must be of a single color throughout its height. The owner must maintain the finish, painted or unpainted, so that no discoloration is allowed to occur.~~

~~12. Red and white or orange and white tower finish is not allowed. If red and white or orange and white tower finish would be required by the Federal Aviation Administration or the Oregon Department of Aviation, the tower height must be reduced to a level at which a red and white or orange and white tower finish is not required.~~

~~13. The use of any portion of a wireless communication facility for signs other than warning or equipment information signs is prohibited.~~

~~14. Wireless communications facilities, including any modifications to them, must not cause any interference with normal radio and television reception in the surrounding area nor with any public safety agency or organization (including but not limited to police, fire, ambulance, and Coast Guard) radio transmissions. The owner shall bear the costs of immediately eliminating any such interference should any occur, or must immediately shut down the antennas or other equipment or parts of the facility causing the interference.~~

~~15. The owner of the wireless communication facility may not deny a wireless provider the ability to co-locate on its wireless communication facility at a fair market rate or at another cost basis agreed to by the affected parties.~~

~~16. The wireless communication facility must be removed from the site if no facility on the tower has been in use for more than six months.~~

D. Application. ~~In addition to the information required elsewhere in this section, development applications for wireless communications facilities shall include the following supplemental information:~~

~~1. A report from a qualified and licensed professional engineer which:~~

~~a. Describes the tower height and design, including a cross section and elevation;~~

~~b. Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;~~

~~c. Describes the tower's structural capacity to carry the antennas of at least three wireless carriers, including the number and type of antennas that it can accommodate;~~

~~d. Documents what steps the applicant will take to avoid interference with normal radio and television reception in the surrounding area and with any public safety agency or organization (including but not limited to police, fire, ambulance, and Coast Guard) radio transmissions and telecommunications;~~

~~e. Includes an engineer's stamp and registration number;~~

- 1 ~~f. Documents that the proposed facilities will not exceed or cause other facilities~~
- 2 ~~to exceed federal radio frequency emission standards or American National~~
- 3 ~~Standards Institute standards, whichever are stricter;~~
- 4 ~~g. Includes elevations showing all facades, indicating exterior materials and~~
- 5 ~~color of the tower(s) on the proposed site; and~~
- 6 ~~h. Includes other information necessary to evaluate the request.~~
- 7 ~~2. For all commercial wireless telecommunications service towers, a letter of intent~~
- 8 ~~committing the tower owner and the owner's successors to allow the shared use of~~
- 9 ~~the tower, if an additional user agrees in writing to meet reasonable terms and~~
- 10 ~~conditions for shared use.~~
- 11 ~~3. Applicants proposing the siting of wireless communications facilities through~~
- 12 ~~means other than co-location shall demonstrate why higher priority alternatives for~~
- 13 ~~providing the specific, proposed wireless service are not feasible. In this context,~~
- 14 ~~"not feasible" means that the proposed wireless communication service cannot be~~
- 15 ~~provided in a reasonable, practicable, and cost effective manner. Factors that may~~
- 16 ~~render an alternative not feasible may include:~~
- 17 ~~a. Existing buildings or towers are structurally inadequate to accommodate the~~
- 18 ~~proposed facility, and cannot reasonably be retrofitted;~~
- 19 ~~b. The alternative would cause radio frequency interference that would~~
- 20 ~~materially impair the functioning of existing or planned equipment at the tower~~
- 21 ~~or site, and such interference cannot reasonably be mitigated;~~
- 22 ~~c. The alternative cannot provide the radio frequency coverage required to~~
- 23 ~~provide the proposed service;~~
- 24 ~~d. The alternative is precluded by law, rule, regulation, contract, or other legal~~
- 25 ~~authority.~~
- 26 ~~4. At least two photo-simulations of the proposed tower, from different points of~~
- 27 ~~view and distances from the proposed tower.~~
- 28 ~~5. Before the issuance of a building permit, the following supplemental information~~
- 29 ~~shall be submitted:~~
- 30 ~~a. A copy of the FAA's response to the submitted "Notice of Proposed~~
- 31 ~~Construction or Alteration" (FAA Form 7460-1);~~
- 32 ~~b. Proof of compliance with applicable Federal Communications Commission~~
- 33 ~~regulations;~~
- 34 ~~c. A report from a qualified and licensed professional engineer which~~
- 35 ~~demonstrates the tower's compliance with the Uniform Building Code and/or~~
- 36 ~~the Oregon Structural Specialty Code, including but not limited to the~~
- 37 ~~requirements relating to seismic and wind loads, and that in the event it falls~~
- 38 ~~the tower will collapse only within the property lines of the lot on which it is~~
- 39 ~~located; and~~
- 40 ~~d. A report from a qualified and licensed professional engineer which~~
- 41 ~~demonstrates that the tower meets the standards contained in the American~~
- 42 ~~National Standards Institute "Structural Standards for Steel Antenna Tower and~~
- 43 ~~Steel Supporting Structures" (ANSI EIA/TIA 222 E-1996).~~

~~E. Notice. When mailed notice of a public hearing or an administrative action relating to a wireless communication facility is required by LCMC 17.60.040, such notice shall be sent to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located within 250 feet from the exterior boundary of the subject property.~~

~~F. Administrative Approval of Co-Location Application. If an applicant wishes to co-locate by placing antennas or other transmission and reception devices on an existing tower, building, or other structure, the director may approve the co-location application, or approve it with conditions.~~

~~G. Planning Commission Action. In addition to the findings required by Chapter 17.60 LCMC, in order to grant approval, or approval with conditions, of a conditional use permit for a wireless communications facility, the planning commission must find, based upon evidence provided by the applicant, that:~~

~~1. For applications proposing the siting of wireless communications facilities through means other than co-location, that higher priority alternatives for providing the specific, proposed wireless service are not feasible.~~

~~2. The proposed facility/tower will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or significant aesthetic resource.~~

~~3. The height and mass of the facility/tower does not exceed that which is essential for its intended use and public safety.~~

~~4. The owner of the wireless communication facility has agreed to permit other persons/providers to attach antennas or other communications apparatus that do not interfere with the primary purpose of the facility.~~

~~5. The proposed facility/tower is not to be constructed in such a manner as to result in needless height or mass.~~

~~6. The finish of the proposed facility/tower will be of a tone or color that minimizes the tower's visual impact.~~

17.80.170 Wireless communications facilities.

Review Authority Action. In addition to the findings required by LCMC 17.77.060, in order to grant approval, or approval with conditions, of a conditional use permit for a wireless communications facility, the planning commission must find, based upon evidence provided by the applicant, that:

A. Purpose. The purpose of this section is to protect the health, safety, and general welfare of the community while accommodating the communication needs of residents and businesses through facilitating the provision of wireless telecommunications services to the residents and businesses of the city, minimizing adverse visual effects of towers through careful design and siting standards, avoiding potential damage to adjacent properties from tower failure through structural standards and setback requirements, providing mechanisms for the mitigation of tower proliferation through tower sharing

1 requirements for all new tower applicants and those existing towers that are physically
2 capable of sharing.

3
4 **B. Siting Preferences. Wireless communications facilities shall be sited in accordance with**
5 **the following priorities, in order of their preference:**
6

7 1. Co-location by placement of antennas or other transmission and reception
8 devices on an existing tower, building, or other structure, such as a utility pole,
9 water tank, or similar structure.

10 2. Use of mini-cell or other similar alternate technology whereby transmission and
11 reception devices are placed on existing structures or placed on new structures
12 that are consistent in height with and situated similarly to types normally found
13 in the surrounding area, such as telephone, electrical, or light poles.

14 3. Siting of a new tower in a visually subordinate manner. In this context, “visually
15 subordinate” refers to the relative visibility of a wireless communication facility
16 where that facility does not noticeably contrast with the surrounding landscape.
17 Visually subordinate facilities may be partially visible, but not visually dominant
18 in relation to their surroundings.

19 4. Siting of a new tower in a visually dominant location, but employing
20 concealment technology. In this context, “concealment technology” means
21 technology through which a wireless communication facility is designed to
22 resemble an object present in the natural environment or to resemble a building
23 of a type typically and customarily found in the area.

24 5. Siting of a new tower in a visually dominant location, not employing
25 concealment technology.
26

27 **C. Standards. All commercial wireless communications facilities shall comply with the**
28 **following requirements:**
29

30 1. The maximum height shall be 80 feet.
31

32 2. Commercial wireless telecommunications service towers shall be of a monopole
33 design unless the planning commission determines that an alternative design
34 would better blend in to the surrounding environment.
35

- 1 3. The proposed facilities must not exceed or cause other facilities to exceed federal
2 radio frequency emission standards or American National Standards Institute
3 standards, whichever are stricter.
- 4 4. The proposed facilities must meet manufacturer's specifications and plans must be
5 certified by an engineer licensed in the State of Oregon.
- 6 5. The proposed facilities must meet the requirements of the Uniform Building Code
7 and/or the Oregon Structural Specialty Code, including but not limited to the
8 requirements relating to seismic and wind loads, and must be engineered so that,
9 in the event they fall, the proposed facilities will collapse only within the
10 property lines of the lot on which they are located.
- 11 6. The proposed facilities must meet the standards contained in the American
12 National Standards Institute "Structural Standards for Steel Antenna Tower and
13 Steel Supporting Structures" (ANSI EIA/TIA 222 E-1996).
- 14 7. All utility buildings and structures accessory to a tower shall be architecturally
15 designed to blend in with the surrounding environment and shall meet the
16 minimum setback requirements of the underlying zoning district. Ground
17 mounted equipment shall be screened from view by suitable vegetation, except
18 where a design of nonvegetative screening better reflects and complements the
19 architectural character of the surrounding neighborhood.
- 20 8. Wireless communications facilities shall not be illuminated by artificial means and
21 shall not display any lighting other than such lighting as is specifically required
22 by the Federal Aviation Administration or the Oregon Department of Aviation.
23 Flashing strobe lighting is not allowed. If flashing strobe lighting otherwise
24 would be required by the Federal Aviation Administration or the Oregon
25 Department of Aviation, the tower height must be reduced to a level at which
26 flashing strobe lighting is not required.
- 27 9. Any lighting placed on a wireless communication facility pursuant to a
28 requirement of the Federal Aviation Administration (FAA) or the Oregon
29 Department of Aviation (ODA) may not exceed the minimum required. Prior to
30 the issuance of a building permit, the applicant must submit documentation from
31 the appropriate agency (i.e., the FAA or the ODA) that the lighting is the
32 minimum required. Any required aviation lighting must be shielded to the
33 maximum extent allowed by the Federal Aviation Administration or the Oregon
34 Department of Aviation.

1 **10. A commercial wireless communication facility shall be designed, structurally,**
2 **electrically, and in all other respects, to accommodate antennas for at least three**
3 **users, and must be designed to allow for future rearrangement of antennas upon**
4 **the tower and to accept antennas mounted at varying heights.**

5
6 **11. A finish (paint/surface) must be provided for the wireless communication facility**
7 **that reduces the visibility of the facility, including the antenna arrays. In most**
8 **circumstances this condition may be satisfied by painting the tower and antenna**
9 **arrays with flat light haze gray paint. If the tower is unpainted it must be of a**
10 **single color throughout its height. The owner must maintain the finish, painted**
11 **or unpainted, so that no discoloration is allowed to occur.**
12

13 **12. Red and white or orange and white tower finish is not allowed. If red and white**
14 **or orange and white tower finish would be required by the Federal Aviation**
15 **Administration or the Oregon Department of Aviation, the tower height must be**
16 **reduced to a level at which a red and white or orange and white tower finish is**
17 **not required.**
18

19 **13. The use of any portion of a wireless communication facility for signs other than**
20 **warning or equipment information signs is prohibited.**
21

22 **14. Wireless communications facilities, including any modifications to them, must**
23 **not cause any interference with normal radio and television reception in the**
24 **surrounding area nor with any public safety agency or organization (including**
25 **but not limited to police, fire, ambulance, and Coast Guard) radio transmissions.**
26 **The owner shall bear the costs of immediately eliminating any such interference**
27 **should any occur, or must immediately shut down the antennas or other**
28 **equipment or parts of the facility causing the interference.**
29

30 **15. The owner of the wireless communication facility may not deny a wireless**
31 **provider the ability to co-locate on its wireless communication facility at a fair**
32 **market rate or at another cost basis agreed to by the affected parties.**
33

34 **16. The wireless communication facility must be removed from the site if no facility**
35 **on the tower has been in use for more than six months.**
36

37 **D. Application. In addition to the information required elsewhere in this section,**
38 **development applications for wireless communications facilities shall include the**
39 **following supplemental information:**
40

41 **1. A report from a qualified and licensed professional engineer which:**

- a. Describes the tower height and design, including a cross section and elevation;
- b. Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;
- c. Describes the tower's structural capacity to carry the antennas of at least three wireless carriers, including the number and type of antennas that it can accommodate;
- d. Documents what steps the applicant will take to avoid interference with normal radio and television reception in the surrounding area and with any public safety agency or organization (including but not limited to police, fire, ambulance, and Coast Guard) radio transmissions and telecommunications;
- e. Includes an engineer's stamp and registration number;
- f. Documents that the proposed facilities will not exceed or cause other facilities to exceed federal radio frequency emission standards or American National Standards Institute standards, whichever are stricter;
- g. Includes elevations showing all facades, indicating exterior materials and color of the tower(s) on the proposed site; and
- h. Includes other information necessary to evaluate the request.

2. For all commercial wireless telecommunications service towers, a letter of intent committing the tower owner and the owner's successors to allow the shared use of the tower, if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

3. Applicants proposing the siting of wireless communications facilities through means other than co-location shall demonstrate why higher priority alternatives for providing the specific, proposed wireless service are not feasible. In this context, "not feasible" means that the proposed wireless communication service cannot be provided in a reasonable, practicable, and cost effective manner. Factors that may render an alternative not feasible may include:

- a. Existing buildings or towers are structurally inadequate to accommodate the proposed facility, and cannot reasonably be retrofitted;
- b. The alternative would cause radio frequency interference that would materially impair the functioning of existing or planned equipment at the tower or site, and such interference cannot reasonably be mitigated;
- c. The alternative cannot provide the radio frequency coverage required to provide the proposed service;
- d. The alternative is precluded by law, rule, regulation, contract, or other legal authority.

4. At least two photo-simulations of the proposed tower, from different points of view and distances from the proposed tower.

5. Before the issuance of a building permit, the following supplemental information shall be submitted:

- a. A copy of the FAA's response to the submitted "Notice of Proposed Construction or Alteration" (FAA Form 7460-1);**
- b. Proof of compliance with applicable Federal Communications Commission regulations;**
- c. A report from a qualified and licensed professional engineer which demonstrates the tower's compliance with the Uniform Building Code and/or the Oregon Structural Specialty Code, including but not limited to the requirements relating to seismic and wind loads, and that in the event it falls the tower will collapse only within the property lines of the lot on which it is located; and**
- d. A report from a qualified and licensed professional engineer which demonstrates that the tower meets the standards contained in the American National Standards Institute "Structural Standards for Steel Antenna Tower and Steel Supporting Structures" (ANSI EIA/TIA 222 E-1996).**

E. Notice. When mailed notice of a public hearing or an administrative action relating to a wireless communication facility is required by LCMC 17.60.040, such notice shall be sent to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located within 250 feet from the exterior boundary of the subject property.

F. Administrative Approval of Co-Location Application. If an applicant wishes to co-locate by placing antennas or other transmission and reception devices on an existing tower, building, or other structure, the director may approve the co-location application, or approve it with conditions.

G. Planning Commission Action. In addition to the findings required by Chapter 17.60 LCMC, in order to grant approval, or approval with conditions, of a conditional use permit for a wireless communications facility, the planning commission must find, based upon evidence provided by the applicant, that:

- 1. For applications proposing the siting of wireless communications facilities through means other than co-location, that higher priority alternatives for providing the specific, proposed wireless service are not feasible.**
- 2. The proposed facility/tower will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or significant aesthetic resource.**

1 3. The height and mass of the facility/tower does not exceed that which is essential
 2 for its intended use and public safety.

3
 4 4. The owner of the wireless communication facility has agreed to permit other
 5 persons/providers to attach antennas or other communications apparatus that do
 6 not interfere with the primary purpose of the facility.

7
 8 5. The proposed facility/tower is not to be constructed in such a manner as to result
 9 in needless height or mass.

10
 11 6. The finish of the proposed facility/tower will be of a tone or color that minimizes
 12 the tower's visual impact.

13
 14
 15 **SECTION 16.** Chapter 17.64 (*Nonconforming Situations*), Section 17.64.010 (*General Provisions*),
 16 Paragraphs C and E, are hereby amended to read as follows:

17
 18 C. Determination That Nonconforming Use, Site, or Structure Is Lawful. ~~The city may make a~~
 19 ~~determination of whether a nonconforming use on a particular property is lawful, if~~
 20 ~~necessary for staff review of an application. Determination will be based on evidence~~
 21 ~~submitted into the record that shows whether the nonconforming situation was~~
 22 ~~permitted by the standards and regulations in existence at the time established and~~
 23 ~~continued without any period of discontinuance or abandonment as provided under~~
 24 ~~this chapter. This determination shall be an administrative process. The determination~~
 25 ~~of whether a nonconforming structure or use on a particular property is lawful shall be~~
 26 ~~a Type II procedure as set forth in 17.76.040 LCMC, with the application process~~
 27 ~~outlined in LCMC 17.77.115.~~

28
 29 E. Restoration of a Substantially Damaged Lawful, Nonconforming Structure or Use. If
 30 damaged to an extent of 50 percent or more, as determined through a Type I procedure,
 31 ~~by the city,~~ a lawful nonconforming structure or use may be restored to its former height
 32 and footprint only, as approved by the city. A request to restore a lawful, nonconforming
 33 single-unit dwelling or duplex shall be processed as a Type II procedure, as outlined in
 34 LCMC 17.76.040. A request to restore a lawful, nonconforming multi-unit dwelling,
 35 mixed use structure, or commercial structure or use shall be processed as a Type III
 36 procedure, as outlined in LCMC 17.76.050 ~~The planning and community development~~
 37 ~~has authority to review an application to restore a lawful, nonconforming single-~~
 38 ~~family dwelling or duplex use as an administrative decision. The planning commission~~
 39 ~~has authority to review an application to restore a lawful, nonconforming multi-family~~
 40 ~~dwelling, mixed use structure or commercial structure or use and shall conduct a~~
 41 ~~public hearing on the application.~~ A decision to approve an application to restore a
 42 nonconforming structure must include findings of all the following:

43
 44 1. The damage was not intentionally caused by the property owner;

2. The restoration does not increase the degree of nonconformity or add new nonconformity, and except as specified above, restored structures conform to requirements of this code;

3. Restoration is according to plans approved by the fire marshal, building inspector and floodplain manager, and, if required, in conformance with a geo-technical report;

4. The restored structure or use does not encroach unlawfully on adjacent properties;

5. The restoration complies with reasonable conditions imposed by the city on a building permit in order to mitigate any new or increased adverse impact on adjacent property; and

6. In the case of a multi-unit family dwelling, mixed-use structure, or commercial structure, the reconstructed use or structure would not interfere with the intent and purpose of the zone in which it is located.

