

CITY OF LINCOLN CITY

LINCOLN CITY COUNCIL AGENDA

MONDAY SEPTEMBER 11, 2023, 6:00 PM

6:00 PM - The Lincoln City Council will hold a Regular Meeting in the Council Chambers, 801 SW Highway 101 - 3rd Floor, Lincoln City, OR 97367.

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

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

****PUBLIC COMMENT VIA EMAIL WILL ONLY BE RECOGNIZED UPON RECEIPT OF AN EMAIL SENT TO publiccomment@lincolncity.org****

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

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, for a hearing-impaired device, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting. To request information in an alternate format or other assistance, please contact the City's ADA Coordinator, Kevin Mattias, at [541-996-1013](tel:541-996-1013) or kmattias@lincolncity.org. Visit the [ADA Accessibility | City of Lincoln City, OR](#) webpage to view how the City continues to remain in compliance with Title II of the Americans with Disabilities Act regarding City programs, services, processes, and facilities.

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.

Agenda materials for this meeting are available at www.lincolncity.org under "Government", then select "Public Meeting Agendas, Packets & Videos". To stream the meeting in HD, please visit www.lincolncity.org/government/streaming. This meeting will be televised live on Channel 4, and rebroadcast on Channel 4 multiple times a day.

If you wish to speak on an agenda or non-agenda item, please sign up on the sheet near the entrance door to the Council Chambers. You will be called to speak during the "Public Comment" section. Comments or testimony on agenda items listed under "public hearing/public comment" will be taken at that time.

A. CALL TO ORDER

B. ROLL CALL

C. PLEDGE OF ALLEGIANCE

D. CONSENT AGENDA

1. Regular Meeting – Minutes of Regular Meeting – August 28, 2023, 6:00 PM

E. COUNCIL DELIBERATIONS

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

Article I, Section 8, of the Oregon Constitution provides: No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever; but every person shall be responsible for the abuse of this right. Be advised: Comments by citizens under this Public Comments Section of the Agenda or under Public Hearings are solely the opinions and statements of the speakers and are not statements by the City of Lincoln City and do not represent the opinions of the City of Lincoln City, its officers and employees.

G. PRESENTATIONS

H. PUBLIC HEARING / ORDINANCE

I. PUBLIC HEARINGS / PUBLIC COMMENTS

1. Sole Source for HVAC Units
2. Public Hearing ZOA 2023-03 (Fencing R1RE and Housekeeping Items)

J. ORDINANCES

3. ORDINANCE NO. 2023-20 AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.28 (RECREATION COMMERCIAL (RC) ZONE), SECTION 17.28.020 (USES PERMITTED), PARAGRAPH E; CHAPTER 17.32 (GENERAL COMMERCIAL (GC) ZONE), SECTION 17.32.020 (USES PERMITTED), PARAGRAPH N; CHAPTER 17.52 (SUPPLEMENTARY REGULATIONS), SECTION 17.52.160 (REQUIRED SETBACKS – EXCEPTIONS), PARAGRAPH C (FENCES); AMENDING CHAPTER 17.17 (SINGLE-UNIT RESIDENTIAL ROADS END (R1-RE) ZONE), SECTION 17.17.050 (RESTRICTIONS) AND CHAPTER 17.77 (APPLICATIONS), SECTION 17.77.010 ADJUSTMENT – DESIGN STANDARD; PARAGRAPH C. MAKING VARIOUS CLARIFICATIONS OF SETBACKS, HEIGHT AND OTHER REQUIREMENTS

K. RESOLUTIONS

L. SPECIAL ORDER OF BUSINESS

4. Planning Commission Interview- Jason Corso
5. Reappointment to the Boards and Committees
6. OPRD Proposed Changes to OAR 736-024-0025
7. Interim Contract to provide City Attorney Services for Lincoln City

M. CITY MANAGER/CITY ATTORNEY REPORTS

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

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

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P. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL

Q. ADJOURNMENT

CITY OF LINCOLN CITY

CITY COUNCIL MINUTES OF THE MEETING

August 28, 2023, 6:00 PM

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

APPROVED BY CITY COUNCIL

DATE:

A. CALL TO ORDER

Mayor Wahlke called the meeting to order at 6:00 PM.

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Judy Casper	Councilor Ward 3	Present	
Riley Hoagland	Councilor Ward 2	Present	
Rick Mark	Councilor Ward 3	Present	
Mitch Parsons	Councilor Ward 1	Late	6:47 PM
Susan Wahlke	Mayor	Present	

Staff Present: Daphnee Legarza, City Manager (via Zoom); Chief Broderick, Lincoln City Police Department; Alison Robertson, Economic Development and Urban Renewal Director; Seth Lenaerts, Project Manager; Debbie Bridges, Finance Director (via Zoom); Jamie Young, City Recorder

C. PLEDGE OF ALLEGIANCE

Mayor Wahlke led The Pledge of Allegiance.

D. CONSENT AGENDA

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

1. Regular Meeting – Minutes of Special Meeting – August 9, 2023, 5:00 PM
2. Regular Meeting – Minutes of Regular Meeting – August 14, 2023, 6:00 PM
3. OLCC- Request for Full On-Premises, Commercial Gilgamesh Brewing
4. Oregon Liquor Control Commission Request for Limited On-Premises Sales License Lincoln City BBQ

E. COUNCIL DELIBERATIONS

None

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

Ms. Legarza summarized 3 comments that were sent by email. The Kingsborough's about the sidewalk on NW 21st; Pat Marshall against the North Lincoln Sanitary rate increase; and Carolyn Nguyen against the North Lincoln Sanitary rate increase.

Roger Robertson spoke about getting streetlights at the entrance of Holmes Road.

G. PRESENTATIONS

5. Lincoln County Public Health - Tobacco Prevention and Education Program Update

Sara Herd from Lincoln County Health and Jamie Dunphy of the American Cancer Society Cancer Action Network gave a presentation regarding Tobacco Health. The Council and Ms. Herd had a discussion regarding the presentation.

H. PUBLIC HEARING / ORDINANCE

None

I. PUBLIC HEARINGS / PUBLIC COMMENTS

1. Public Comment North Lincoln Sanitary Rate Increase

Tina French and Lexi Howell of North Lincoln Sanitary gave a presentation including a rate review. Council had a discussion with Ms. French and Ms. Howell.

J. ORDINANCES

2. ORDINANCE NO. 2023-18 AN ORDINANCE OF THE CITY OF LINCOLN CITY, MAKING CERTAIN DETERMINATIONS AND FINDINGS RELATING TO AND APPROVING THE NELSCOTT URBAN RENEWAL (TAX INCREMENT