SECTION 17. Chapter 17.64 (*Nonconforming Situations*), Section 17.64.030 (*Nonconforming uses*), is hereby amended to read as follows:

17.64.030 Nonconforming uses.

A. Lawful Nonconforming Uses Allowed to Continue. A lawful nonconforming use of land may continue as long as it remains otherwise lawful, provided the nonconforming use does not cease for any reason for a period of more than six months. For purposes of calculating the six-month period, a use is discontinued or abandoned on the occurrence of the first of any of the following events:

1. On the date when the use of land is physically vacated;

2. For commercial uses, on the date the sale of merchandise or the provision of services ceases;

3. On the date of termination of any lease or contract under which the nonconforming use has occupied the land; or

4. On the date a request for final reading of water and power meters is made to the applicable utility.

B. Discontinuance of a Nonconforming Use. If a conforming use has replaced a nonconforming use, or if the nonconforming use of a building, structure or site ceases for a period of six months or more, as described in subsection (A) of this section, the ~~planning and community development~~ director shall deem the nonconforming use discontinued, and

the building, structure or land area shall be occupied only by uses conforming to the regulations for the zone in which it is located. If a nonconforming use has ceased, but the owner is marketing the property continually and actively for sale or lease, the **planning and community development** director may allow the lawful nonconforming status to continue for up to 18 additional months. **This is a director's interpretation, processed as set forth in LCMC 17.77.080. The director's determination shall be an interpretation, subject to appeal to the planning commission. Following an evidentiary hearing, the planning commission decision will be final, unless called up by the city council under LCMC 17.76.040(B).**

- C. Alteration of a Nonconforming Use. No building, structure, or land area devoted to or accessory to a nonconforming use may be used, moved or expanded unless the movement or expansion reduces nonconformity. Alteration of a nonconforming residential use shall not change the number of dwelling units, if the change would increase nonconformity.
- D. Change of Nonconforming Use. **Through a Type III procedure as set forth in LCMC 17.76.050, a request for conversion to another nonconforming use may be approved if the review authority finds that, on the basis of the evidence submitted, the proposed use is suitable to the site and location and will not have greater adverse effect on the neighborhood or community than the previous use with regard to traffic, parking demand, hours of operation, noise, dust, and customer and/or residential activity. The review authority may place conditions on the new nonconforming use to ensure compatibility and maximize conformance to current regulations. The planning commission may approve an application for conversion to another nonconforming use in accordance with the provisions of LCMC 17.76.010, if, on the basis of the application and the evidence submitted, it finds the proposed use is suitable to the site and location and will not have greater adverse effect on the neighborhood or community than the previous use with regard to traffic, parking demand, hours of operation, noise, dust, and customer and/or residential activity. The commission may place conditions on the new nonconforming use to ensure compatibility and maximize conformance to current regulations.**

SECTION 18. Chapter 17.60 (*Conditional Uses*) is hereby deleted to read as follows:

Chapter 17.60

CONDITIONAL USES

Sections:

~~17.60.010 — Purpose.~~

~~17.60.020 — Planning commission authority.~~

~~17.60.030 — Application.~~

~~17.60.040 — Public hearings.~~

~~17.60.050 Action by planning commission.~~

~~17.60.060 Burden of proof.~~

~~17.60.070 Entry of order.~~

~~17.60.080 Time limitation.~~

~~17.60.090 Appeal.~~

~~17.60.100 Effect.~~

~~17.60.110 Violation of conditions.~~

~~17.60.120 Limitation on new applications.~~

~~17.60.130 Notification of action.~~

~~17.60.140 Mapping.~~

~~17.60.150 Use permit to run with the land.~~

~~Prior legislation: Ords. 89-11 and 91-18.~~

~~17.60.010 Purpose.~~

~~In all zones, conditional uses may be permitted subject to the granting of a conditional use permit. Because of their unusual characteristics, or the special characteristics of the area in which they are to be located, conditional uses require special consideration so that they may be properly located with respect to the objectives of this title and their effect on surrounding properties.~~

~~17.60.020 Planning commission authority.~~

~~The planning commission shall have the authority to approve, approve with conditions, disapprove or revoke conditional use permits subject to the provisions of this chapter. Changes in use, expansion or contraction of site area, or alteration of structures or uses classified as conditional and existing prior to the effective date of the ordinance codified in this title shall conform to all regulations pertaining to conditional uses.~~

~~17.60.030 Application.~~

~~The property owner or his authorized agent may make an application for a conditional use permit by filing an application, at least 45 days prior to the meeting date the matter is intended to be considered, with the department of planning and community development on a form prescribed by the city, which shall include the following information, in addition to that required in Chapter 17.76 LCMC:~~

~~A. Name and address of applicant;~~

~~B. Statement that the applicant is the owner of the property or is the authorized agent of the owner;~~

~~C. Address, legal description and Lincoln County assessor's map and tax lot number of the property;~~

~~D. The application shall include an accurate scale drawing of the site and improvements proposed. The drawing must be adequate to enable the planning commission to determine the conformance of the proposal with the requirements of this title and shall be prepared in a manner conforming to the requirements and procedures of site plan approval, LCMC 17.52.240;~~

~~E. A map (Lincoln County assessor's plat) showing the subject property and surrounding properties and listing of current owners within 100 feet of the property subject to the conditional use permit application, pursuant to Chapter 17.76 LCMC;~~

~~F. Statement and supportive evidence indicating the precise manner of conformance with each of the applicable provisions of this title together with any other data pertinent to the findings prerequisite to the granting of a conditional use permit as listed in LCMC 17.60.050(C);~~

~~G. The application shall be accompanied by a nonrefundable filing fee in the amount established by general resolution of the city council.~~

~~17.60.040 Public hearings.~~

~~Before a conditional use is permitted, the proposed conditional use shall be considered by the planning commission at a public hearing. Notice of the hearing shall be given as provided in LCMC 17.76.020.~~

~~17.60.050 Action by planning commission.~~

~~A. Within 60 days after the filing of the application, a public hearing shall be held and the commission shall render its decision. The decision of the planning commission shall be final unless appealed to the city council.~~

~~B. The planning commission may approve, approve with conditions or disapprove the conditional use permit application by the entry of a planning commission order, in open meeting, which order shall describe the basis for the decision and state the specific circumstances, findings of fact and evidence presented requiring the application of conditions to the approval.~~

~~C. Findings of Fact. In order to grant any conditional use, the planning commission must find, based upon evidence, both factual and supportive, provided by the applicant, that:~~

- ~~1. The proposal is in compliance with the comprehensive plan;~~
- ~~2. The site for the proposed use is adequate in size and shape to accommodate the use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this title;~~
- ~~3. The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use;~~
- ~~4. The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination, the commission shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height and bulk of buildings, walls and fences, landscaping, screening, exterior lighting and signing;~~
- ~~5. In areas designated as requiring preservation of historic, scenic or cultural attributes, proposed structures will be of a design complementary to the surrounding area.~~

~~D. Conditions of Approval. In permitting a conditional use, the planning commission may impose, in addition to regulations and standards expressly specified in this title, other conditions found necessary to protect the best interests of the surrounding property or neighborhood, or the city as a whole. These conditions may include, but not be limited to, the following:~~

- ~~1. Increasing required lot size, yard dimensions, open spaces or buffer areas;~~
- ~~2. Requiring fences, walls or landscape screening and/or buffering where necessary to reduce noise, glare and maintain the property in a character in keeping with the surrounding area;~~
- ~~3. Requiring landscaping and maintenance thereof;~~
- ~~4. Increasing street widths, controlling the location and number of vehicular access points to the property for ingress/egress;~~
- ~~5. Requiring means of pedestrian/bicycle access pathways to serve the property;~~
- ~~6. Increasing the number of off-street parking and loading spaces required; surfacing and proper drainage of parking areas;~~
- ~~7. Limiting size, location and number of signs;~~
- ~~8. Limiting the location, coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent property;~~
- ~~9. Limiting or prohibiting openings in sides of buildings or structures;~~
- ~~10. Enclosure of storage areas and limitation of outside display and/or storage of merchandise;~~
- ~~11. Requiring maintenance of grounds;~~
- ~~12. Regulation of noise, vibration, odors, etc.;~~
- ~~13. Regulation of time for certain activities;~~
- ~~14. Establishing a time period within which the proposed use shall be developed;~~
- ~~15. The requirement of a bond for removal of such use within a specified period of time;~~
- ~~16. Increase the size, type or capacity of any or all utility services, facilities or appurtenances;~~
- ~~17. Requirements under which any future enlargement or alteration of the use shall be reviewed by the planning commission and new conditions imposed;~~
- ~~18. The planning commission may require that an applicant furnish the city a performance bond with a contractual agreement to assure its share of the development of streets, curbs, gutters, sidewalks, water, sanitary sewers, storm sewers or other necessary and essential public improvements to city standards;~~
- ~~19. The planning commission may also require that site plan committee review and approval is necessary in any particular situation to accomplish the purposes and objectives of this title;~~
- ~~20. And such other conditions as will make possible the development of the city in an orderly and efficient manner and in conformity with the intent and purposes set forth in this chapter.~~

~~17.60.060 Burden of proof.~~

~~The specific findings made by the planning commission in granting a conditional use permit must be factual and supported by substantial evidence. The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the approval of the conditional use. If no evidence is produced concerning any of the findings listed in LCMC 17.60.050(C), the application may be denied based upon improper or~~

~~inadequate findings. All evidence produced must be recited in the findings for approval of any conditional use permit application.~~

~~17.60.070 Entry of order.~~

~~Where the planning commission is of the opinion that the conditional use permit shall be granted, it shall, in open public meeting, by a majority of its members in attendance, enter a planning commission order granting the conditional use permit, which order shall include specific findings of fact, conclusions and supportive evidence pertaining to LCMC 17.60.050(C), and any conditions of approval as authorized by LCMC 17.60.050(D). The chairman of or, in his absence, the officer presiding over the planning commission meeting in which the above described order is enacted shall forthwith sign the order and cause the same to be filed with the city recorder. Upon the filing of the order with the city recorder, the order shall be in full force and effect. An order denying a conditional use permit shall be entered and filed in a like manner, with the necessary findings of fact, where the planning commission, based on the standards specified herein, determines that the conditional use permit should not be granted.~~

~~17.60.080 Time limitation.~~

~~A conditional use permit shall become void one year after approval, or after such greater or lesser time as may be specified as a condition of approval, unless within that time the required building construction, alteration or enlargement has been commenced and diligently pursued or, if no such construction, alteration or enlargement is required, unless the permitted activity is being regularly conducted on the premises. The planning commission may extend a use permit for an additional period of one year, subject to the requirements of this title. No more than one such extension may be granted.~~

~~17.60.090 Appeal.~~

~~The applicant or any party to the proceeding may, within the time period specified in LCMC 17.76.040, after the decision of the planning commission is filed with the city recorder, appeal the same to the city council in the form prescribed by the city. The appeal procedure shall be as set forth in LCMC 17.76.040.~~

~~17.60.100 Effect.~~

~~No building or other permit shall be issued in any case where a conditional use permit is required by the terms of this title until after the appeal period after the decision of the planning commission is filed with the city recorder. An appeal from an action of the planning commission shall automatically stay the issuance of a building or other permit until such appeal has been completed. In the event the council acts to grant the conditional use permit, the building permit may be issued immediately thereafter, in accordance with such terms and conditions as may have been imposed on the permit.~~

~~17.60.110 Violation of conditions.~~

~~The planning commission, on its own motion, may revoke any conditional use permit for noncompliance with conditions set forth in the granting of the permit after first holding a public hearing and giving notice of such hearing as provided in LCMC 17.76.030. The foregoing shall not be the exclusive remedy, and it is unlawful and punishable hereunder for any person to violate any condition imposed by a conditional use permit.~~

~~17.60.120 Limitation on new applications.~~

~~In a case where an application is denied by the planning commission, or denied by the city council on appeal from the planning commission, unless specifically stated to be without prejudice, it shall not be eligible for resubmittal for a period of one year from the date of said denial unless, in the opinion of the planning commission, new evidence is submitted or conditions have changed to an extent that further consideration is warranted.~~

~~17.60.130 Notification of action.~~

~~The city manager or his designee shall notify the applicant for a conditional use permit of the planning commission's action within the time period specified in LCMC 17.76.030 after entry of the final order. A copy of the order shall be provided to the applicant.~~

~~17.60.140 Mapping.~~

~~Within 30 days after the entry of the final order of a conditional use permit, the permit application file number shall be indicated on the official zoning map on the lot or lots affected by such permit.~~

~~17.60.150 Use permit to run with the land.~~

~~A conditional use permit granted pursuant to the provisions of this chapter shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the use permit application, except as otherwise provided in this chapter.~~

SECTION 19. Chapter 17.68 (*Variances*) is hereby deleted to read as follows:

Chapter 17.68

VARIANCES

Sections:

~~17.68.010 Authorization to grant or deny variances.~~

~~17.68.020 Circumstances for granting a variance.~~

~~17.68.030 Variance procedure.~~

~~17.68.040 Time limit on variance.~~

~~17.68.010 Authorization to grant or deny variances.~~

~~The planning commission may authorize variances from the requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of this title would cause an undue or unnecessary hardship. No variances shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the planning commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this title.~~

~~17.68.020 Circumstances for granting a variance.~~

~~A variance may be granted only in the event that all the following circumstances exist:~~

~~A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape~~

~~legally existing prior to the date of the ordinance codified in this title, topography, or other circumstances over which the applicant has no control;~~

~~B. The variance is necessary for the preservation of a property right of the applicant which is substantially the same as owners of other property in the same zone or vicinity possess;~~

~~C. The variance should not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city planning policy;~~

~~D. The variance requested is the minimum variance which would alleviate the hardship.~~

~~17.68.030 Variance procedure.~~

~~A. A property owner may initiate a request for a variance by filing an application with the city manager or his designated representative, using forms prescribed pursuant to LCMC 17.80.030. The application shall be accompanied by a site plan, drawn to scale, showing the condition to be varied and the dimensions and arrangements of the proposed development. The planning commission may request other drawings or material essential to an understanding of the variance request.~~

~~B. The planning commission shall hold a public hearing before it may act on a request for a variance.~~

~~C. Within five days after a decision has been rendered with reference to a request for a variance, and the order documenting said decision has been approved by the planning commission, the city manager or his designated representative shall provide the applicant with written notice of the decision of the planning commission.~~

~~17.68.040 Time limit on variance.~~

~~Authorization of a variance shall be void after one year unless substantial construction pursuant thereto has taken place. However, the planning commission may in its discretion extend authorization for an additional six months on request.~~

SECTION 20. Chapter 17.76 (*Administrative Provisions*) is hereby deleted to read as follows:

Chapter 17.76

ADMINISTRATIVE PROVISIONS

Sections:

~~17.76.010—Application information and procedures.~~

~~17.76.020—Public notice.~~

~~17.76.030—Quasi-judicial public hearing procedure and requirements.~~

~~17.76.040—Appeals.~~

~~17.76.050—Final action on application for permit or zone change request.~~

~~17.76.060—Filing fees.~~

~~17.76.010 Application information and procedures.~~

~~A. An application for a land use action or permit shall consist of:~~

~~1. A complete application form and all supporting documents and evidence;~~

1 **2. Proof that the property affected by the application is in the exclusive ownership of**
 2 **the applicant, or that the applicant has the consent of all parties in ownership of the**
 3 **affected property;**

4 **3. A description of the property affected by the application and, in the case of a quasi-**
 5 **judicial map amendment, a legal description.**

6 **B. All documents or evidence relied on by the applicant shall be made available to the**
 7 **public.**

8 **C. If an application for a permit or zone change is incomplete, the city shall notify the**
 9 **applicant of exactly what information is missing within 30 days of the receipt of the**
 10 **application. The notification shall give the applicant a deadline by which to submit**
 11 **missing information, after which the city will deem the application complete and proceed**
 12 **with its consideration. The application shall be deemed complete upon expiration of the**
 13 **30-day period, if no notification of missing information is given, or, if notification of**
 14 **missing information is given, upon receipt of the missing information or expiration of the**
 15 **deadline for submitting the missing information, whichever occurs first. If the application**
 16 **was complete when first submitted or the applicant submits the missing information**
 17 **within 180 days of the date the application was first submitted, approval or denial of the**
 18 **application shall be based on the standards and criteria of the comprehensive plan and**
 19 **this title that were applicable at the time the application was first submitted. In all other**
 20 **cases, approval or denial shall be based on the standards and criteria applicable at the**
 21 **time of final action on the application.**

22 **D. Where a proposed development requires more than one development permit or zone**
 23 **change request from the city, the applicant may request that the city consider all**
 24 **necessary permit and zone change requests in a consolidated manner. If the applicant**
 25 **requests that the city consolidate its review of the development proposal, all necessary**
 26 **public hearings before the planning commission shall be held on the same date. If the**
 27 **applicant's request includes a request for a comprehensive plan amendment, the applicant**
 28 **shall be required to waive in writing the 120-day requirement set out in LCMC**
 29 **17.76.050(A) as a condition to consolidated treatment.**

30 **E. In the case of an application for a planning commission resolution, under LCMC**
 31 **17.52.050, that a use is included among the allowed uses in a zoning district, if the**
 32 **application so requests, the department shall provide notice of the decision on the**
 33 **application in accord with the provisions of LCMC 17.76.020(A) and (B)(1) governing**
 34 **notice of administrative actions, which decision thereafter shall be directly appealable to**
 35 **the land use board of appeals in accordance with ORS 197.830 and 227.175(12).**

36 **F. If an application for a land use action or permit is denied, the applicant thereafter may**
 37 **submit a single supplemental application for any or all other uses allowed under the**
 38 **comprehensive plan and this title in the zone in which the site that is the subject of the**
 39 **application is, or on rezoning would be, located. The supplemental application shall**
 40 **include a request for any rezoning or variance that may be required in order to obtain**
 41 **approval of a permit under the comprehensive plan and this title. The supplemental**
 42 **application shall be subject to the same procedures as any other application for a land use**

~~action or permit, except that the time within which the city must take final action shall be 240 days rather than the 120 days set out in LCMC 17.76.050(A).~~

~~G. Except as otherwise provided in this section:~~

~~1. If the land use board of appeals issues a final order remanding to the city a city decision on an application for a land use action or permit, and if no petition for judicial review of the LUBA final order is timely filed, then the city shall take final action on the remanded application within 111 days after LUBA delivered or mailed its final order; and~~

~~2. If LUBA issues a final order remanding to the city a city decision on an application for a land use action or permit, if a petition for judicial review is timely filed, and if the final resolution of the judicial review affirms LUBA remand, then the city shall take final action on the remanded application within 90 days after the resolution of the judicial review becomes final.~~

~~The commencement of the 111- and 90-day periods set out in this subsection shall be automatically deferred until the applicant delivers to the department a written request that the city proceed with the application on remand. The 111- and 90-day periods set out in this subsection may be extended by the director, at the director's discretion, for a reasonable period of time on receipt of a written request from the applicant. The 111- and 90-day requirements set out in this subsection shall not apply to remand proceedings concerning amendments to the city's comprehensive plan or land use regulations or the adoption of new land use regulations that were forwarded to the Director of the Department of Land Conservation and Development under ORS 197.610.~~

~~H. Any staff report used at the hearing shall be available at least seven days prior to the hearing.~~

~~17.76.020 Public notice.~~

~~A. Content of Mailed and Published Notice. A notice of a public hearing or an administrative action shall contain the following information:~~

- ~~1. The name of the applicant;~~
- ~~2. In the case of a public hearing, the date, time and place of hearing, and who is holding the public hearing;~~
- ~~3. The street address or other easily understood geographical reference to the subject property;~~
- ~~4. The nature of the application and, in the case of a public hearing, the proposed use or uses which could be authorized and, in the case of an administrative action, the proposed use or uses which have been authorized;~~
- ~~5. A list of the applicable criteria from this title and the comprehensive plan that apply to the application at issue;~~
- ~~6. In the case of a public hearing, a statement that a failure to raise an issue in person or by letter not later than the close of the record following the evidentiary hearing, or failing to provide accompanying statements of evidence sufficient to afford the decision-making body an adequate opportunity to respond to the issue will preclude an appeal to the land use board of appeals on that issue;~~

1 ~~7. The name of the city representative to contact and the telephone number where~~
 2 ~~additional information may be obtained;~~

3 ~~8. A statement that a copy of the application, all documents and evidence relied upon~~
 4 ~~by the applicant, and applicable criteria and, in the case of an administrative action, a~~
 5 ~~copy of the administrative action are available for inspection at no cost and will be~~
 6 ~~provided at reasonable cost;~~

7 ~~9. In the case of a public hearing, a statement that a copy of the staff report will be~~
 8 ~~available for inspection at no cost at least seven days prior to the hearing and will be~~
 9 ~~provided at reasonable cost;~~

10 ~~10. In the case of a public hearing, a general explanation of the requirements for~~
 11 ~~submission of testimony and the procedure for conducting hearings;~~

12 ~~11. In the case of an administrative action, statements that:~~

13 ~~a. Any person who is adversely affected or aggrieved or who is entitled to written~~
 14 ~~notice under subsection (B) of this section may appeal the decision by filing a~~
 15 ~~written appeal to the planning commission in the manner and within the time~~
 16 ~~period provided in LCMC 17.76.040(A);~~

17 ~~b. The administrative action will not become final until the period for filing an~~
 18 ~~appeal to the planning commission has expired; and~~

19 ~~c. A person who is mailed written notice of the administrative action cannot~~
 20 ~~appeal the action directly to the land use board of appeals under ORS 197.830.~~

21 **B. Mailed Notice.**

22 ~~1. The city shall mail notice of hearings or actions requiring notice pursuant to the~~
 23 ~~provisions of this title to the applicant and to owners of record of property located~~
 24 ~~within 250 feet from the exterior boundary of the subject property, and also to any~~
 25 ~~neighborhood or community organization recognized as such by the city council,~~
 26 ~~whose boundaries include the subject property. The city shall mail notice at least 20~~
 27 ~~days before the hearing for applications for conditional uses, variances and~~
 28 ~~discretionary land use decisions made by staff and the appeals therefrom, and at least~~
 29 ~~10 days before the hearing for applications for quasi-judicial text or map amendments~~
 30 ~~to this title, and quasi-judicial comprehensive plan map amendments. In addition, if so~~
 31 ~~requested in the application, the city also shall mail notice to the Oregon Department~~
 32 ~~of Land Conservation and Development. For the purpose of this section, the "owners~~
 33 ~~of record" is defined as property owners at mailing addresses verified in writing by~~
 34 ~~the Lincoln County assessor's office, and includes changes in ownership and mailing~~
 35 ~~address that are readily available since the most recent property tax assessment.~~

36 ~~2. If an application would change the zone of property which includes all or part of a~~
 37 ~~mobile home or manufactured dwelling park as defined in ORS 446.003, the city shall~~
 38 ~~give written notice by first class mail to each existing mailing address for tenants of~~
 39 ~~the park at least 20 but not more than 40 days before the date of the first evidentiary~~
 40 ~~hearing on the application. Failure of a tenant to receive a notice shall not invalidate~~
 41 ~~the zone change.~~

42 ~~3. The city shall mail notice of an appeal from a planning commission decision to all~~
 43 ~~persons who gave testimony before the planning commission orally or in writing.~~

1 ~~4. Failure of a property owner, neighborhood or community association, or DLCD to~~
 2 ~~receive required notice shall not invalidate such proceedings, if the city can~~
 3 ~~demonstrate by affidavit that such notice was given.~~

4 ~~C. Published Notice. Notice shall be given for text or map amendments to this title and~~
 5 ~~comprehensive plan by publication in a newspaper of general circulation in the city at~~
 6 ~~least 10 days before the date of the public hearing.~~

7 ~~D. Change in Nature of Decision. In a proceeding for which notice is provided under this~~
 8 ~~section, the city shall not make a final decision that is different from the proposal~~
 9 ~~described in the notice to such a degree that the notice did not reasonably describe the~~
 10 ~~city's final action.~~

11 ~~E. Notice of Zone Change or Limitation or Prohibition of Use. Except as to cases described~~
 12 ~~in subsection (F) of this section, at least 20 days but not more than 40 days before the~~
 13 ~~date of the first hearing on an ordinance that proposes to amend the comprehensive plan~~
 14 ~~or any element thereof or this title in a manner that would change, or require a change in,~~
 15 ~~the base zone of property or limit or prohibit, or require a limitation or prohibition of,~~
 16 ~~land uses previously allowed in the affected zone, a written individual notice of the land~~
 17 ~~use change shall be mailed by first class or bulk mail to the owner of each lot that the~~
 18 ~~ordinance proposes to so affect, as shown on the most recent property tax assessment~~
 19 ~~roll. The notice shall contain substantially the following statement in bold-faced type,~~
 20 ~~extending from the left-hand margin to the right-hand margin across the top of the face~~
 21 ~~page of the notice:~~

22 ~~This is to notify you that Lincoln City is considering a land use regulation~~
 23 ~~that will affect the permissible uses of your land.~~

24 ~~The notice also shall contain substantially the following statement in the body of the~~
 25 ~~notice:~~

26 ~~On _____, Lincoln City will hold a hearing on the adoption of a~~
 27 ~~proposed ordinance. The City has determined that adoption of the~~
 28 ~~ordinance will affect the permissible uses of your property and may~~
 29 ~~reduce the value of your property. The ordinance is available for~~
 30 ~~inspection at the Department of Planning and Community Development~~
 31 ~~at Lincoln City's City Hall, located at 801 SW Highway 101, Lincoln City,~~
 32 ~~Oregon 97367. A copy of the ordinance also is available for purchase at a~~
 33 ~~cost of \$_____. For additional information concerning the ordinance,~~
 34 ~~you may call the Department at _____.~~

35 ~~The notice also shall describe in detail how the proposed ordinance would affect the use~~
 36 ~~of the property.~~

37 ~~F. At least 30 days prior to the amendment of the comprehensive plan or this title~~
 38 ~~pursuant to a requirement of periodic review of the comprehensive plan, in a manner that~~
 39 ~~would change the base zone of property or limit or prohibit land uses previously allowed~~
 40 ~~in the affected zone, a written individual notice of the land use change shall be mailed by~~
 41 ~~first class or bulk mail to the owner of each lot that the ordinance proposes to so affect, as~~
 42 ~~shown on the most recent property tax assessment roll. The notice shall contain~~

~~substantially the following statement in bold-faced type, extending from the left-hand margin to the right-hand margin across the top of the face page of the notice:~~

~~This is to notify you that Lincoln City is considering a land use regulation that will affect the permissible uses of your land.~~

~~The notice also shall contain substantially the following statement in the body of the notice:~~

~~As a result of an order of the Oregon Land Conservation and Development Commission, Lincoln City is considering a proposed ordinance. Lincoln City has determined that the adoption of the ordinance will affect the permissible uses of your property and may reduce the value of your property. The ordinance, if adopted, will become effective on or about _____. The ordinance is available for inspection at the Department of Planning and Community Development at Lincoln City's City Hall, located at 801 SW Highway 101, Lincoln City, Oregon 97367. A copy of the ordinance also is available for purchase at a cost of \$_____. For additional information concerning the ordinance, you may call the Department at _____.~~

~~The notice also shall describe in detail how the proposed ordinance would affect the use of the property.~~

~~G. Notice to ODOT and Other Public Agencies. The city shall provide written notice to ODOT and other public agencies in accordance with LCMC 12.28.200(D).~~

~~17.76.030 Quasi-judicial public hearing procedure and requirements.~~

~~A. The following procedural entitlements shall be provided at the public hearing:~~

~~1. An impartial review as free from potential conflicts of interest and ex parte contact as is reasonably possible;~~

~~2. No member of a hearing body (planning commission or city council) shall participate in a discussion of the proposal or vote on the proposal when any of the following conditions exist:~~

~~a. Any of the following have a direct or substantial financial interest in the proposal: the hearing body member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment, or any business with which the member is in direct competition, where the number of similar businesses is five or less,~~

~~b. The member has a direct private interest in the proposal,~~

~~c. For any other valid reason, the member has determined that participation in the hearing and decision cannot be in an impartial manner;~~

~~3. Body members shall reveal any ex parte contacts with regard to any matter and shall state the parties' right to rebut the substance of the communication at the commencement of the first public hearing following the prehearing or ex parte contact where action will be considered or taken on the matter. If such contacts have~~

not impaired the member's impartiality or ability to vote on the matter, the member shall so state and shall participate in the public hearing. If the member determines that such contact has affected his impartiality or ability to vote on the matter, the member shall remove himself from the deliberations;

4. A party to a hearing, or a member of a hearing body, may challenge the qualifications of a member of the hearing body to participate in the hearing and decision regarding the matter. The challenge shall state the facts relied upon by the challenger relating to a person's bias, prejudgment, personal interest, ex parte contact or other facts from which the challenger has concluded that the member of the hearing body cannot participate in an impartial manner. The hearing body shall deliberate and vote on such a challenge. The person who is the subject of the challenge may not vote on the motion;

5. No officer or employee of the city who has a financial or other private interest in a proposal shall participate in discussion with or give an official opinion to the hearing body on the proposal without first declaring for the record the nature and extent of each interest;

6. A reasonable opportunity for those persons potentially affected by the proposal to present evidence;

7. A reasonable opportunity for rebuttal or new material.

B. Rights of Disqualified Member of the Hearing Body.

1. An abstaining or disqualified member of the hearing body may be counted for purposes of forming a quorum. A member who represents his or her own personal interests at a hearing may do so only by abstaining from voting on the proposal, physically joining the audience and vacating the seat on the hearing body, and making full disclosure of his or her status and position at the time of addressing the hearing body.

2. Except for hearings on legislative actions conducted by the governing body, a member absent during the presentation of evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless the member has reviewed the record and evidence received at the prior hearing(s).

C. Burden and Nature of Proof. The burden of proof is upon the proponent. The proposal must be supported by proof that it conforms to the applicable provisions of this title, especially the specific criteria set forth for the particular type of decision under consideration.

D. Nature of Proceedings. An order of proceedings for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by administrative procedures as appropriate.

1. Before receiving testimony on the issue, the following shall be addressed:

- a. Any objections on jurisdictional grounds shall be noted in the record and if there is objection, the person presiding has the discretion to proceed or terminate.
- b. Any abstentions or disqualification based on conflict of interest, personal bias, or ex parte contacts shall be determined. If ex parte contacts are reported by any commission member, the member shall state the content of the communication.

1 ~~Thereafter, the chairperson of the commission shall state that the parties have the~~
 2 ~~right to rebut the substance of the ex parte communication. Communications with~~
 3 ~~city staff are not to be considered as ex parte communications.~~

4 ~~c. A statement by the chairperson presiding that:~~

- 5 ~~i. States that testimony, arguments, and evidence must be directed toward the~~
 6 ~~applicable criteria or other criteria in the comprehensive plan or this title which~~
 7 ~~the person believes apply to the decision;~~
- 8 ~~ii. States that failure to raise an issue accompanied by statements or evidence~~
 9 ~~sufficient to afford the hearing body an opportunity to respond to the issue will~~
 10 ~~preclude an appeal to the land use board of appeals based on that issue;~~
- 11 ~~iii. States that failure of the applicant to raise constitutional or other issues~~
 12 ~~relating to proposed conditions of approval with sufficient specificity to allow~~
 13 ~~the city to respond to the issues will preclude an action for damages in the~~
 14 ~~circuit court.~~

15 ~~2. Presentations and Evidence.~~

16 ~~a. The presiding officer shall preserve order at the public hearing and shall decide~~
 17 ~~questions of order.~~

18 ~~b. Members of the hearing body may take official notice of judicially cognizable~~
 19 ~~facts of a general, technical or scientific nature. Such notice shall be stated and~~
 20 ~~may be rebutted.~~

21 ~~c. After presentation of the staff report, the proponent and all persons in favor of~~
 22 ~~proponent's proposal shall be heard. Following the presentation of proponent's~~
 23 ~~case, the opponents shall be heard. After presentation of the evidence by the~~
 24 ~~opponents, neutral parties who do not necessarily support or oppose the petition~~
 25 ~~shall have an opportunity to be heard, and then representatives of public~~
 26 ~~agencies. Following all presentations of evidence, brief rebuttal shall be permitted~~
 27 ~~in the same general order, but the presiding officer shall have broad discretion to~~
 28 ~~limit rebuttal to avoid repetition and redundancy.~~

29 ~~3. The hearing body may continue a hearing in order to obtain additional information~~
 30 ~~or to serve further notice upon other property owners or persons it decides may be~~
 31 ~~interested in the proposal being considered. The time and date when the hearing is to~~
 32 ~~resume may be announced.~~

33 ~~4. Prior to the conclusion of the initial evidentiary hearing, any participant may~~
 34 ~~request an opportunity to present additional evidence, arguments, or testimony~~
 35 ~~regarding the application. The hearing body shall grant such request by either~~
 36 ~~continuing the hearing or leaving the record open for additional written evidence,~~
 37 ~~arguments, or testimony.~~

38 ~~a. If the hearing body grants a continuance, the hearing shall be continued to a~~
 39 ~~date, time, and place at least seven days from the initial evidentiary hearing. An~~
 40 ~~opportunity shall be provided at the continued hearing for persons to present and~~
 41 ~~rebut new evidence, arguments, or testimony. If new written evidence is~~
 42 ~~submitted at the continued hearing, any person may request, prior to the~~
 43 ~~conclusion of the continued hearing, that the record be left open for at least seven~~

days to submit additional written evidence, arguments, or testimony for the purpose of responding to the new written evidence. The hearing body may grant or deny such a request, at its discretion.

b. If the hearing body leaves the record open for additional written evidence, arguments, or testimony, the record shall be left open for at least seven days. If new evidence is submitted during the period the record is left open, any participant, within two working days after the period terminates, may file a written request with the department for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the record shall be reopened for an additional five days to allow the participant to raise new issues in response to the new evidence.

5. When the hearing body reopens a record to admit new evidence, arguments or testimony, any person may raise new issues related to the new evidence, arguments, testimony, or criteria for decision making that apply to the matter at issue.

6. Unless waived by the applicant, the hearing body shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be part of the record. The applicant's final submittal shall not include any new evidence and, if it does include new evidence, the new evidence shall be considered not part of the record and shall be disregarded.

7. Notwithstanding the provisions of subsections (D)(3), (4) and (5) of this section, the hearing body shall not continue a hearing, leave a record open for the submittal of additional written evidence, arguments, or testimony, or reopen a record, if the continuance, leaving open, or reopening will result in the city's not taking final action on an application within the time period set out in LCMC 17.76.050(A).

E. Decision. Following the procedure described in this section, the hearing body shall approve, approve with conditions, or deny the application. If the hearing is before the planning commission on a zoning map or text amendment, the planning commission shall make a recommendation to council to adopt or deny the change. Such recommendation will be reflected in the minutes of the planning commission. If the hearing is in the nature of an appeal, the body may affirm, affirm with modifications or additional conditions, reverse, or remand the decision that is on appeal. The hearing body shall not impose conditions of approval that have not been stated, either prior to the close of the hearing or prior to the close of a reopened hearing, with sufficient specificity to allow the applicant to respond to the conditions.

1. The decision of the hearing body, which has the authority to approve the application or decide the appeal, shall be by a written order signed by the presiding officer.

2. The order shall incorporate findings of fact and conclusions that include:

a. A statement of the applicable criteria and standards against which the proposal was tested;

~~b. A statement of the facts upon which the hearing body relied in establishing compliance or noncompliance with each applicable criteria or standards, briefly stating how those facts support the decision.~~

~~3. The written order is the final decision in the matter.~~

~~F. Record of Proceedings. The proceedings shall be recorded stenographically or electronically.~~

~~1. The hearing body shall, where practicable, retain as part of the hearing records each item of physical or documentary evidence presented and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the hearing file.~~

~~2. The findings shall be included in the record.~~

~~3. A person shall have access to the record of proceedings at reasonable times, places and circumstances. A person shall be entitled copies of the record at the person's own expense.~~

~~G. Notice of Decision. Notice of decision by a hearing body shall be provided to all persons who appeared before the hearing body orally or in writing, or requested in writing that they be given notice of such decisions. The act of signing a petition shall not be deemed a written appearance before the hearing body and shall not confer party status on the signator. Only the representative submitting the petition or chief petitioner shall be given notice of the decision. The notice of the decision shall include:~~

~~1. A brief description of the decisions reached and date of decision;~~

~~2. A description of the requirements for an appeal, including the type of appeal that may be requested, and the applicable timelines;~~

~~3. A statement that an appeal may only be filed concerning criteria that were addressed at the initial public hearing;~~

~~4. A statement that the complete case, including the final order, is available for review at the city. (Ord. 2000-06-A §§ 14 – 18; Ord. 91-18 § 6; Ord. 84-2 § 9.030)~~

~~17.76.040 Appeals.~~

~~A. Decision of Planning Director. A decision of the planning director on the issuance of an administrative permit or discretionary action concerning a land use matter may be appealed to the planning commission by an affected party entitled to notice of decision by filing an appeal with the planning and community development director within 12 days of the mailing of the decision. The notice of appeal that is filed with the city shall indicate the decision that is being appealed and the basis for the appeal. The notice shall indicate in what respects the decision being appealed is a discretionary decision involving a land use matter. The matter at issue will be a determination of the appropriateness of the director's interpretation of the requirements of this title. Notice of the hearing shall be mailed as provided in LCMC 17.76.020(B)(1).~~

~~B. Decision of Planning Commission. A decision of the planning commission concerning a quasi-judicial land use matter may be appealed to the city council by a party to the hearing by filing an appeal within 10 calendar days of the mailing of the order. The notice of appeal filed with the city shall contain the information outlined in subsection (C) of this~~

1 ~~section. For purposes of this section, "party" refers to the applicant and any person who~~
 2 ~~appeared orally or in writing at the hearing.~~

3 ~~The city council may by motion call up a decision of the planning commission on a quasi-~~
 4 ~~judicial land use application, review of which shall be in the form of an appeal reviewed~~
 5 ~~de novo or on the record as the council determines appropriate. The motion shall set the~~
 6 ~~date, time, and place of hearing.~~

7 ~~C. Information Required. A request for appeal of a planning commission decision shall~~
 8 ~~contain:~~

9 ~~1. An identification of the decision sought to be reviewed, including the date of the~~
 10 ~~decision;~~

11 ~~2. A statement of interest of the person seeking review including that the person was~~
 12 ~~a party to the initial proceedings and appeared orally or in writing before the~~
 13 ~~planning commission;~~

14 ~~3. The specific grounds relied upon for the review, including a statement that the~~
 15 ~~criteria against which review is being requested were addressed at the planning~~
 16 ~~commission hearing.~~

17 ~~D. Review.~~

18 ~~1. Except as provided in subsections (D)(6) and (7) of this section, city council review is~~
 19 ~~limited to the evidence in the record before the hearing body. If an appeal is confined~~
 20 ~~to the record of the proceeding, the record shall include:~~

21 ~~a. All exhibits, materials, pleadings, memoranda, stipulations and motions~~
 22 ~~submitted by a party and received or considered in reaching the decision under~~
 23 ~~review;~~

24 ~~b. The final order and findings of fact adopted in support of the decision being~~
 25 ~~appealed;~~

26 ~~c. The request for an appeal filed by the appellant;~~

27 ~~d. The minutes of the public hearing;~~

28 ~~e. The transcript of the hearing below if provided. A verbatim transcript of the~~
 29 ~~hearing body proceedings is not required. Any person who appeared before the~~
 30 ~~hearing body on the application may prepare a certified verbatim transcript of all~~
 31 ~~or part of the hearing body proceedings at that person's own expense. The city~~
 32 ~~manager may prepare a certified verbatim transcript of all or part of the hearing~~
 33 ~~body's proceedings at the city's expense if the city manager deems a transcript~~
 34 ~~necessary or advisable. A certified transcript prepared under this subsection shall~~
 35 ~~be considered part of the record and if offered shall be accepted into evidence~~
 36 ~~and considered by the city council.~~

37 ~~2. After receipt of all required fees the director shall set a hearing and provide public~~
 38 ~~notice indicating the date, time and place of the review and the issues that are the~~
 39 ~~subject of the review pursuant to LCMC 17.76.020(B)(1).~~

40 ~~3. The reviewing body shall make its decision based upon the record after first~~
 41 ~~granting the right of argument, but not the introduction of additional evidence, to~~
 42 ~~parties to the hearing.~~

1 4. In considering the appeal, the reviewing body need only consider those matters
2 specifically raised by the appellant.

3 5. The appellant shall bear the burden of proof.

4 6. Submission of New Evidence. The city council may reopen the record and consider
5 new evidence if such a request is made prior to or at the city council hearing by the
6 appellant or any person who testified before the hearing body, and the requesting
7 party demonstrates:

8 a. The hearing body committed a procedural error that prejudiced the requesting
9 party's substantial rights and that reopening the record is the only alternative to
10 remanding the application to the hearing body to correct the error; or

11 b. That new evidence material to the decision on appeal exists and could not have
12 been presented earlier to the hearing body. A requesting party may only qualify
13 for this exception if the person demonstrates that the new evidence concerns an
14 unanticipated event which occurred after the close of the hearing before the
15 hearing body. This exception shall be strictly construed by the city council to
16 ensure that all relevant evidence and testimony is submitted to the hearing body.

17 7. De Novo Hearing. In deciding whether to conduct de novo proceedings on an
18 appeal, the city council shall consider the following: the matter involves an
19 interpretation of city ordinance; there is new information that was not available at the
20 time the hearing was conducted as demonstrated in subsection (D)(6)(b) of this
21 section; or for any other reason the city council determines it would be appropriate to
22 conduct a de novo hearing.

23 **E. Review Body Decision.**

24 1. Upon review, the reviewing body may affirm, reverse or modify the decision of the
25 lower body or staff. The hearing body may also remand the decision of the lower body
26 or staff, with instructions.

27 2. Notice of the reviewing body decision shall be provided to all parties to the hearing,
28 within five working days of the date of the final decision. The notice of the decision
29 shall include:

30 a. A brief description of the decision reached, and a copy of the final order;

31 b. If the reviewing body is the planning commission, a statement that the decision
32 may be appealed to the city council on the record, by filing an appeal within 10
33 calendar days of the date that the final order was mailed;

34 c. If the reviewing body is the city council, a statement that the decision may be
35 appealed to the land use board of appeals by filing a notice of intent to appeal
36 within 21 days of the date that the final order was mailed;

37 d. A statement that the complete case is available for review at the city

38 **17.76.050 Final action on application for permit or zone change request.**

39 **A. The city shall take final action on an application for a permit or zone change, including**
40 **the resolution of all appeals, within 120 days after the application is deemed complete.**

41 **The 120-day period does not apply to an amendment to the comprehensive plan or**
42 **zoning ordinance, or the adoption of a new land use regulation, notice of which was**
43 **forwarded to the director of the Department of Land Conservation and Development**

~~under LCMC 17.88.065. At the request of the applicant, the 120-day period may be extended for a reasonable period of time by the director, at the director's discretion. In addition, the 120-day period shall be extended by an amount of time equal to the length of any continuance or extension of the time for closing the hearing record or of any period during which the hearing record has been reopened, requested or agreed to by the applicant, and by an additional seven days unless the applicant waives in writing the applicant's right to submit final written arguments in support of the application following closing of the record.~~

~~B. If the planning commission fails to take action on a quasi-judicial land use matter within 30 days of the close of the public hearing, any party who appeared before the planning commission either orally or in writing may seek review of the matter by the city council on the record. Such review shall be as if on appeal, and all provisions of this title applicable to appeals of planning commission decisions to city council shall apply.~~

~~C. If the city has insufficient time to conduct a hearing before the planning commission and allow for appeal of the decision, if required, to city council, the city council on its own motion may call up the matter for hearing prior to hearing by the planning commission. In such a case, the city council shall conduct an evidentiary hearing on the application and make a final decision within the time allowed by law.~~

~~D. If the city fails to take final action on an application for a permit or zone change within the time period set out in subsection (A) of this section, and the applicant files a petition for a writ of mandamus under ORS 227.160 through 227.185, then the city thereafter shall take no further action on the application under the provisions of this chapter.~~

~~17.76.060 Filing fees.~~

~~A. Permit Fees. A schedule of permit fees shall be established by resolution of the city council and paid to the city upon the filing of an application. Such fees shall not be refundable. The failure to submit a required fee with an application, including return of checks unpaid, or other failure of consideration, shall be a jurisdictional defect and the permit application shall not be processed.~~

~~B. Appeal Filing Fees. A filing fee shall be required for the processing of an appeal and shall be in an amount set by resolution of the city council. The failure to submit a required fee with a notice of appeal, including return of checks unpaid or other failure of consideration, shall be a jurisdictional defect and the city shall deem the appeal abandoned.~~

~~C. Additional Costs. Where the planning and community development director, with the concurrence of the city manager, deems it necessary and in the public's interest to incur additional costs, such as the hiring of an independent geotechnical or engineering expert, or other technical expertise during the course of land use proceedings, such costs shall be borne by the applicant.~~

SECTION 21. Chapter 17.88 (*Amendments*) is hereby deleted to read as follows:

Chapter 17.88

AMENDMENTS

Sections:

~~17.88.010 Procedure.~~

~~17.88.020 Initiation of amendments.~~

~~17.88.030 Application.~~

~~17.88.040 Action by the planning commission.~~

~~17.88.050 Action by the city council.~~

~~17.88.060 Burden of proof.~~

~~17.88.065 Notice.~~

~~17.88.070 Limitation on new applications.~~

~~17.88.010 Procedure.~~

~~This title and/or the comprehensive plan map or text may be amended by changing the boundaries of districts or designations or by changing any other provisions thereof, whenever the public necessity and convenience and the general welfare requires such an amendment, by following the procedure of this chapter.~~

~~17.88.020 Initiation of amendments.~~

~~An amendment to the text of this title or to the zoning map and/or to the comprehensive plan map or text may be initiated by:~~

~~A. Motion of the planning commission;~~

~~B. Motion of the city council;~~

~~C. Application filed by an owner of record, a purchaser under a recorded land sale contract, or the holder of an option to purchase property which is the subject of the application for rezoning or comprehensive plan map redesignation;~~

~~D. A Lincoln City resident requesting a change to the text of the comprehensive plan or this title;~~

~~E. The planning and community development director.~~

~~17.88.030 Application.~~

~~The property owner or his authorized agent or for textual changes a resident of Lincoln City may make application for an amendment by filing an application, at least 45 days prior to the meeting date the matter is intended to be considered, with the planning director or his designee on a form and in a manner prescribed by the city, pursuant to LCMC 17.76.010, which shall include the following additional information:~~

~~A. Name and address of the applicant;~~

~~B. For map amendments, the applicant shall provide title report and/or other documentation to provide evidence that the applicant is the owner of record, a purchaser under a recorded land sale contract, or the holder of an option to purchase property which is the subject of the application;~~

~~C. Address, legal description and Lincoln County assessor's tax lot and map number of the property subject to a map amendment;~~

~~D. A map (Lincoln County assessor's plat) showing the subject property and surrounding properties and a listing of current property owners within 100 feet of the property subject to this application for a map amendment;~~

~~E. Statement and supportive evidence indicating the precise manner in which the proposed amendment is in conformance with the comprehensive plan for the city of Lincoln City and each of the applicable provisions of this title together with any other data pertinent to the findings prerequisite to the granting of an amendment to this title, zoning map or comprehensive plan map and/or text as listed in LCMC 17.88.050(D);~~

~~F. The application shall be accompanied by a filing fee in the amount established by general resolution of the city council. No part of the filing fee is refundable.~~

~~17.88.040 Action by the planning commission.~~

~~A. Upon filing of the application for an amendment as described in LCMC 17.88.030, or upon motion of the city council or planning commission for the initiation of an amendment, the matter shall automatically be referred to the planning commission. The planning commission shall study the matter to the extent that it considers such study to be necessary, including the holding of a public hearing if it so desires, and shall, in open meeting, recommend the approval or disapproval of the amendment. The recommendation shall be reported to the city council by filing the recommendation with the city manager. The city manager shall, upon filing the recommendation, report the same to the city council at a subsequent regular city council meeting after the filing of the recommendations, by setting the matter for public hearing pursuant to LCMC 17.88.050.~~

~~B. The report and recommendations of the planning commission shall be made within 60 days after the filing of a complete application; provided, that such time limit may be extended upon the mutual agreement of the parties having an interest in the proceedings. Failure of the commission to so report within 60 days without the aforesaid agreement shall be deemed to be a recommendation of approval of the proposed amendment of the planning commission. If the commission deems it advisable, it may recommend that the area under consideration for change in classification or designation be enlarged or diminished, or reclassified to a district or category other than the district or category originally initiated.~~

~~17.88.050 Action by the city council.~~

~~A. Hearing Before City Council. Upon receipt of the report from the planning commission or upon the expiration of such 60 days as aforesaid, a public hearing is automatically set for the next regular city council meeting following the receipt of the report; provided, however, that the council may, by motion, set the date of such public hearing at such other time or at such other place it desires. Notice of the public hearing shall be given as provided in Chapter 17.76 LCMC, and in the case of an amendment to property containing a mobile home park, notice shall also be provided to tenants of such mobile home park.~~

~~B. At the conclusion of the public hearing, the council may enact an ordinance granting the comprehensive plan and zoning map or textual amendment, or may by motion deny the granting of the amendment. The council shall in any event render its decision on any~~

1 application within 60 days after the receipt of the report and recommendation of the
 2 planning commission or after the expiration of such 60 days as aforesaid; provided,
 3 however, that nothing shall prohibit the city council from, by motion, postponing
 4 disposition of the application to a definite time past the 60-day period, provided mutual
 5 agreement is made for such postponement by the parties having an interest in the
 6 proceedings. If the council fails to take action on an application for a zoning or
 7 comprehensive plan map amendment within 60 days as provided above, the application
 8 shall be deemed denied.

9 ~~C. If the council proposes to adopt an amendment that is substantially altered from the~~
 10 ~~recommendation of the commission, the council may refer the proposed amendment back~~
 11 ~~to the commission for report and recommendation, which may include the holding of a~~
 12 ~~joint meeting, before adoption. The commission shall consider the amendment within 15~~
 13 ~~days of the referral and report thereon at the next regular meeting of the city council.~~

14 ~~D. Findings of Fact. In order for the city council to adopt an ordinance for an amendment~~
 15 ~~to this title, comprehensive plan document and/or map, it must make and adopt findings~~
 16 ~~as a part of said ordinance that are adequate to support the amendment proposal. The~~
 17 ~~findings must be factual and must be supported by substantial evidence submitted into~~
 18 ~~the record. The amendment must comply with and conform to the comprehensive plan~~
 19 ~~goals, policies and land use map. For plan and land use regulation amendments, proposals~~
 20 ~~must be consistent with provisions in the Oregon Transportation Planning Rule, OAR 660-~~
 21 ~~012-0060. If statewide goals provide a more specific direction than is provided by the~~
 22 ~~goals in the comprehensive plan, the findings must provide evidence that the proposed~~
 23 ~~amendment is in conformance with statewide land use planning goals and policies.~~

24 ~~17.88.060 Burden of proof.~~

25 ~~The specific findings made by the city council, upon the recommendation of the planning~~
 26 ~~commission, to adopt an ordinance for an amendment to this title, comprehensive plan~~
 27 ~~text and/or map must be factual and supported by substantial evidence. The burden of~~
 28 ~~producing substantial evidence to support the requisite findings is on the applicant~~
 29 ~~seeking the amendment. If no evidence is produced concerning the requisite findings~~
 30 ~~listed in LCMC 17.88.050(D), the application may be denied based upon improper or~~
 31 ~~inadequate findings. The evidence produced must be referenced in the final order and~~
 32 ~~findings of fact adopted as a part of the ordinance adopting the amendment proposal.~~

33 ~~17.88.065 Notice.~~

34 ~~A. Initial Notice to DLCD. At least 35 days before the first evidentiary hearing on a~~
 35 ~~proposal to amend the comprehensive plan or this title, the department shall mail to the~~
 36 ~~Director of the Oregon Department of Land Conservation and Development a notice that~~
 37 ~~includes the text of the proposed amendment and any supplemental information that the~~
 38 ~~department believes is necessary to inform DLCD of the effect of the proposal. The notice~~
 39 ~~shall include the date set for the first evidentiary hearing.~~

40 ~~B. Initial Notice to Others. Notice of a hearing on a proposal to amend the comprehensive~~
 41 ~~plan or this title shall be given to others in accord with LCMC 17.76.020.~~

~~C. Notice to DLCD Following Adoption. Not later than 20 days after adoption by the city council of an ordinance amending the comprehensive plan or this title, the department shall mail a notice that includes a copy of the ordinance, accompanied by materials to comply with ORS 197.615(2), to the Director of DLCD. If the adopted amendment is substantially different than the proposed amendment mailed to DLCD under subsection (A) of this section, the notice shall specify the substantial differences. The notice shall include a signed statement by the person mailing it, indicating the date of deposit in the mail.~~

~~D. Notice to Others Following Adoption. On the same date as the department's mailing under subsection (C) of this section, notice of adoption by the city council of an ordinance amending the comprehensive plan or this title shall be given to others in accord with LCMC 17.76.030(G). In addition to the information set out in LCMC 17.76.030(G), the notice also shall:~~

- ~~1. Identify the place where and the hours during which a person may review the amendment; and~~
- ~~2. Include a signed statement by the person mailing the notice indicating the date of deposit in the mail.~~

~~17.88.070 Limitation on new applications.~~

~~In a case where an application for an amendment is denied by the city council, the application shall not be eligible for resubmittal for one year from the date of the denial, unless the denial was specifically stated to be without prejudice. A new application affecting the same property must be, in the opinion of the planning commission and the city council, substantially different from the application denied to be eligible for consideration within one year from the date of denial, unless the first denial was denied without prejudice, or the planning commission finds that conditions have changed to an extent that further consideration is warranted.~~

SECTION 22. Chapter 17.52.210 (*Planned unit development (PUD)*) is hereby deleted to read as follows:

17.52.210 Planned unit development (PUD).

A. Purpose. ~~It is the purpose of this section to allow master planned developments in any residential or commercial zone, or any combination of them, and in doing so, to allow a more flexible approach to land development than that which is normally accomplished through the subdivision and zoning ordinances of the city. The planned unit development approach is intended to provide more desirable environments by encouraging creative site planning and building designs; to make possible greater diversification between buildings and open spaces; and to conserve land and minimize development costs. In addition to the uses allowed in residential zones, the planned unit development approach may allow certain commercial uses subject to the specific limitations of this section.~~

B. Planning Commission Authority. ~~The planning commission shall have the authority to approve, approve with conditions, or disapprove planned unit developments in any~~

1 residential or commercial zone, or any combination of them, subject to the provisions of
2 this section.

3 **C. Pre-Application Conference.** Prior to filing an application for a planned unit
4 development, the applicant shall review the applicant's preliminary master plan with the
5 city manager or the city manager's designated representative at a pre-application
6 conference. The purpose of the pre-application conference is to inform the city of the
7 nature of a likely PUD application at an early date and to provide the potential applicant
8 with information on what will be needed to make an application complete.

9 **D. Allowable Density.** The allowable residential density in a PUD that meets only the
10 minimum PUD standards is the "maximum base residential density" and shall be
11 determined in the following manner:

12 1. Determine the gross square footage of the project site.

13 2. Subtract from the gross square footage the square footage of any areas proposed
14 for nonresidential development, including commercial uses, places of worship,
15 schools, and public buildings and their associated parking areas and grounds
16 (including required yards and landscaping areas). The result is the "preliminary gross
17 residential area."

18 3. Subtract from the preliminary gross residential area the square footage of any areas
19 of significant natural resources as identified in the comprehensive plan. The result is
20 the "final gross residential area."

21 4. Multiply the final gross residential area by 0.83. The result is the "final net
22 residential area."

23 5. Divide the final net residential area by the minimum lot size of the underlying zone.
24 The result is the "maximum base residential density" expressed in dwelling units. Any
25 number not a whole number shall be rounded down to a whole number.

26 **E. Residential Density Bonuses.**

27 1. Density in excess of the maximum base residential density for the underlying zone
28 may be considered for projects that comply with the density bonus standards. The
29 amount of density bonus shall be determined by the type of density bonus standards
30 incorporated in the development proposal.

31 2. Except with respect to the "affordable housing bonus," in no case shall the density
32 bonus or bonuses cause the overall project density to exceed the maximum allowed
33 residential density, which in the R-1-5 zone is 8.71 units per gross project acre, in the
34 R-1-7.5 zone is 5.81 units per acre, in the R-1-10 zone is 4.36 units per acre, and in the
35 R-M zone is the "low density" density as calculated in LCMC 17.20.050(A).

36 3. If an applicant requests one or more density bonuses the planning commission shall
37 determine, based on evidence supplied by the applicant, any other person, or staff,
38 whether the applicant has complied with the bonus density standards. If the planning
39 commission determines that the applicant has complied with one or more bonus
40 density standards it shall assign the applicable density bonus points and multiply the
41 maximum base residential density by the applicable density bonus points. The result is
42 the total number of additional residential units allowed for the project above the
43 maximum base residential density.

4. Density Bonus Standards. If an applicant desires to be allowed to develop a number of residential units above the maximum base residential density the applicant shall comply with one or more of the following bonus density standards. The density bonus points for each density bonus standard are in parentheses at the end of each standard.

a. Floodplain.

i. **Requirement.** For projects where part(s) of the site is located within the 100-year floodplain as defined and mapped by the Federal Emergency Management Agency, the portions in the floodplain must be developed according to the National Flood Insurance Program requirements.

ii. **Density Bonus Standard.** For projects where part(s) of the site is located within the 100-year floodplain as defined and mapped by the Federal Emergency Management Agency, develop only on portions of the site that are not in the 100-year floodplain or on portions that have been previously developed. (0.01 point.)

b. Steep Slopes.

i. **Requirement.** On portions of the project site with pre-project slopes greater than 15 percent that are not previously developed, do not disturb slopes greater than 40 percent and do not disturb portions of the project site within 50 feet of the top of such slopes, and 75 feet from the toe of such slopes.

ii. **Density Bonus Standard.** On portions of the project site with pre-project slopes greater than 15 percent that are not previously developed sites, limit development to no more than 40 percent of slopes between 25 percent and 40 percent, and to no more than 60 percent of slopes between 15 percent and 25 percent, and locate development such that the percentage of the development footprint that is on pre-project slopes less than 15 percent is greater than the project's total percentage of buildable land that has pre-project slopes less than 15 percent. (0.01 point.)

c. Protected Species Habitat.

i. **Requirement.** If designated critical habitat for species that are listed or are candidates for listing under state or federal endangered species acts is found on or adjacent to the project site, do not disturb that critical habitat or portions of the site within an appropriate buffer around the critical habitat.

ii. **Density Bonus Standard.** If habitat for species that are listed or are candidates for listing under state or federal endangered species acts is found on the project site, do not disturb that habitat or portions of the site within an appropriate buffer around the habitat, with habitat connections or corridors (including connections to habitat on adjacent parcels) in mind. The geographic extent of the habitat and the appropriate buffer shall be identified by a qualified biologist (as determined by the planning and community development director) or the appropriate federal or state agency. Protect the habitat and its identified buffers from development in perpetuity by donating or selling the land or a conservation easement on the land to an accredited land trust or relevant public agency. (0.02 points.)

d. Public Transit.

i. ~~Requirement. Design streets so that pullouts and public transit shelters may be added in the future without the need to acquire additional rights-of-way or relocate any sidewalks or utility lines.~~

ii. ~~Density Bonus Standard. Provide covered and at least partially enclosed public transit shelters, adequate to buffer wind and rain, at appropriate locations within the project boundaries. If public transit does not serve the area of the project, provide pullouts at appropriate locations within the project boundaries so that public transit shelters may be added in the future. (0.01 point.)~~

e. Accessible Design.

i. ~~Requirement. Design and build all buildings to comply with the minimum requirements of the Americans with Disabilities Act.~~

ii. ~~Density Bonus Standard. For each residential unit type developed, design 20 percent (and not less than one) of each type to comply with the accessible design provisions of the Fair Housing Amendments Act (FHAA) and Section 504 of the Rehabilitation Act (Rehabilitation Act), as applicable. Separate residential unit types include: single-family, duplex, triplex, multi-unit row or townhouses, and mixed use buildings that include residential units. All paths of travel between residential units and other buildings within the project shall comply with the accessible design provisions of the FHAA and Rehabilitation Act, as applicable; and facilities and rights-of-way shall comply with the accessible design provisions of the FHAA, the Rehabilitation Act, or the Americans with Disabilities Act, as applicable. (0.01 point.)~~

f. Energy Efficiency.

i. ~~Requirement. None.~~

ii. ~~Density Bonus Standard. (0.02 point).~~

~~(A) For new residential structures of three stories or fewer, build and equip the structures to qualify as an Energy Star Home by either a performance path (through a HERS Index rating) or a prescriptive path (Building Option Package or BOP); and~~

~~(B) For nonresidential structures and residential structures of more than three stories, demonstrate a minimum 10 percent improvement in the proposed building performance rating compared to the baseline building performance rating per ASHRAE/IESNA Standard 90.1-2007 (without addenda) by a whole building project simulation using the Building Performance Rating Method in Appendix G of the Standard. Appendix G requires that this energy analysis include all of the energy costs within and associated with the building project. The proposed design must comply with the mandatory provisions (Sections 5.4, 6.4, 7.4, 8.4, 9.4 and 10.4) in Standard 90.1-2007 (without addenda), must include all the energy costs within and associated with the building project, and must be compared~~

against a baseline building that complies with Appendix G to Standard 90.1-2007 (without addenda).

The default process energy cost is 25 percent of the total energy cost for the baseline building. For buildings where the process energy cost is less than 25 percent of the baseline building energy cost, the applicant must provide supporting documentation substantiating that process energy inputs are appropriate. For the purposes of this analysis, process energy is considered to include, but is not limited to, office and general miscellaneous equipment, computers, elevators and escalators, kitchen cooking and refrigeration, laundry washing and drying, lighting exempt from the lighting power allowance (e.g., lighting integral to medical equipment) and other (e.g., waterfall pumps). Regulated (nonprocess) energy includes lighting (such as for the interior, parking garage, surface parking, facade, or building grounds, except as noted above), HVAC (such as for space heating, space cooling, fans, pumps, toilet exhaust, parking garage ventilation, kitchen hood exhaust, etc.) and service water heating for domestic or space heating purposes.

g. Outdoor Water Conservation.

i. Requirement. For irrigation, design and install all irrigation systems in the project so that they do not spray onto or otherwise directly place irrigation water onto impervious surfaces such as roads, driveways, parking lots, and sidewalks.

ii. Density Bonus Standard. For irrigation, design and install all irrigation systems in the project that use only captured rainwater, recycled wastewater, recycled graywater, or install landscaping that does not require permanent irrigation systems. Temporary irrigation systems used for plant establishment are allowed only if removed within one year of installation. (0.01 point.)

h. Indoor Water Conservation.

i. Requirement. None.

ii. Density Bonus Standard. Design and construct at least 90 percent of all buildings in the project such that they meet one of the following requirements according to the appropriate category (0.01 point):

(A) For nonresidential buildings and residential buildings over three stories, employ strategies that in aggregate use 30 percent less water than the water use baseline calculated for the building (not including irrigation) after meeting the Energy Policy Act of 1992 fixture performance requirements. Calculations are based on estimated occupant usage and shall include only the following fixtures (as applicable to the building): water closets, urinals, lavatory faucets, showers, and kitchen faucets.

(B) For residential buildings three stories or fewer, install fixtures that comply with all of the following requirements:

(1) The average flow rate for all lavatory faucets must be no more than 2.0 gpm.

~~(2) The average flow rate for all shower heads must be no more than 2.0 gpm.~~

~~(3) The average flow rate for all toilets, including dual-flush toilets, must be no more than 1.3 gpf.~~

~~i. Tree Preservation.~~

~~i. Requirement. Comply with the requirements of LCMC 17.52.220.~~

~~ii. Density Bonus Standard. For each two percent of canopy cover provided by trees that are preserved and incorporated into a development plan, a 0.01 point density bonus may be granted. The bonus is not applicable to trees preserved in areas that would otherwise be precluded from development, including floodplains, slopes greater than 25 percent, drainage ways, or wetlands. No more than a 0.10 point density bonus may be granted for any one development.~~

~~F. Affordable Housing Bonus. An additional density bonus of 10 percent above the maximum base residential density shall be available for projects incorporating an affordable housing element. For the purposes of this section an affordable housing element must include the following components:~~

~~1. At least five percent of the total number of dwelling units in the project must be affordable units.~~

~~2. The affordable units must be incorporated into the overall project and not be clustered into a separate area of the project. This provision is not intended to prohibit "cottage clusters" of affordable units; provided, that such clusters are themselves incorporated into the overall project and not clustered into a separate area of the project.~~

~~To be considered "affordable" a unit must meet affordability standards as adopted by the city. Alternatively the developer may transfer title to individual lots dedicated to affordable housing to the Lincoln County Land Trust or other organization approved by the planning and community development director for development by that entity as affordable housing.~~

~~G. Large Scale, Mixed Use PUDs. This subsection sets forth special provisions for large-scale, mixed use PUDs that provide additional amenities for residents, visitors, and the larger Lincoln City community while ensuring that impacts can be internalized and mitigated through master planning and coordinated on-site management.~~

~~1. Applicability. Subsection (H) of this section may be applied only to an existing or proposed PUD that is 100 acres or larger, has direct access to an arterial street, and designates at least 35 percent of the gross PUD site area as open space.~~

~~2. Limited Recreational Commercial Uses Permitted.~~

~~a. Uses Allowed. In addition to residential uses, the following recreational commercial uses may be permitted in large-scale, mixed use PUDs located in residential or commercial zones, subject to the limitations in subsection (G)(2)(b) of this section:~~

~~i. Motels, hotels, and resorts;~~

~~ii. Cabins and yurts used for overnight accommodations;~~

- ~~iii. Eating or drinking establishments without drive-up service facilities;~~
- ~~iv. Retail sales, exclusive of drive-up service facilities;~~
- ~~v. Day spas;~~
- ~~vi. Child day care facilities;~~
- ~~vii. Religious institutions and houses of worship;~~
- ~~viii. Convention centers and meeting facilities;~~
- ~~ix. Time-share units;~~
- ~~x. Bed and breakfast accommodations;~~
- ~~xi. Public use or public utility;~~
- ~~xii. Utility substation;~~
- ~~xiii. Outdoor commercial amusement establishments;~~
- ~~xiv. Essential emergency communications and warning facilities;~~
- ~~xv. Emergency shelters;~~
- ~~xvi. Mixed use incorporating one or more of the uses listed here.~~

~~b. Limitations. In addition to such conditions and restrictions as the planning commission may deem appropriate, the following limitations apply to commercial uses in large-scale, mixed use PUDs located in residential or commercial zones:~~

- ~~i. The combined area of commercial uses, including associated parking areas, may not exceed 15 percent of the gross site area;~~
- ~~ii. Commercial uses must be located a minimum of 100 feet from existing off-site residential buildings;~~
- ~~iii. No commercial or mixed use buildings may exceed 45 feet in height (unless approved by a vote of the people pursuant to the provisions of LCMC 17.52.190); and~~
- ~~iv. Recreational commercial uses are subject to the "pearl" Lincoln City commercial design standards.~~

~~3. Applications for large-scale, mixed use PUDs shall meet the requirements of OAR 660-012-0060, and be subject to the following:~~

- ~~a. A transportation impact analysis (TIA) shall be required at the time of application to determine if the proposed change would significantly affect an existing or planned transportation facility. The TIA shall demonstrate that the development does not significantly impact the transportation system as defined by OAR 660-012-0060(1); or the development shall be made consistent with the transportation system as allowed in OAR 660-012-0060(2). The TIA, findings of significant effect/no significant effect, and proposed mitigation measures shall be sent to the Oregon Department of Land Conservation and Development and the Oregon Department of Transportation for acknowledgment (concurrence).~~
- ~~b. To be consistent with OAR 660-012-0060, the analysis as indicated in subsection (G)(3)(a) of this section shall include a review process that includes adequate public notice and a public hearing, with the right to appeal.~~
- ~~c. Where access to US-101 is proposed as part of a large-scale, mixed use PUD, a valid ODOT highway approach road permit must be provided to Lincoln City before development permits may be issued.~~

H. Preliminary Master Plan Application. Following a pre-application conference, an applicant may submit a preliminary master plan to the site plan committee established under LCMC 17.52.240 for review. The preliminary master plan, which must include a drawing showing the layout of the proposed planned unit development, must contain the following information:

1. Proposed name of the planned unit development;
2. Date, north point and scale of drawing;
3. Appropriate identification clearly stating that the drawing is a preliminary planned unit development master plan;
4. Location of the planned unit development by section, township and range; a legal description sufficient to define the location and boundaries of the proposed planned unit development tract; and the tract designation or other description according to the real estate records of the county assessor;
5. A vicinity sketch map at a scale of one inch equals 400 feet showing adjacent property boundaries and land uses;
6. The following:
 - a. Location, widths and names of all existing streets or other public ways within or abutting the planned unit development;
 - b. Contour lines having the following minimum intervals:
 - i. Two-foot contour intervals for ground slopes less than 10 percent; and
 - ii. Five-foot contour intervals for ground slopes 10 percent or greater. Contours shall be based on contour maps provided by the city or other data approved by the city engineer;
 - c. Location of at least one temporary benchmark within the planned unit development boundaries or the source of the contour line data shown. (Source and accuracy subject to city engineer's approval);
 - d. Location and direction of all water courses and natural features such as rock outcroppings, marshes and wooded areas; and the approximate locations of trees or stands of trees having a trunk cross-sectional diameter of eight inches (approximately 25 inches in circumference) or more, measured at a point 54 inches above the base of the trunk on the uphill side. The plan must identify those water courses, natural features and areas of trees meeting the described criteria which are to remain and those which may be altered or removed;
 - e. Proposed streets, including location, widths and approximate radii or curves;
 - f. Location of existing and proposed easements on the site or abutting property, showing the width and purpose of each easement;
 - g. The types of housing proposed within the PUD, the approximate location or locations proposed for each type of housing, and the approximate housing density proposed at each location;
 - h. Sites, if any, allocated for:
 - i. Churches;
 - ii. Parks, schools, playgrounds;
 - iii. Public buildings;

- iv. Open space;
 - v. Commercial uses, specifying the type of each.
 - i. Area coverage of existing and proposed structures, lots, streets or other development.
- I. Supplemental Preliminary Master Plan Information.** The applicant also shall submit the following information to supplement the preliminary master plan. This information can be submitted in separate statements accompanying the preliminary master plan:
1. Proposed restrictions to be filed in the county deed records, in outline form, such as deed restrictions, conditions, covenants and restrictions, and homeowners' association agreements. The outline restrictions shall identify the time at which the restrictions will be filed in the county deed records; generally who will have authority to enforce the restrictions; specifically which restrictions, if any, are proposed to be enforceable by the city; the time at which the restrictions will become enforceable; and which restrictions, if any, will not be subject to amendment without the consent of the city;
 2. Approximate locations and anticipated grades of all streets. Typical cross sections of the proposed streets showing widths of roadways, curbs, location and widths of sidewalks and the location and size of utility mains;
 3. Approximate plan of proposed sanitary sewers, storm drains, storm water detention and drainage pretreatment facilities and the water distribution system;
 4. A general description of property intended to be dedicated to the city or public, other than street rights-of-way, including proposed dedication restrictions;
 5. A description of any residential density bonus the applicant is requesting, including evidence demonstrating compliance with applicable density bonus standards;
 6. Proposed number of residential units;
 7. An approximate tabulation of all dwelling units by type;
 8. A narrative description of the planned unit development and the manner in which it meets the purpose set out in subsection (A) of this section;
 9. A statement describing the present and proposed ownership;
 10. A preliminary landscape plan, covering both areas to retain undisturbed their natural vegetation and areas to be relandscaped;
 11. A circulation plan and traffic impact analysis identifying likely circulation patterns for and traffic impacts from traffic generated by the development including patterns and impacts within the development, in the area surrounding the development, and in other affected areas of the city;
 12. A statement whether the applicant proposes to submit the final master plan for review as a single master plan or in phases; a statement of the date or dates by which the applicant proposes to submit the final master plan or final master plan phases for review; and a statement of the date or dates by which the applicant anticipates that the development and related improvements or each phase thereof will be substantially completed.
 13. A tree maintenance and protection plan, which shall contain the following information:

~~a. An accurate topographical survey, subdivision map or plat map, that bears the signature of a qualified, registered surveyor or engineer, and which shows:~~

- ~~i. The shape and dimensions of the property, and the location of any existing and proposed structures or improvements;~~
- ~~ii. The location of the individual trees, with a diameter of eight inches or more, on the site, and indicating species, approximate height, d.b.h., canopy spread and common name;~~
- ~~iii. The location of unique trees or stands of trees as set out in the arborist report described below; and~~
- ~~iv. The location of existing and proposed easements, as well as setbacks required by existing zoning requirements.~~

~~b. In lieu of the map or survey, an applicant proposing to remove trees may provide aerial photographs with overlays, GIS documentation, or maps approved by the planning director, and clearly indicating the information required by this subsection.~~

~~c. Arborist Report. The report shall identify any unique or unusual trees or stands of trees and describe the health and condition of all trees subject to removal or transplanting, and shall include information on species, common name, d.b.h., and approximate height and age.~~

~~d. Tree Protection. Unless specifically exempted by the planning director, a statement describing how trees intended to remain will be protected during tree removal and how remaining trees will be maintained.~~

~~e. Tree Identification. Unless specifically exempted by the planning director, a statement that any trees proposed for removal will be identified by a method obvious to a site inspector, such as tagging, painting, or flagging, in addition to clear identification on construction documents.~~

~~f. Replacement Trees. A description of the proposed tree replacement program with a detailed explanation including the number, size, species, and cost. In lieu of replacing trees, the applicant may propose to pay into the city tree fund an amount equivalent to the value of the replacement trees after installation, as provided in this subsection.~~

~~g. Covenants, Conditions and Restrictions (CC&Rs). Where the applicant is proposing to remove trees on common areas, the applicant shall provide a copy of the applicable CC&Rs, including any landscaping provisions.~~

~~h. Waiver of Documentation. The planning director may waive an application document where the required information has already been made available to the city, or where the director determines the information is not necessary to review the application.~~

~~J. Determination That Preliminary Master Plan Is Complete. Following submission or resubmission of a preliminary master plan, the site plan committee established by LCMC 17.52.240 shall determine whether the plan is complete pursuant to the submittal requirements of subsections (H) and (I) of this section. The determination of the committee shall be in writing and, if the application is determined to be incomplete, shall~~

1 ~~be provided to the applicant with a description of the additional material required to~~
 2 ~~make the application complete.~~

3 ~~K. Site Plan Committee Review of Complete Preliminary Master Plan. Following~~
 4 ~~submission of a complete preliminary master plan, the site plan committee shall review~~
 5 ~~the preliminary master plan, shall seek comments on the plan from potentially affected~~
 6 ~~governmental units and agencies, and shall report to the planning commission the~~
 7 ~~comments of the committee members and of those governmental units and agencies that~~
 8 ~~submit comments.~~

9 ~~L. Planning Commission Consideration of Preliminary Master Plan. Following receipt of~~
 10 ~~comments on the preliminary master plan from the site plan committee, the planning~~
 11 ~~commission shall review the plan and comments in public hearings and shall give~~
 12 ~~approval, approval with conditions, or disapproval to the preliminary master plan. The~~
 13 ~~planning commission shall state its decision and its reasons in writing. The applicant may~~
 14 ~~appeal the decision to the city council in accordance with the provisions of LCMC~~
 15 ~~17.76.040. The planning commission shall issue its written decision in a timely manner so~~
 16 ~~that the city's final decision, inclusive of all appeals, can be made within 120 days after~~
 17 ~~submission of a complete preliminary master plan. The planning commission's~~
 18 ~~consideration of the preliminary master plan shall be subject to the following:~~

19 ~~1. The commission shall approve, or approve with conditions, the plan if it finds that~~
 20 ~~the plan, either as submitted or with conditions, meets all of the following criteria.~~
 21 ~~The commission shall disapprove the plan if it finds that the plan, either as submitted~~
 22 ~~or with conditions, does not meet any one or more of the following criteria.~~

23 ~~a. The proposed planned unit development will be substantially compatible with~~
 24 ~~existing development in the surrounding area; and undeveloped land in the~~
 25 ~~surrounding area can be developed in a manner substantially compatible with the~~
 26 ~~proposed planned unit development.~~

27 ~~b. The number of years proposed for completion of the development or each~~
 28 ~~phase of the development is reasonable, taking into consideration the possibility~~
 29 ~~of changing land use patterns in or requirements of the city over time. In order to~~
 30 ~~ensure that the development will be compatible with land use patterns in and~~
 31 ~~requirements of the city at the time of approval of a final master plan, the~~
 32 ~~planning commission shall establish an expiration date for the preliminary master~~
 33 ~~plan approval, not sooner than two years after approval of the preliminary master~~
 34 ~~plan; may impose conditions requiring that a final master plan or phases thereof~~
 35 ~~be submitted for commission review within a specified period or periods of time,~~
 36 ~~not sooner than one year after approval of the preliminary master plan; or may~~
 37 ~~impose conditions requiring commission reevaluation of as yet unbuilt portions of~~
 38 ~~the development, for conformity with then-existing city zoning ordinance~~
 39 ~~requirements in relation to then-existing conditions, not sooner than five years~~
 40 ~~after approval of the preliminary master plan, and at such periodic intervals of not~~
 41 ~~less than five years thereafter as the commission deems appropriate to ensure~~
 42 ~~conformity.~~

~~c. Construction of the development can be accomplished in a manner that does not create unreasonable negative impacts on the area surrounding the development or in the city. In order to assure the avoidance or mitigation of negative construction impacts on the area surrounding the development or in the city, the planning commission may impose conditions including but not limited to:~~

~~i. Requirements that removal of existing landscaping during construction be limited to areas of the planned unit development to be constructed shortly following removal and to portions of those areas on which construction will occur;~~

~~ii. Prohibitions of open burning on the site during construction;~~

~~iii. Prohibitions or limitations on construction track-out;~~

~~iv. Restrictions on construction noise; and~~

~~v. Restrictions on construction traffic.~~

~~d. The development will not create unreasonable negative impacts on the area surrounding the development or in the city. In order to assure the avoidance or mitigation of negative impacts, the planning commission may require the filing of restrictions in the county deed records including but not limited to restrictions:~~

~~i. Prohibiting the removal of specified landscaping; and~~

~~ii. Prohibiting open burning during construction.~~

~~e. Street, water, sewer, drainage and drainage pretreatment, storm water detention, and other similar facilities in the area surrounding the development and in the city are or will be adequate to provide for the health, safety and welfare for the development's population densities and the type of development proposed, taking into consideration existing and projected future demands on those facilities.~~

~~f. Street, water, sewer, drainage and drainage pretreatment, storm water detention and other similar facilities proposed to be constructed as part of the development are adequate to provide for the health, safety and welfare for the population densities and the type of development proposed.~~

~~g. The proposed number of residential units does not exceed the maximum permitted number of residential units; and at least 15 percent of the gross area is dedicated to landscaping. For purposes of computing area dedicated to landscaping, dedicated open space and protected resource areas may be treated as area dedicated to landscaping, but parking areas may not.~~

~~2. The planning commission, in approving a preliminary master plan, may attach conditions it finds are necessary or appropriate to carry out the purposes of this title.~~

~~M. Extension of Approved Preliminary Master Plan. Prior to expiration of an approved preliminary master plan, the planning commission may, on receipt of an application applying to the as yet unbuilt portions of the development, extend the expiration date; provided, that the extension will be consistent with then-existing city zoning ordinance requirements, in relation to then-existing conditions. An application for an extension shall be subject to all of the procedures set out in subsections (C) through (H) of this section, including but not limited to the requirement of a hearing before the planning~~

~~commission, except that the application materials required to be submitted shall be only such materials supplementing the original application as are needed to demonstrate that an extension will meet the criteria for an extension established by this subsection.~~

~~N. Modification of Approved Preliminary Master Plan. The planning commission may, on receipt of an application applying to the as yet unbuilt portions of the development, modify an approved preliminary master plan; provided, that the modifications will be consistent with the then-existing city zoning ordinance requirements, in relation to then-existing conditions. An application for modifications shall be subject to all of the procedures set out in subsections (C) through (L) of this section, including but not limited to the requirement of a hearing before the planning commission, except that the application materials required to be submitted shall be only such materials supplementing the original application as are needed to identify the proposed modifications and to demonstrate that the modifications will meet the criteria for modifications established by this subsection.~~

~~O. Procedure Following Expiration of Preliminary Master Plan. If an approved preliminary master plan expires, whether as to the entire area proposed for development or as to as yet unbuilt portions of the development, then a complete new application must be submitted prior to reconsideration. An application for reconsideration shall be treated as an original application and shall be subject to all of the procedures set out in subsections (C) through (H) of this section, including but not limited to the requirement of a hearing before the planning commission.~~

~~P. Submission of Tentative Subdivision Plan. If an approved preliminary planned unit development master plan provides for the subdivision of land within the planned unit development, then within such period or periods of time as required by the preliminary planned unit development master plan approval, an applicant shall file a tentative subdivision plan for the planned unit development or for phases of the development, if phasing is permitted. The submittal requirements, procedures and approval requirements for the tentative subdivision plan shall be as set out in LCMC Title 16.~~

~~Q. Planning Commission Consideration of Final Master Plan.~~

~~1. Following preliminary master plan approval, and prior to issuance of a development permit and commencement of development, a final master plan must be submitted to and approved by the planning commission. The final master plan may be submitted in development phases; provided, that:~~

~~a. Each phase can exist as a separate entity capable of independently meeting all requirements and standards of this section and of the underlying zones in which the PUD is located; or~~

~~b. Prior to the development of any phase that will not exist as such a separate entity capable of independently meeting the requirements and standards, restrictions enforceable by the city and in a form approved by the city have been filed in the county deed records, such as conditions, covenants and restrictions. The restrictions shall be applicable to other areas of the planned unit development not yet proposed for development, and shall be sufficient to assure that:~~

- i. ~~The area within the phase proposed for development, when combined with the area not yet proposed for development, as subject to the deed restrictions, can exist as a combined entity capable of independently meeting the requirements and standards;~~
 - ii. ~~The phase has met any applicable reevaluation requirement imposed during the preliminary master plan approval process; and~~
 - iii. ~~The separate development of phases will not be detrimental to the total development nor to the adjacent properties in the event the remainder of the development is not completed.~~
 2. ~~The final master plan must be in sufficient detail to allow the planning commission to determine whether the final master plan is consistent with the preliminary master plan and whether the final master plan meets all conditions applicable to the preliminary master plan. In addition, the final master plan shall include:~~
 - a. ~~Detailed landscaping plans showing the type and size of all plant material and its location, the irrigation system, decorative materials, recreation equipment and special effects; and the schedule for removal and replanting of vegetation;~~
 - b. ~~Detailed water, sewer, drainage and drainage pretreatment, storm water detention and street system plans, including:~~
 - i. ~~Central line profiles showing finished grades of all streets;~~
 - ii. ~~Cross sections of proposed streets showing widths of roadways, curbs, locations and widths of sidewalks and locations and sizes of utility mains;~~
 - iii. ~~Profiles of sanitary sewer, street drainage, drainage pretreatment, storm water detention and water distribution systems, showing pipe size and location of valves and fire hydrants, all to conform to city standards;~~
 - iv. ~~The estimated cost of street, sewer, drainage and drainage pretreatment, storm water detention, water, and other public infrastructure improvements within the planned unit development.~~
 3. ~~The planning commission shall approve, or approve with conditions, the final master plan if the planning commission determines that the plan meets all of the following criteria. The commission shall disapprove the final master plan if it finds that the plan, either as submitted or with conditions, does not meet one or more of the following criteria:~~
 - a. ~~The plan is consistent with the preliminary master plan and all conditions applicable to it;~~
 - b. ~~All utility systems and landscaping conform to city standards or are approved by the city engineer; and~~
 - c. ~~If the final master plan is for a phase of the total planned unit development, the criteria for phasing stated in subsection (Q)(1) of this section will be met.~~
- R. Requirements Following Final Master Plan Approval.**
1. ~~A certified print of the approved final planned unit development master plan shall be provided by the applicant without charge to the office of the city recorder.~~
 2. ~~Except as provided in subsection (R)(3) of this section, proposals to make changes in the final master plan after it has been approved shall be considered the same as a~~

~~new PUD application and shall be permitted only in accordance with all of the procedures set out in this section, including but not limited to the requirement of a hearing before the planning commission, except that the application materials required to be submitted shall be only such materials supplementing the original application as are needed to identify the proposed changes and to demonstrate that the changed planned unit development will meet the criteria established by this section.~~

~~3. Proposals to make minor changes in the final master plan after it has been approved may be approved by the city manager or the city manager's designated representative. Minor changes consist only of changes that will not have public visibility and that:~~

~~a. Do not increase densities;~~

~~b. Do not change boundaries;~~

~~c. Do not change any use, specific or general, described in the final master plan; and~~

~~d. Do not change the location or amount of land devoted to specific land uses.~~

~~4. A final PUD plat shall be filed with and approved by the city in accordance with the final platting requirements of LCMC Title 16 (Subdivisions) and recorded with Lincoln County, within one year of the approval of a final master plan. One extension of time may be granted, for good cause, by the planning commission if such extension is authorized by the commission prior to the expiration of the one-year period, and provided such extension not exceed one additional year. No additional extensions may be granted. If a final PUD plat is not filed, approved and recorded as required by this section, then the planned unit development approval shall become void as of the date the filing requirement no longer can be met.~~

~~5. Prior to commencement of development, the developer shall provide to the city an improvement agreement and financial security instrument as described in LCMC 17.52.240(L) and shall obtain a development permit.~~

SECTION 23. Chapter 17.52.240 (*Site plan review*) is hereby deleted to read as follows:

17.52.240 — Site plan review.

A. Purpose. ~~The purpose of site plan review is to establish a coordinated permit process to ensure that new development is in compliance with the requirements of this title. The result of approval of a site plan is the issuance of a permit to the applicant to develop the site in accord with the site plan and any conditions of site plan approval without further review of the site plan for compliance with the provisions of this title. The issuance of a site plan review permit under this section, however, does not excuse a developer or owner from obtaining any other permits or approvals required by this title, by the Lincoln City Municipal Code, or by any other local, state, or federal law or authority applicable to the proposed development, including but not limited to city sign, tree cutting, grading,~~

~~sedimentation prevention, erosion control, conditional use, planned unit development, and land division permits.~~

~~**B. Site Plan Review Criteria.** A site plan review application shall demonstrate that:~~

~~1. The proposed development will comply with all of the applicable requirements of this title; and~~

~~2. The arrangement of all buildings and structures, access points, parking and loading facilities, landscaping, lighting, walls and fences, and stormwater detention, treatment, and drainage features and facilities will avoid traffic congestion and will provide for pedestrian and vehicular safety and welfare.~~

~~**C. Site Plan Review Officials.** Site plan review officials shall include, but need not be limited to, the director, fire marshal, public works director, police chief, and parks and recreation director, or their designates. These officials shall have the opportunity to review, for compliance with the requirements of this title, the site plans for all proposed nonexempt new buildings, outdoor storage areas, and parking lots, and for the expansion of existing nonexempt buildings, outdoor storage areas, and parking lots, in those zones where site plan review is required.~~

~~**D. Site Plan Review Required.**~~

~~1. Except as provided in subsection (D)(2) of this section, site plan review is required before any building permit is issued authorizing development and before any outdoor storage area or parking lot development commences, in the R-M, PC, RC, GC, PI, M-W, P, OS, TVC, NPD and OPD zones, and before any nonresidential building permit is issued authorizing development and before any nonresidential storage area or parking lot development commences in any other zone.~~

~~2. The following development is exempt from site plan review:~~

~~a. Single-family and duplex dwellings.~~

~~b. Development involving only modifications to the interior of a structure.~~

~~c. Development meeting all of the following criteria:~~

~~i. The development involves either no expansion of an existing building or expansion of an existing building by 800 square feet or less; and~~

~~ii. The development does not affect on-site traffic circulation patterns; and~~

~~iii. The development adds less than three additional parking spaces.~~

~~**E. Application.** An application for site plan review shall include:~~

~~1. The application form established by the department in order to have the information needed to demonstrate compliance with the requirements of this title provided in a manner that will allow the site plan review officials to review the site plan in an organized and efficient manner;~~

~~2. The filing fee established by resolution of the city council;~~

~~3. A site plan covering all lots on which development will occur or whose area is needed within the development in order to meet requirements of this title. The site plan shall be drawn to scale and shall indicate the following, where applicable:~~

~~a. Dimensions and orientation of the site, and lot lines of, and within, the site.~~

~~b. Locations of buildings and structures, both existing and proposed, and an identification of buildings and structures proposed to be removed.~~

- ~~c. Location and layout of off-street parking and loading facilities.~~
- ~~d. Location and points of entry and exit for motor vehicles, and the internal circulation pattern.~~
- ~~e. Location of walls and fences and an indication of their height and materials of construction.~~
- ~~f. Location and type of exterior lighting standards and devices.~~
- ~~g. Location of areas of required landscaping and areas of existing vegetation proposed to be retained.~~
- ~~h. Grading (excavations and fills), by plotting existing and proposed contours and existing and proposed stormwater detention, treatment, and drainage features and facilities.~~
- ~~i. The height of buildings and structures.~~
- ~~j. The proposed use of buildings and structures.~~
- ~~k. Location and dimensions of existing and required utility, drainage and sidewalk easements.~~
- ~~l. Location of required sidewalk, curb, gutter, and pavement improvements.~~
- ~~m. Location of existing and proposed water and sewer lines and facilities.~~
- ~~n. General location of proposed private utility lines.~~
- ~~o. If environmental assessments or reports are required by Chapters 17.46, 17.47 and 17.48 LCMC, the location of any riparian vegetation, significant wildlife habitat and major marshes, exceptional aesthetic resources and related natural vegetation cover, historic and archaeological sites, natural hazards, and beaches and dunes that are subject to those sections;~~
- ~~4. Any environmental assessments or reports required by Chapters 17.46, 17.47 and 17.48 LCMC. If an application does not include the required environmental assessments or reports, the application shall be deemed not complete, but, on the request of the applicant, site plan review officials may review and comment on the site plan on a preliminary basis;~~
- ~~5. A traffic impact study at the request of the city engineer, if indicated by LCMC 17.52.300;~~
- ~~6. Any other architectural, civil or traffic engineering, or other information required to permit findings that the development will comply with the provisions of this title;~~
- ~~7. For a proposed expansion of an existing building, outdoor storage area, or parking lot, the site plan shall indicate the relationship of the proposed expansion to the existing development but need not include other data required in subsection (D) of this section, except as necessary to permit findings that the expanded development will comply with the provisions of this title; and~~
- ~~8. If an applicant intends to assert that it cannot legally be required, as a condition of site plan approval, to provide easements and improvements at the level otherwise required by LCMC 17.52.230, the application shall include the report described in LCMC 17.52.230(B).~~
- F. Notice of Receipt of Application.**

1 ~~1. After receipt of a site plan application, the department shall provide written~~
 2 ~~notice of the application to:~~

3 ~~a. Owners of property within 250 feet of the site for which the application is~~
 4 ~~submitted. The list of property owners shall be compiled from the most recent~~
 5 ~~property tax assessment roll.~~

6 ~~b. Any neighborhood association recognized by the city whose boundaries include~~
 7 ~~the site.~~

8 ~~2. The written notices of the application shall include the following information:~~

9 ~~a. The date, time, and place where comments are due, if a person wishes to have~~
 10 ~~the comments considered during the site plan review process. The due date shall~~
 11 ~~be at least 14 days after the date of the notice.~~

12 ~~b. A statement that the criteria governing the site plan review decision are those~~
 13 ~~requirements of this section that are applicable to the particular development~~
 14 ~~being proposed.~~

15 ~~c. The street address or another easily understood geographical reference to the~~
 16 ~~site.~~

17 ~~d. A statement that the site plan review application and any other file materials are~~
 18 ~~available for review at the department and that copies can be obtained at cost.~~

19 ~~e. The name and phone number of a department contact person.~~

20 ~~3. The written notice shall state that if tenants or lessees reside at the property, the~~
 21 ~~city requests that the owner provide a copy of the notice to each tenant or lessee.~~
 22 ~~The failure of an owner to honor this request shall not constitute a violation of this~~
 23 ~~subsection.~~

24 ~~G. Determination of Completeness. Not later than 30 days after the initial filing of~~
 25 ~~the application, the site plan review officials shall have an initial opportunity to~~
 26 ~~review the site plan review application. If the director determines following the~~
 27 ~~initial review:~~

28 ~~1. That the application is complete, then, not sooner than the due date for~~
 29 ~~comments set out in the written notice of the application, the site plan review~~
 30 ~~officials may proceed immediately to complete their review of the application.~~

31 ~~2. That the application is not complete, then, not later than 30 days after the initial~~
 32 ~~filing of the application, the department shall give written notice to the applicant~~
 33 ~~that the application is not complete. The notice shall specify what information is~~
 34 ~~missing, shall give the applicant the opportunity to submit the missing~~
 35 ~~information, and shall indicate a date on and after which the city may proceed to~~
 36 ~~complete its review of the application, with or without the missing information.~~

37 ~~H. Review and Decision.~~

38 ~~1. After the director has determined that the initial application is complete under~~
 39 ~~subsection (G)(1) of this section, or on or after the date indicated to the applicant~~
 40 ~~under subsection (G)(2) of this section, whichever is applicable, the director shall~~
 41 ~~request that the site plan review officials review the application and any written~~
 42 ~~comments received during the comment period, and that the officials provide their~~

1 ~~written comments and recommendations on the application to the director not~~
 2 ~~later than the time set by the director for further consideration of the application.~~

3 ~~2. Site plan review officials wishing to provide comments and recommendations on~~
 4 ~~the application shall provide written comments and recommendations to the~~
 5 ~~director not later than the time set by the director for further consideration of the~~
 6 ~~application.~~

7 ~~3. In reviewing the application and comments received during the comment~~
 8 ~~period, and in making comments and recommendations on the application, site~~
 9 ~~plan review officials shall base their review, and any resulting formal comments~~
 10 ~~and recommendations, on whether the development will comply with the~~
 11 ~~requirements of this title. Site plan review officials also may submit additional~~
 12 ~~informal comments and recommendations that they wish to be provided to the~~
 13 ~~applicant for informational purposes only.~~

14 ~~4. On or after the time set by the director for further consideration of the~~
 15 ~~application, after considering the application, comments received during the~~
 16 ~~comment period, and comments and recommendations received from site plan~~
 17 ~~review officials, the director shall prepare a written decision taking one of the~~
 18 ~~following actions:~~

19 ~~a. If the director finds that the development, as described in the application, will~~
 20 ~~comply with all of the requirements of this title, the director shall approve the~~
 21 ~~application.~~

22 ~~b. If the director does not find that the development, as described in the~~
 23 ~~application, will comply with all of the requirements of this title, the director, in~~
 24 ~~the director's discretion, shall either:~~

25 ~~i. Disapprove the application; or~~

26 ~~ii. Approve the application, subject to such conditions as are necessary so that the~~
 27 ~~development, as conditioned, will comply with all of the requirements of this title.~~
 28 ~~The director's decision shall identify each requirement of this title that is applicable~~
 29 ~~to the site plan under review; shall include any findings that are necessary to a~~
 30 ~~determination of whether the site plan complies with the requirement; shall state a~~
 31 ~~conclusion, based on the findings, as to whether the site plan complies with the~~
 32 ~~requirement and, if not self evident, the basis for the conclusion; and, if the~~
 33 ~~decision is to approve the site plan subject to conditions, shall state any findings,~~
 34 ~~conclusions, and basis for conclusions, to demonstrate that compliance with the~~
 35 ~~conditions is necessary in order for the site plan to comply with the requirements~~
 36 ~~of this title.~~

37 ~~5. During review of a site plan application, an applicant may revise the site plan~~
 38 ~~under consideration; provided, that the applicant, if required by the director as a~~
 39 ~~condition to revision, signs a written statement in a form approved by the director~~
 40 ~~agreeing that the 120-day period provided for in ORS 227.178 shall commence~~
 41 ~~from the date the revision is filed with the department.~~

42 ~~6. If a condition of approval of a site plan requires a future submittal to be filed for~~
 43 ~~deferred or refined site plan review in relation to the development, then review of~~

the future submittal shall be made pursuant to the procedures set out in this section for approval of the site plan itself, except that the review shall be limited to determining only whether the submittal complies with the requirements of this title applicable to the submittal.

7. A decision of the director under subsection (H)(4) of this section may include, but is not required to include, informal advice to the applicant about other permits or requirements of this title, of the Lincoln City Municipal Code, or of any other local, state, or federal law or authority that are or may be applicable to the proposed development but that are outside the scope of site plan review.

I. Notice of Decision. On approval, approval with conditions, or disapproval of a site plan review application under subsection (H)(4) of this section, the director shall publish, at the applicant's expense, notice of the action in a newspaper of general circulation in the city. In addition, the director shall provide written notice of the decision to:

1. The applicant;

2. Owners of property within 250 feet of the site for which the application is submitted. The list of property owners shall be compiled from the most recent property tax assessment roll;

3. Any neighborhood association recognized by the city whose boundaries include the site; and

4. Any person who submitted written comments during the comment period.

The notices provided shall include an explanation of the means for appealing the action taken. In addition, the notices shall state that if tenants or lessees reside at the property, the city requests that the owner provide a copy of the notice to each tenant or lessee. The failure of an owner to honor this request shall not constitute a violation of this subsection.

J. Appeals. The applicant or any interested person may appeal a decision of the director under subsection (H)(4) of this section. The appeal shall be filed within 10 days of the mailing of the decision and must be filed in the manner set out in LCMC 17.76.040. The filing of an appeal of a site plan approval shall suspend any building permit issued based on the approval until the city appeal body, whether the commission or the city council, has decided the appeal.

K. Revisions to Approved Site Plans.

1. Major revisions proposed by the applicant to an approved site plan shall be made only pursuant to the procedures set out in this section for approval of the site plan itself. A major revision is a revision which:

a. Increases the density of development;

b. Enlarges any structure on the site by more than 800 square feet, or enlarges the area of the site;

c. Changes vehicular or pedestrian access to, or circulation patterns on, the site; or

d. Changes the location of, or amount of land devoted to, a specific use on the site.

2. Where a required site plan approval for a development has been granted, it shall be unlawful for any person to cause or permit the construction, alteration,

improvement, or use of the development in any manner except in compliance with the approved site plan, subject to any lawfully made non-major revisions.

L. Public Infrastructure Improvements Agreements.

~~1. If all the public infrastructure improvements required to be provided as part of a site plan approval have not been satisfactorily completed prior to application for issuance of a certificate of occupancy or prior to a proposed commencement of use, and if the city manager or a designated representative determines that a delay in completion of the improvements is appropriate, then the city manager or delegate may require, as a condition of such issuance or use, an improvement agreement signed by the owner, in a form satisfactory to the public works director.~~

~~An improvement agreement shall:~~

~~a. Identify all public infrastructure improvements remaining to be completed and establish a time period within which the owner shall complete the improvements;~~

~~b. Provide that if the owner does not complete the identified improvements within the established time period, then the city may complete the improvements and recover the full cost and expense of completion from the owner;~~

~~c. Require the owner to reimburse the city for all costs of inspection by the city engineer of the public infrastructure improvements;~~

~~d. Require the owner to hold harmless, defend, and indemnify the city and its mayor and council members, officers, boards, commissioners, and employees from claims of any nature arising or resulting from the performance of any acts required to be done by the owner under the agreement;~~

~~e. Require the city to tentatively accept the public infrastructure improvements and the easements in which they are located at such time as the city engineer determines that the owner has fully complied with all terms and conditions of the improvement agreement related to the improvements and easements; and to finally accept the improvements and easements on satisfactory completion, as determined by the city engineer, of the one-year warranty period required under subsection (L)(3) of this section.~~

~~2. An owner entering into an improvement agreement under subsection (L)(1) of this section shall file with the city, as a condition to city acceptance of the agreement, financial security to assure the full and faithful performance of the agreement by the owner. The financial security shall be in an amount equal to 110 percent of the applicant's estimated cost to complete the public infrastructure improvements, as approved by the city engineer, which amount shall be subject to reduction from time to time in the sole discretion of the city engineer as satisfactory construction of the public infrastructure improvements is completed.~~

~~3. At the time the owner completes construction of public infrastructure improvements required as part of a site plan approval, whether constructed prior to occupancy or use of the site or pursuant to an improvement agreement, as a condition of tentative acceptance of the improvements by the city, the owner shall warrant the materials and workmanship of the improvements for a period of one year from the date of tentative acceptance and shall provide financial security for~~

~~the warranty in the amount of 20 percent of the applicant's estimated cost to construct the public infrastructure improvements, as approved by the city engineer.~~

~~4. The financial security required under subsections (L)(2) and (3) of this section shall be in a form approved by the public works director and may be one or more of the following:~~

~~a. A surety bond executed by a surety company authorized to transact business in the state of Oregon;~~

~~b. Cash; or~~

~~c. An irrevocable standby letter of credit or similar financial security instrument.~~

~~5. Decisions of the city manager, city engineer, or designated representatives in the enforcement of agreements entered into under this subsection shall not be subject to appeal under LCMC 17.76.040.~~

~~M. Time Limitations.~~

~~1. A site plan approval shall become void on the thirty-first day after approval unless the applicant and owner, within 30 days after approval, sign and file with the department an acceptance of the approval in the standard form provided by the director. The director may extend the time for signing the acceptance for good cause, whether before or after expiration of the 30-day period. The signing of an acceptance shall not waive any appeal rights of the applicant or owner, but merely shall acknowledge that, unless the approval is revised on appeal, the development must conform to all of the terms and conditions of the approval.~~

~~2. A site plan approval shall become void two years after approval unless within that time construction of the approved development has been commenced and thereafter diligently pursued toward completion. The director may extend a site plan approval for an additional period of one year and, if an extension is applied for, shall extend the approval, unless there have been changes in the applicable criteria or in circumstances relevant to the site that would justify re-review of the site plan in relation to the applicable criteria. No more than one extension may be granted.~~

~~3. Decisions of the director on whether to approve extensions under this subsection shall not be subject to appeal under LCMC 17.76.040.~~

SECTION 24. Measure 49 Reservation.

Notwithstanding the amendment and removal of existing sign regulations as set forth in this ordinance, LCMC 17.72 as it existed on the date of this ordinance adoption, is preserved in its entirety for purposes of application of such regulations to residential compensation claims, if any, made pursuant to Ballot Measure 49. This reservation does not modify or alter previous Measure 49 reservations concerning this chapter.

1
2 **SECTION 25. Findings Adopted.**
3

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

9 **SECTION 26. Severability.**
10

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

15 **SECTION 27. Savings.**
16

17 Notwithstanding the amendment to this Title, the existing Title remains valid and in full force and
18 effect for purposes of all criminal, civil or administrative code enforcement cases or land use
19 actions or applications filed or commenced during the time said ordinances were operative.
20 Nothing in this ordinance affects the validity of prosecutions commenced and continued under
21 the laws in effect at the time the matters were originally filed.
22

23 **SECTION 28. Ordinance Delayed Effective Date.**
24

25 Notwithstanding the ordinary effective date provisions of Chapter IX, Section 9.3 of the City
26 Charter, this ordinance shall take effect on January 1, 2021.
27

28 **SECTION 29. Codification.**
29

30 Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal Code and
31 the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word,
32 and the sections of this Ordinance may be renumbered, or re-lettered, provided that any
33 Whereas clauses and boilerplate provisions (i.e. Sections 24-29) need not be codified and the
34 City Recorder is authorized to correct any cross-references and any typographical errors. The
35 City Attorney is specifically authorized to work with Code Publishing to correct all cross-
36 references to the procedures chapters impacted by this amendment regardless of where they
37 occur in the municipal code.
38

39 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section
40 9.2 of the City of Lincoln City Charter on the 13th day of July 2020 (First Reading) and on the
41 21st day of September, 2020 (Second Reading).
42

1
2
3 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 21st day of
4 September, 2020.
5
6
7

8 _____
9 DICK ANDERSON, MAYOR
10

11 ATTEST:
12
13

14 _____
15 CITY RECORDER
16

17 APPROVED AS TO FORM:
18
19

20 _____
21 RICHARD APPICELLO, CITY ATTORNEY
22

Council Communication

Ec Dev - Request to apply for EPA CWA Grant

Meeting Date: September 21, 2020 Primary Staff Contact: Alison Robertson
 Department: Economic Development E-Mail: alisonr@lincolncity.org
 Secondary Dept: Administration Secondary Contacts:
 Approval: Ronald F Chandler Estimated Time: 10 Min

Objective

Staff would like a Council permission to pursue EPA (Environmental Protection Agency) Community Wide Assessment (CWA) grant to further economic development efforts specific to brownfield properties.

Background

City Council has increased economic development efforts by making available a toolbox similar to the Urban Renewal Agency, to assist business and property owners, as well as support the housing needs in Lincoln City. Some of these tools now have defined program criteria and others exist only as concepts.

One of these concept tools is to provide redevelopment assistance for properties considered to be underutilized or have barriers to redevelopment such as unknown conditions, or brownfield concerns. The concept tool to be developed is described as:

Brownfield Assistance. For private commercial or mixed-use projects that support the efforts of the Agency, Council, and Community Vision Plans, the Agency or Council will partner with property owners to assist with Brownfield site challenges to further sale or redevelopment of the property.

An underutilized property survey was completed in August 2020 to identify underutilized and/or potential brownfield sites, and begin outreach to property owners to understand their goals and needs for redevelopment or sale. The project consultant team provided a presentation to Council on August 10th, to discuss the survey/project methodology, initial findings and possible next steps.

EPA Community Wide Assessment Grant

One possible next step to continue efforts towards brownfield redevelopment is to apply for a EPA Community Wide Assessment (CWA) Grant. If successful, the CWA grant provides funding to the City to: inventory, characterize, assess, conduct a range of planning activities, develop site-specific cleanup plans, and conduct community involvement related to brownfield sites.

Grants are available for up to \$300,000 to assess sites contaminated by hazardous substances, pollutants, contaminants, and/or petroleum. The performance period for the grant is three years

with a quarterly reporting requirement. There is no community matching requirement for grant funds. The grant funds, if awarded, would be used to work with a consultant to continue the work from the underutilized property survey done earlier this year. The City would continue outreach with property owners of sites that have been identified as underutilized and/or possible brownfields. The City would act as a conduit to assist property owners with Phase I and Phase II environmental assessments when needed for sale or redevelopment of property.

If awarded, this grant would become the City/URA Brownfield Ec Dev Tool until/unless other funding sources are available.

The City of St. Helens is a previous recipient of an EPA Community Wide Assessment grant. The City was awarded \$300,000 to complete a community wide assessment. The City completed two Phase I environmental assessments and three Phase II environmental assessments. One success story as a result of the grant implementation included assisting a property owner with assessment of a Leaking Underground Storage Tank (LUST) site that led to the sale of the property to a residential developer.

Staff time to administer + grant match

This work would be done by the City's Economic Development Coordinator and reviewed by the Director. The grant application would be heavy up front to get things established, but generally not more than a few hours each month once it's up and running. There should be no further commitment beyond the life of the grant (3 years). There are no ongoing monitoring or similar obligations, since the grant does not pay for any clean-up activities (if contamination is discovered). Quarterly grant reporting is required during the 3 year grant implementation period. No local match is required although estimated staff time is usually identified.

Potential Motion

1. Direct staff to apply for an EPA Community Wide Assessment Grant this funding cycle.
2. Direct staff to not apply for an EPA Community Wide Assessment Grant this funding cycle, and continue to explore other funding options.

Council Communication

Residential Parking Passes

Meeting Date: September 21, 2020 Primary Staff Contact: Ronald F Chandler
 Department: Administration E-Mail: RChandler@lincolncity.org
 Secondary Dept: Secondary Contacts:
 Approval: Ronald F Chandler Estimated Time:

The intent of this agenda item is to determine the criteria for establishing residential parking permit areas. If the City Council decides to proceed, I recommend the City hold a series of neighborhood meetings to gather input on the effect of this ordinance. As the City increases parking restrictions, it is probable that the cost for enforcing the restrictions will increase.

Residential parking areas are designed to limit the traffic and parking concerns in residential areas with limited on-street parking. The following are the proposed criteria for creating a residential parking area.

Permitted Locations for Residential Parking Areas.

- Residential, Single Family Zones (R-1)
 - R-1-5
 - R-1-7.5
 - R-1-10
- Residential, Roads End Zone (R-1-RE)
- Residential, Multifamily Zone (R-M)
- Residential, Recreation Zone (R-R)
- Nelscott Cottage Residential (NP-NCR)
- Mixed Use Zones
 - Nelscott Beach Mixed Use (NP-NBMU)
 - OP-Interior Mixed Use (OP-IM)
 - OP-Oceanfront (OP-OF)
 - Taft Village Core (TVC)

Question- should parking permits be used to authorize overnight parking of vehicles (e.g. VRD overflow- in City or URA owned lots (for a fee). This is not authorization to store vehicles or personal property on City/URA parking lots or right of ways.

Minimum size for Residential Parking Permit Area =

Criteria for Residential Parking Permit Area

- 25% of the average number of non-residential vehicles (vehicles not connected with the residences or businesses in the area) must exceed the total number of spaces available.
Example: 50 total on-street parking spaces, 13 of the 50 spaces are occupied by non-residential vehicles.
- 75% of the parking spaces are occupied Thursday through Sunday on a daily basis.
Example: 50 total on-street parking spaces, 38 of the 50 spaces are occupied daily Thursday through Sunday.
- *Exception:* The residence or residential complex lacks off-street parking.

Approval Process for a Residential Parking Permit Area

- By petition
- 60 % of affected neighbors and neighborhood association (if it exists) support the request
- Approval authority – City Manager

Application for Individual Permit

- Processing Fee per vehicle
- Length of permit - annual
- Number of vehicles permitted per residence = 2
- Number of guest vehicles permitted per residence = 1
- Required documentation
 - Photo ID with current address
 - Vehicle registration with current address
 - Lease or rental agreement
 - Bank statement
 - Credit card bill
 - Utility bill

Restrictions

- Timed and overnight parking don't apply when one has a residential parking permit.
- All other parking restrictions apply (*including prohibited storage use (over 24 hours) of city right-of-way*).

Council Communication

No Parking Zones

Meeting Date:	September 21, 2020	Primary Staff Contact:	Ronald F Chandler
Department:	Administration	E-Mail:	RChandler@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Ronald F Chandler	Estimated Time:	

See attached Council Communication

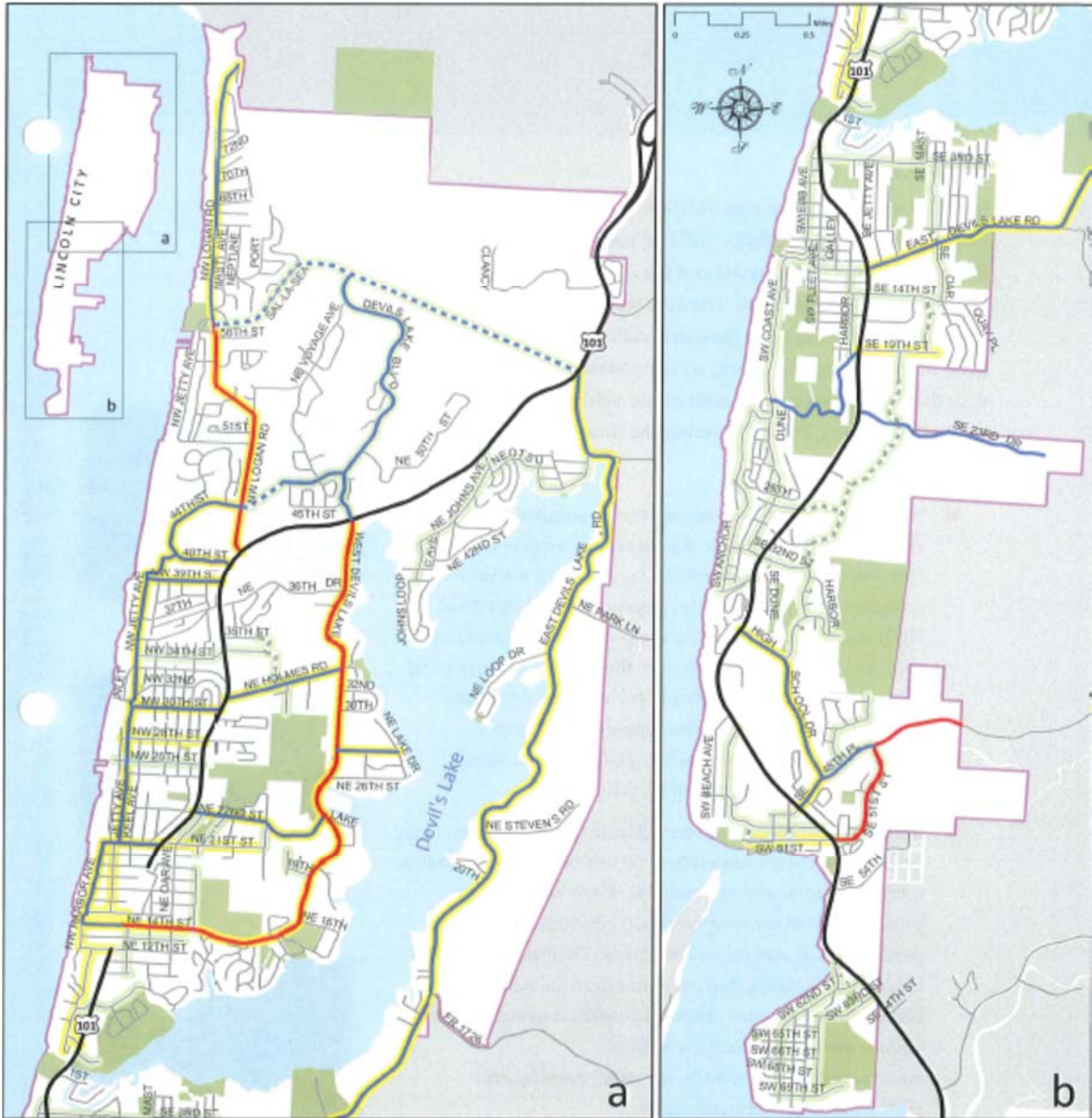
Attachments:

Council Communication No Parking Areas 9-9-2020 (PDF)

The intent of this agenda item is to determine the criteria for establishing no parking areas. If the City Council decides to proceed, I recommend the City hold a series of neighborhood meetings to gather input on the effect of this ordinance. As the City increases parking restrictions, it's probable that the cost for enforcing the restrictions will increase.

Criteria for Establishing "No Parking" Areas

1. Transportation System Plan – Area Type
 - High-Use Street
 - Medium-Use Street
2. Transportation System Plan – Street Classifications
 - Municipal Arterial
 - Minor Arterial
 - Collector
 - Local Road
3. Multi-model street Functional Classifications
 - The following map identifies the locations for each street classification type.



12 Multi-Modal Street Functional Classifications

Lincoln City
Transportation System Plan

Street Functional Classifications

Area Type

Principal Arterial
Minor Arterial
Collector
Local Road

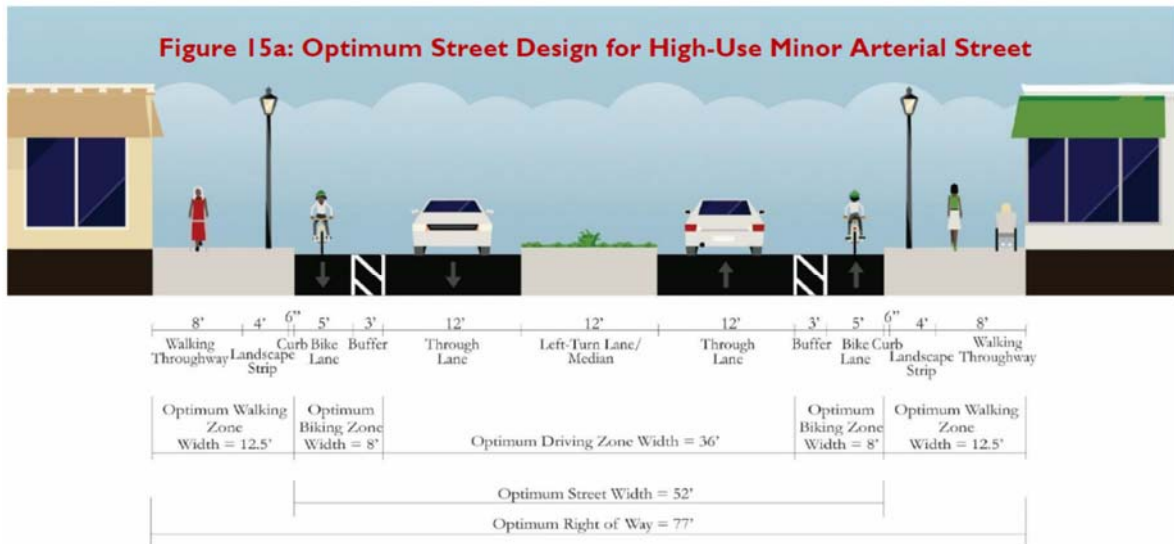
High-Use Street
Medium-Use Street

Urban Growth Boundary
Park

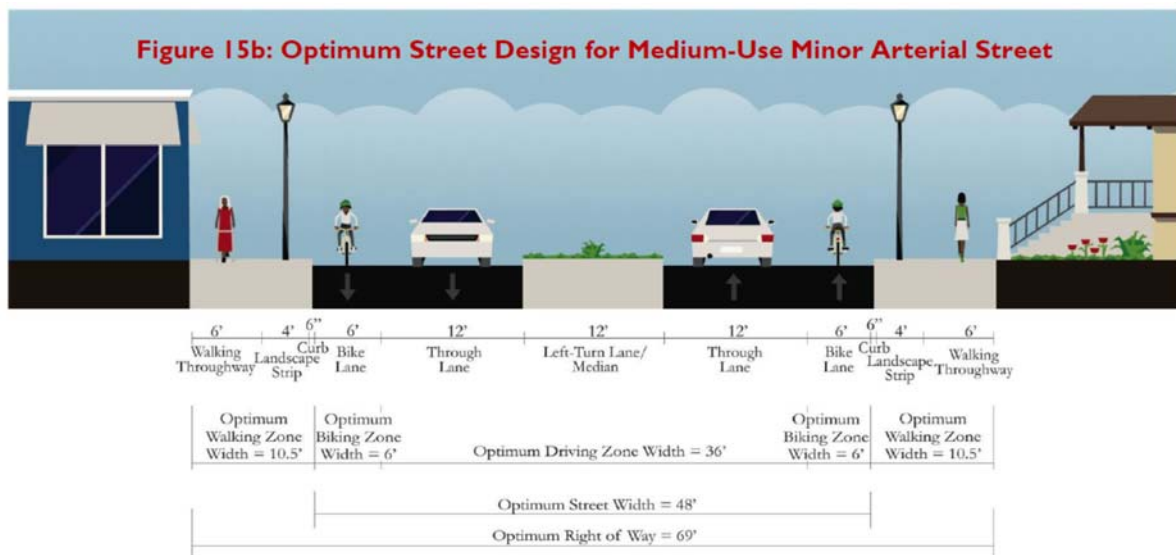
Note: Potential Alignments for Future Roadways are shown as dashed lines

DKS

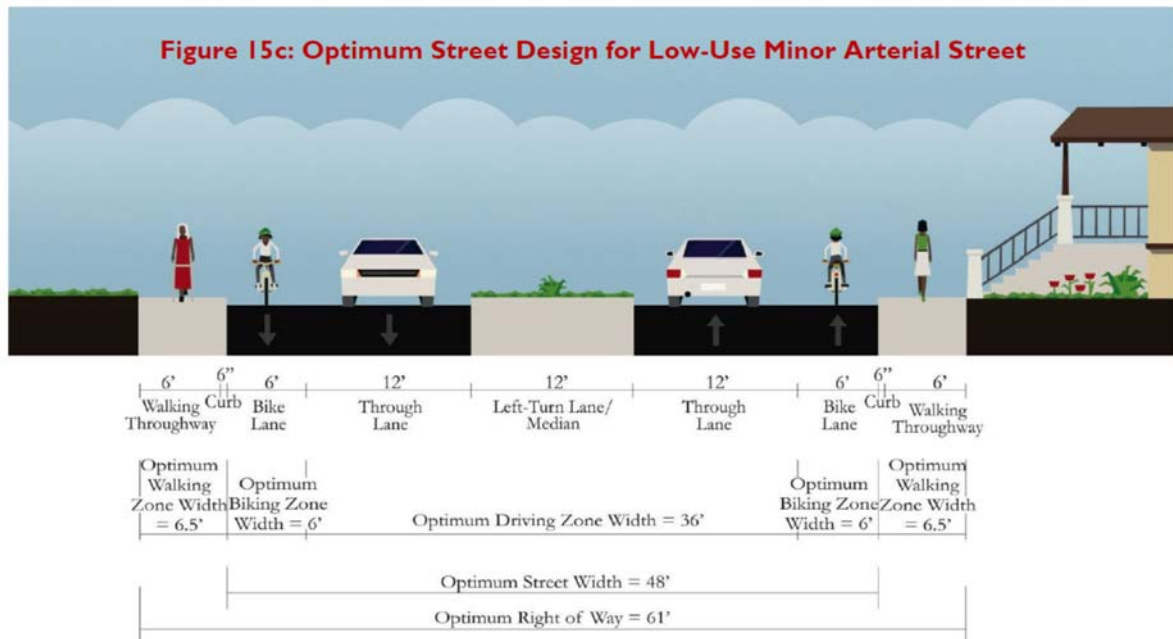
- Municipal Arterial – Highway 101
- High-Use Minor Arterial Street – No on-street parking



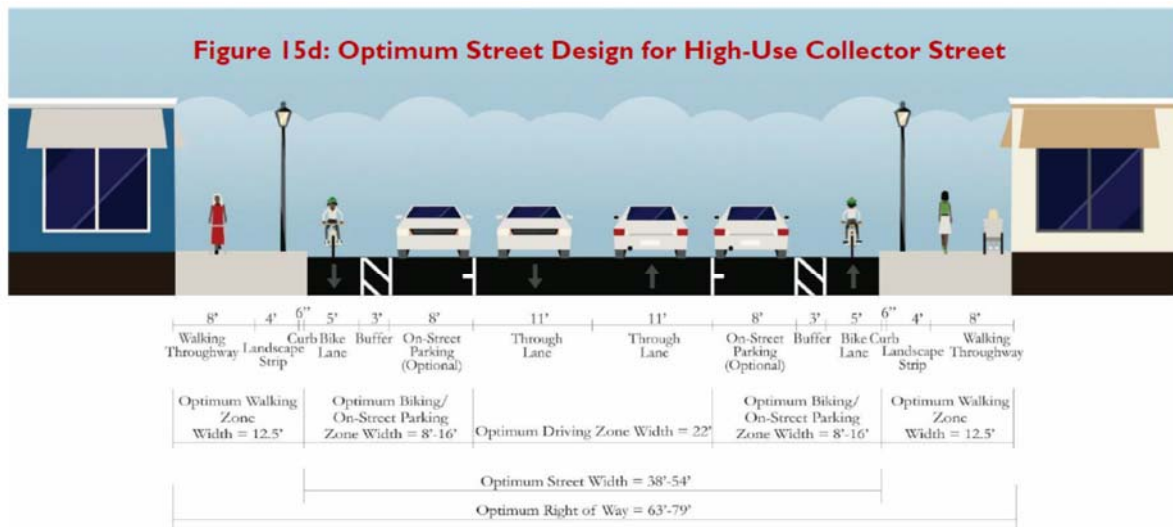
- Medium-Use Minor Arterial Street – No on-street parking



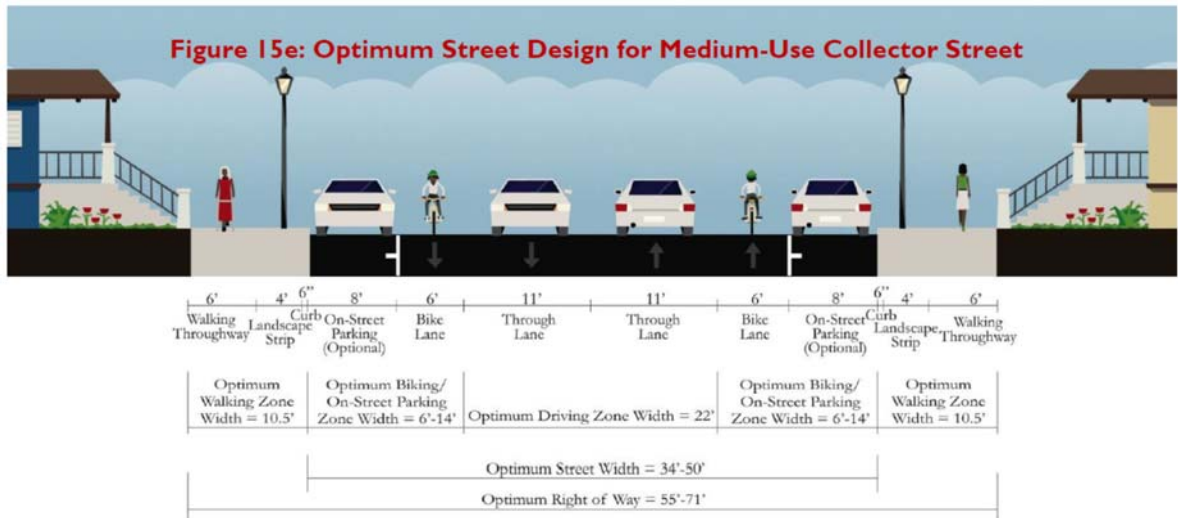
- Low-Use Minor Arterial Street – No on-street parking



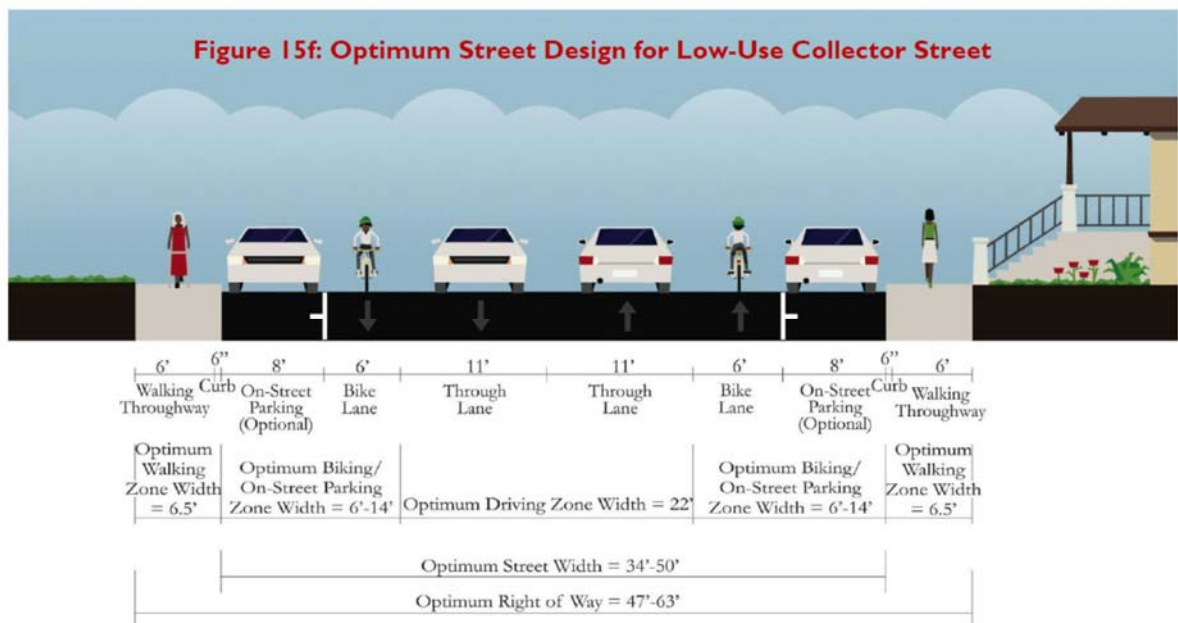
- High-Use Collector Street – Right-of-way requirement – 30' for on-street parking on one-side of the street and 38' for on-street parking on both sides of street.



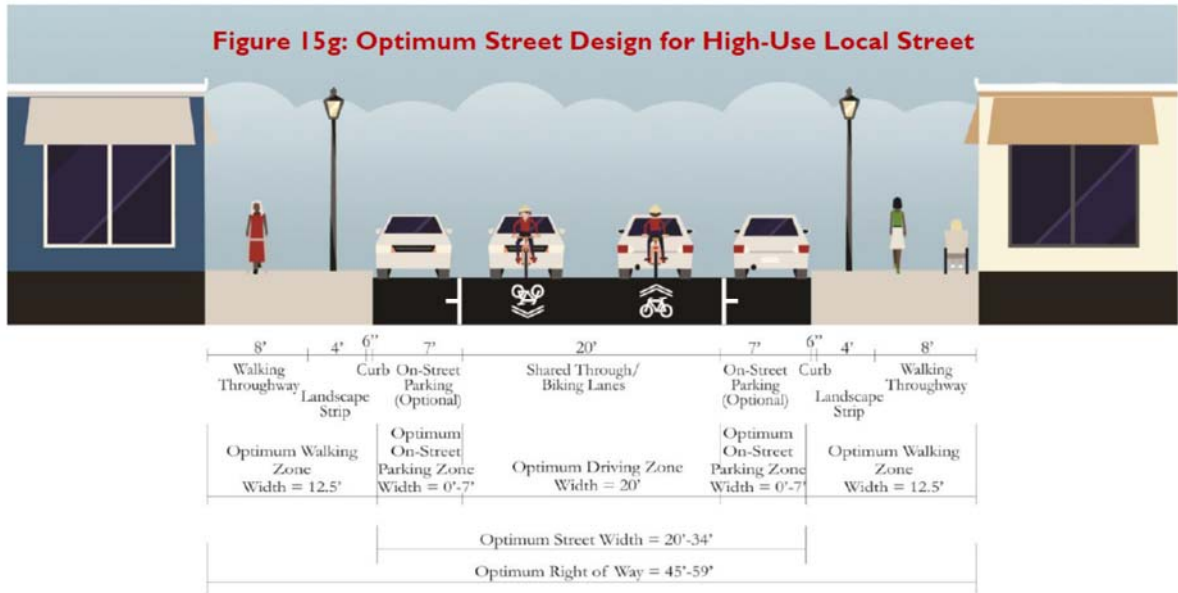
- Medium-Use Collector Street - - Right-of-way requirement - 30' for on-street parking on one-side of the street and 38' for on-street parking on both sides of street.



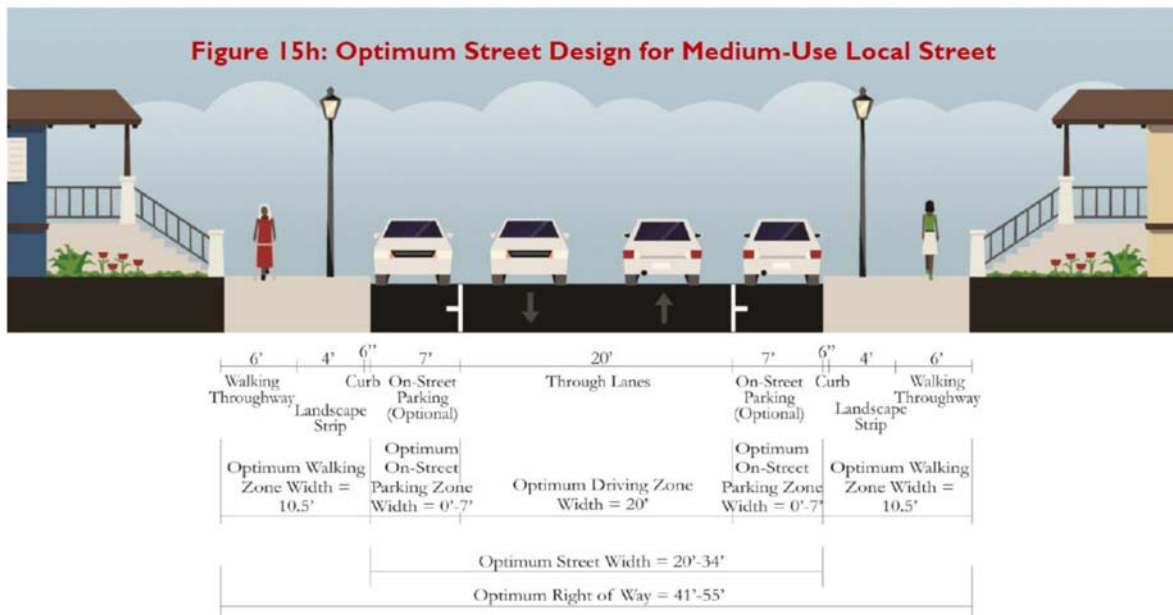
- Low-Use Collector Street - - Right-of-way requirement - 30' for on-street parking on one-side of the street and 38' for on-street parking on both sides of street.



- High-Use Local Street - – Right-of-way requirement – 27' for on-street parking on one-side of the street and 34' for on-street parking on both sides of street.



- Medium-Use Local Street - – Right-of-way requirement – 27' for on-street parking on one-side of the street and 34' for on-street parking on both sides of street.



- Low-Use Local Street - - Right-of-way requirement – 27' for on-street parking on one-side of the street and 34' for on-street parking on both sides of street.



4. Other criteria for establishing no parking areas.

- Terrain

5. Approval Processing

- Minimum size for No-Parking area =
- By petition
 - o 60% of affected neighbors and neighborhood association (if it exists) support the request.
- Processing fee
 - o Survey required
- Approval authority – City Manager

6. Other – Loading zone parking – 20 minutes – in front of VRDs.

Council Communication

City Council Employee Evaluation Process Adoption

Meeting Date:	September 21, 2020	Primary Staff Contact:	Abigail Edwards
Department:	Human Resources	E-Mail:	ADonowho@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Ronald F Chandler	Estimated Time:	10 minutes

Question:

To consider adoption of the modifications made to City Council employee evaluation forms, and set a timeline for future modification of the City Attorney's form.

Authority:

Contracts for each Council employee provide for performance evaluation by the City Council.

Background:

The City Council has reviewed and provided editorial review of the evaluation forms for the Municipal Judge, City Attorney, and City Manager. The following is proposed for adoption by the Council:

- A timeline change has been discussed to align all evaluations with the fiscal-year end. Current period evaluations should take place as soon as this process is finalized.
- Instructions have been clarified for the Judge's evaluation process.
- No changes were made to the current form for the City Attorney. Modifications are anticipated for the next evaluation year. For the current evaluation period, the City Attorney can provide a completed self-evaluation to the Council by October 12, 2020.
- The City Manager evaluation form has been modified with new instructions and criteria.

Council Options:

- Approve changes
- Make additional modifications and approve
- Defer approval for additional review with/without additional changes

Potential Motions:

Motion to align City Council Employee evaluations with the fiscal year-end beginning July of 2021, and execute current year evaluations as soon as practicable following adoption of form changes.

Motion to adopt the changes to the Municipal Judge's annual evaluation instructions.

Motion to adopt the modified form and instructions for the City Manager's annual evaluation.

Attachments:

Council Employee Evaluation Forms and Instructions (PDF)

Municipal Judge Performance Evaluation

Please use the following information to evaluate the performance of the Municipal Judge.

1. Visit court and observe proceedings. Contact the Finance Director or Court Clerk to determine court dates and times to visit.
2. Talk to department heads—The Finance Director has the most interaction with the judge.
3. Have staff expand on the information to include police tickets for speeding, un-insured motorist, code violations, and low level misdemeanors with regard to the number of convictions, fines levied, community service assigned, tickets dismissed and fines collected for each citation.
4. Grade the court on evaluation form with a numbered grading system. Refer to the documents provided by staff on number of tickets written for speeding, un-insured motorist, code violations, and low level misdemeanors.
5. Set Goals and Objectives for the next year, so the City Council has measurable expectations to use for the next evaluation.
6. Evaluation shall be done annually or no less than every other year on or about the end of each Fiscal Year. The City Council will pool all evaluations to present a final evaluation to the judge with combined comments and scoring

MUNICIPAL COURT JUDGE PERFORMANCE EVALUATION

INSTRUCTIONS: Place a check mark on the line underneath the number you feel is appropriate for each item. The numerical rating (1 through 5) is an effort to quantify opinions and judgement about specific management responsibility. While subjective, it suggests a useful emphasis or relative degree of acceptability. Please use the comment space to record specific comments on each point. Use the back of the form if more space is needed.

A (5) rating represents very satisfactory/excellent performance or behavior; (4) indicates performance or behavior that exceeds standards or is good; (3) is satisfactory; (2) is indicative of performance or behavior that is not satisfactory; (1) represents an area that needs improvement.

Professionalism

	1	2	3	4	5	Comments
a. Projects a professional and positive image						
b. Courteous to public and staff at all times						
c. Controls emotions effectively in difficult situations						

City Council Relationship

	1	2	3	4	5	Comments
a. Effectively handles City Council concerns						
b. Keeps City Council informed on issues concerning the court						
c. Effectively aids the City Council in achieving long range goals						

Communications

	1	2	3	4	5	Comments
a. Communicates effectively with Police Department						
b. Oral communications are clear, concise and accurate						
c. Written Communications are clear, concise and accurate						

Court Administration

- a. Creative in developing practical solutions to problems faced in the course of work
- b. Seeks to improve own skills and knowledge
- c. Controls uncollected fines
- d. Shows consistency in courtroom proceedings

1	2	3	4	5	Comments

Based on your overall evaluation of the Municipal Judge, what areas would you list as strong points.

- 1.
- 2.
- 3.
- 4.
- 5.

City Council goals and objectives for next evaluation.

- 1.
- 2.
- 3.
- 4.
- 5.

Evaluator:_____

Date:_____



PERFORMANCE EVALUATION 2020 CITY ATTORNEY

City Council Relations

Keeps Council informed of problems, issues, current plans and activities, legislation, governmental practices, etc as they relate to legal issues. Provides timely and effective representation of the City's interests consistent with Council's direction. Staff reports are thorough and timely. Accepts direction or instructions in a positive manner. Effectively aids the Council in establishing and achieving long-range goals. Participates in Council discussions when appropriate and makes recommendations where appropriate, but allows the Council to make policy decisions without exerting undue pressure. Anticipates and advises the Council regarding important foreseeable legal problems, needs and opportunities.

Improvement Needed

1

☐

2

☐

Meets Job Standards

3

☐

4

☐

Exceeds job standards

5

☐

Score: _____

Comments: _____

Community Relations

Personally projects a positive public image. Is courteous to public at all times. Keeps commitments to the public. Seeks to use criticism of self or City in positive ways. Available and visible to citizens as directed by Council. Resolves citizen complaints consistent with Council policy in a timely manner if directed by Council. Open and honest with citizens. Takes a consistent position with different audiences. Engaged and invested in the community.

Improvement Needed

1

☐

2

☐

Meets Job Standards

3

☐

4

☐

Exceeds job standards

5

☐

Score: _____

Comments: _____

Personal Traits

Controls emotions effectively in difficult situations. Is creative in developing practical solutions to problems faced in the course of work. Is flexible in accepting and adjusting to change. Uses common sense. Has positive attitude. Demonstrates personal honesty and frankness in day-to-day relationships. Seeks to improve own skills and knowledge. Completes work in acceptable time periods. Performs work accurately. Opinions, legislation, briefs and other work is of high quality. Has the respect of the legal community.

Improvement Needed

1

☐

2

☐**Meets Job Standards**

3

☐

4

☐**Exceeds job standards**

5

☐**Score:** _____**Comments:** _____**Responsibility**

Takes initiative to get job done correctly, thoroughly, and within time frames. Perceives new responsibilities and proceeds independently to undertake and/or expand those responsibilities, making sure priorities are consistent with Council direction. . Accepts responsibility for own work. Achieves work assigned by or in conjunction with City Council. Develops effective, efficient legal plans and strategies for Council's goal achievement and policy implementation. Establishes appropriate priorities.

Improvement Needed

1

☐

2

☐**Meets Job Standards**

3

☐

4

☐**Exceeds job standards**

5

☐**Score:** _____**Comments:** _____**Communication**

Provides City Council with legal activity reports and reports on status of litigation. Written communications are clear, concise and accurate. Oral communications are clear, concise, expressed self effectively. Thorough, concise, articulate and in constant communication with necessary people. Provides clean and timely legal opinions. Responds to inquiries from Council and/or Council members in a timely and understandable manner.

Improvement Needed

1

☐

2

☐**Meets Job Standards**

3

☐

4

☐**Exceeds job standards**

5

☐**Score:** _____**Comments:** _____

General Legal Counsel

Works productively with staff to accomplish Council directives. Works in support of City policies and goals. Presents options and advice in a positive fashion and with a practical outlook. Approaches role from a preventative rather than a corrective view of legal services. Provides effective and efficient legal assistance to City Council, Boards and Commissions. Avoids unnecessary litigation through tactful and professional handling of potential claims against the City. Review of ordinances and contracts are accurate and timely. Ordinances and resolutions are prepared in a timely manner. Provides timely, helpful and responsive legal advice during City Council and other meetings. Displays knowledge and understanding of general municipal law.

Improvement Needed

1

☐

2

☐

Meets Job Standards

3

☐

4

☐

Exceeds job standards

5

☐

Score: _____

Comments: _____

Decision Making

Attempts to obtain all available facts prior to giving legal advice. Is objective in providing legal advice. Considers all possible legal alternatives and their consequences before providing recommendations to Council. Ability to reach timely conclusions, and initiate action, without being compulsive. Ability to make suggestions regarding problem solving under strained and unpleasant conditions. Uses common sense, tact, and diplomacy. Ability to use logical and sound judgments in use of resources, determining courses of action, and defining solutions to problems.

Improvement Needed

1

☐

2

☐

Meets Job Standards

3

☐

4

☐

Exceeds job standards

5

☐

Score: _____

Comments: _____

Cooperative Relationships

Provides information to City Manager and Department Heads on routine legal matters. Provides legal advice as needed to Planning Commission and supporting staff. Builds a strong working relationship with the City Manager, Judge, and City Department Heads.

Improvement Needed

1

☐

Meets Job Standards

2

☐

3

☐

4

☐

Exceeds job standards

5

☐

Score: _____

Comments: _____

Evaluation Time Period:

February 19, 2018 – February 19, 2020

Date Signed by Evaluator:

Printed Name of Evaluator: _____

Signature of Evaluator:

This is an average score from all Councilors and their comments.

Score: _____

City Manager Performance Evaluation Instructions and Timeline

The City Council may conduct a performance evaluation for the City Manager annually. The purpose of the evaluation is to provide a collective review of City Administration through review of the City Manager's work as it relates to the City Charter requirements, progress on the Council's adopted annual goals and priorities, and tasks assigned by contract or Council motion.

PLEASE KEEP IN MIND

Regular communication is encouraged. It is recommended that each Councilor visit with the City Manager on a regular basis, ask questions, and address concerns as they arise.

As part of the annual evaluation, Councilors may talk to department heads. A list of recommended questions is available for Council members to ask.

Setting goals and objectives for the next year is important to establish measurable expectations for the next evaluation. Follow-up on these new expectations throughout the year during regular communication.

INSTRUCTIONS

Review the City Manager's work performance for the entire period; try to refrain from basing judgement on recent events or isolated incidents only. Disregard your general impression of the employee and concentrate on one factor at a time.

Evaluate the City Manager on the basis of standards you expect to be met for the job to which assigned, considering the length of time in the job. Review the following information to keep in mind as you work through the evaluation:

- Related fiscal year Council Goals and Priorities
- Department Head interview information
- Goals set for City Manager in prior annual review
- Status update of Council Goals and Priorities from the City Manager—may also include additional projects that are underway
- Weekly and Quarterly Reports received from the City Manager throughout the year
- City Charter objectives for City Manager Performance (built into each section for evaluation)
- Performance expectations set forth in employment contract and job description (if applicable)

Check (✓) the number which most accurately reflects the level of performance for the factor appraised using the rating scale described below. If you did not have an opportunity to observe a factor during this evaluation period, please indicate so in the comments section below the rating category.

RATING SCALE

4 = Exceeds Requirements--A level of performance which consistently surpasses the standards of competent performance—going above and beyond the requirements.

3 = Meets Requirements--A level of performance which meets the requirements of the job.

2 = Improvement Needed—A level of performance that requires improvement to meet the job requirements.

1 = Does Not Meet--A level of performance which does not meet the requirements of the job.

Include comments and examples related to expectations that have been met (or surpassed), and any areas in the related category that may need improvement. Provide suggestions on what the improvement could look like. Areas that do not meet expectations will require additional discussion.

ANNUAL TIMELINE

The annual evaluation for the City Manager will be in-line with the fiscal year-end. At the end of each fiscal year, the Council will set a date for the City Manager to provide a status update on the Council Goals and Priorities. Having just finished the budget process, much of this information will have been a part of the budget message and readily available. Fiscal year alignment allows new council members more time to become familiar with the workings involved prior to participating in an evaluation. The timeline may be changed, as needed, by council consensus.

July 1—New Fiscal Year Begins—Set date to receive status update from City Manager, schedule an executive session for early August to bring individual evaluations together with Human Resources

Mid-July—Receive all evaluation review information from Human Resources

Third Week in July—Begin optional department head interviews and filling out individual evaluation responses (suggested timeline of 2-3 weeks)

Second Week in August--Executive Session—Discussions for collective evaluation from individual findings, bring all information together, set goals and group responses. Human Resources will compile the final product.

End of August—Evaluation should be finalized and presented to City Manager by the end of August each year. This can be done in an Executive Session with the full Council, or with the Mayor in a less formal setting.



City Manager Evaluation

Date of Hire: January 20, 2015

Evaluation Period: _____ to _____

ASSISTING THE COUNCIL

Related Duties from the City Charter: Attends all council meetings unless excused by the council or mayor; keeps the council advised of the affairs and needs of the city; sees that provisions of all ordinances are administered to the satisfaction of council.

- 1. Council Relations and Communication-** Maintains effective and timely communication, both verbal and written, with the Mayor and City Council. Is sensitive to City Council concerns and priorities. Responsive to inquiries and suggestions from Council members. Maintains availability to elected officials, both personally and through designated staff.

This category can also include preparing an orientation program and suitable materials for new Council members, identifying the needs/priorities of the Council, Committing equal treatment/courtesy/assistance, providing advice on potential areas of conflict/pecuniary issues, seeking to develop a relationship based on mutual respect, trust and integrity, being responsive to feedback and input received from members of the Council, communicating advice to Council that will assist in governance responsibilities.

Does Not Meet

1

☐

Improvement Needed

2

☐

Meets Requirements

3

☐

Exceeds Requirements

4

☐

COMMENTS

Expectations Met:

Areas that need improvement:

- 2. Organization and Progress Reporting--**Plans, organizes and submits materials for presentation to the City Council in clear, concise, and comprehensive manner. Council agenda preparation is thorough and timely. Establishes and maintains a timely and thorough system of reporting current City plans, activities, issues and progress on projects.

Does Not Meet

1

☐

Improvement Needed

2

☐

Meets Requirements

3

☐

Exceeds Requirements

4

☐

COMMENTS

Expectations Met:

Areas that need improvement:

- 3. Implementation and Follow-Through**--Supports action of Council after a decision has been reached. Implements Council action in accordance with the intent of Council. Responds equally to the Mayor and each member of the City Council and implements directives of the Council as a whole rather than individually. Avoids issues or personality biases or partisanship.

Does Not Meet

1

☐

Improvement Needed

2

☐

Meets Requirements

3

☐

Exceeds Requirements

4

☐

COMMENTS

Expectations Met:

Areas that need improvement:

- 4. Council Communication Related to Risk Management**—Communicates any issues of concern to Council impacting its relationship to administration, monitoring legal implications of issues; being aware of Council's legal and legislative requirements, ensuring ready access to useful policy-based information, maintaining appropriate boundaries; assures equal treatment, providing quality control on advice going forward, and ensuring an ongoing degree of open communication with Council presenting reasonable and professional views in a straight-forward yet pleasant manner. Ensures that issues discussed are clear to the community, and works to mitigate potential compounded issues.

Does Not Meet

1

☐

Improvement Needed

2

☐

Meets Requirements

3

☐

Exceeds Requirements

4

☐

COMMENTS

Expectations Met:

Areas that need improvement:

- 5. Communication with the Community/Public**—The City Manager is open and available to the public, takes their concerns and problems seriously, recognizes the public's right and need to be well-informed, is visible in the community. Employs communication risk management by deliberate consideration of language before communication begins.

Examples of public communication that are expected of the City Manager are: working with civic groups, participating in radio programs, addressing Council concerns forwarded from the public, providing information by blogging or sending newsletters, responding to citizen calls and emails, being ready and willing to meet citizens in-person to address issues, facilitating positive promotion of Lincoln City as a place to live, being seen in public.

Examples of deliberate communication risk management include: consideration of the public's probable interpretation of the information; providing clear, concise, and complete information at the most opportune time, through an outlet that is widely accessible.

Does Not Meet

1

☐

Improvement Needed

2

☐

Meets Requirements

3

☐

Exceeds Requirements

4

☐**COMMENTS**

Expectations Met:

Areas that need improvement:

POLICY ADVICE & LEADERSHIP ON KEY ISSUES

Related Duties from the City Charter: See that all terms of franchises, leases, contract, permits and privileges granted by the city are fulfilled.

- 6. Policy Advice--** Provides adequate expertise and guidance, recommendations and alternatives in policy-making while respecting the integrity of the City Council as a body without exerting undue pressure.

This can also include assistance in identifying key issues; offering strategic advice addressing such issues, ensuring both Council and administration are aware of importance of policy development, providing quality advice and guidance to Council on identified issues, coordination and preparation of draft policy statements.

Does Not Meet

1

☐

Improvement Needed

2

☐

Meets Requirements

3

☐

Exceeds Requirements

4

☐**COMMENTS**

Expectations Met:

Areas that need improvement:

- 7. Administrative Leadership Ability—**This can include strength of administrative leadership as observed in terms of the City Manager's decision making ability (e.g. decisiveness, quality of decisions, creativity), advice to Council on importance of strategic planning as a leadership tool; assistance to Council in planning/designing a strategic planning session, implementing approved policy; monitoring policy implications, and review/monitoring of financial controls/audit reports/business plan and budget. Provides methodology and reasoning for decisions made when working with staff, maintains ongoing communication regarding expectations with direct reports, and evaluates their work annually.

Does Not Meet

1

☐

Improvement Needed

2

☐

Meets Requirements

3

☐

Exceeds Requirements

4

☐**COMMENTS**

Expectations Met:

Areas that need improvement:

LEADERSHIP OF THE ADMINISTRATIVE TEAM

Related Duties from the City Charter: Appoint, discipline and remove appointive personnel, except appointees of the mayor or council. Organize and reorganize the departmental structure of city government. Supervise and control the manager's appointees in their service to the city.

- 8. Effective Leadership**--This can include providing ongoing, consistent leadership to department heads and through them to the full administration, communicating effectively and regularly; providing ongoing guidance/direction, making administrative decisions within constraints of bylaws/policies and explains methodology and reasoning for decisions, providing inspiration and modeling of a desire to be the best, delegating/empowering with reasonable limits, providing a forum for Council and senior staff to engage in discussion relative to the Municipality's strategic plan.

Does Not Meet

1

☐

Improvement Needed

2

☐

Meets Requirements

3

☐

Exceeds Requirements

4

☐**COMMENTS**

Expectations Met:

Areas that need improvement:

- 9. Staff Management and Support**—This can include supervising direct reports and expecting results, disciplining behavior and correcting promptly, ensuring sound communications plan, and ensuring that senior staff are involved in the process of developing Municipality goals and priorities. Annual evaluation of direct reports.

Does Not Meet

1

☐

Improvement Needed

2

☐

Meets Requirements

3

☐

Exceeds Requirements

4

☐**COMMENTS**

Expectations Met:

Areas that need improvement:

FISCAL MANAGEMENT

Related Duties from the City Charter: Prepare and transmit to the council an annual city budget. Supervise city contracts. Supervise all purchasing. Supervise operation of all city-owned public utilities and property.

10. Budget Preparation --This can include ensuring the development of a comprehensive, inclusive and transparent process of business planning and budgeting, ensuring that Council provides guidance to the administration in the development of both plans and budget.

Does Not Meet

1

☐

Improvement Needed

2

☐

Meets Requirements

3

☐

Exceeds Requirements

4

☐

COMMENTS

Expectations Met:

Areas that need improvement:

11. Budget Monitoring and Communication—This can include providing Council with accurate, comprehensive advice on the current status of the fiscal condition of the Municipality as items of importance come up, and in a quarterly report. Advising the Council on the status of any changes required by the external auditor, and acting promptly on audit recommendations.

Does Not Meet

1

☐

Improvement Needed

2

☐

Meets Requirements

3

☐

Exceeds Requirements

4

☐

COMMENTS

Expectations Met:

Areas that need improvement:

GOALS ACCOMPLISHED SINCE LAST REVIEW:

AREA FOR IMPROVEMENT:

GOALS FOR NEXT REVIEW:

Signature of City Manager _____ Date: _____

Signature of City Mayor _____ Date: _____

Suggested Questions When Speaking With Department Heads

SUPERVISION & LEADERSHIP

1. Can you describe the City Manager's leadership style?
2. Encourages you to make decisions within your jurisdiction with minimal City Manager involvement, yet maintains control of operations by providing the right amount of communication to the staff?
3. Instill confidence and promotes initiative in subordinates through supportive rather than restrictive controls for your program, while monitoring operations at the department level?
4. Develops and maintains a friendly and informal relationship with the staff and work force in general, yet maintains the professional dignity of the City Manager's office?
5. Sustains or improves staff (your) performance by evaluating you at least annually, setting goals and objectives, periodically assessing their progress and providing appropriate feedback?
6. What is your evaluation process? How are your goals and objectives determined? Do you use any form of self-evaluation?
7. Encourages teamwork, innovation and problems solving among staff members?
8. Provides adequate and timely information when preparing for annual budget, Seeks advice and input on department budget; provides guidance in planning and decision making of budget additions/cuts for dept.; and consults to educate when budget cuts must be made?

INDIVIDUAL CHARACTERISCS

1. Diligent and thorough in the discharge of duties, "self-starter".
2. Exercises good judgement.
3. Displays enthusiasm, cooperation and will to adapt.
4. Mental and physical stamina appropriate for the position.
5. Exhibits appropriate composure, appearance and attitude with staff and public.
6. Observable management of frustration in challenging situations.
7. Approachable to discuss problematic issues without recourse or retaliation.

CITIZEN RELATIONS

1. Responsive to requests from citizens.
2. Demonstrates a dedication to service to the community and its citizens.
3. Meets with. Listens to members of the community to discuss their concerns and strives to understand their interests.
4. Gives an appropriate effort to maintain citizen satisfaction with city services.

5. Maintains a nonpartisan approach in dealing with the news media.

PROFESSIONAL SKILLS AND STATUS

1. Maintains knowledge of current cultural and social developments that might affect the practice of local government management.
2. Demonstrates a capacity for innovation and creativity.
3. Anticipates and analyzes problems to develop effective approaches for problem solving.
4. Willing to try new ideas proposed by members of the staff or governing body.
5. Sets a professional example by handling affairs of the office in a fair and impartial manner.
6. Describe the Leadership style exhibited with staff.

OTHER FEEDBACK INFORMATION TO BE ADDED regarding working with City Manager and for the City: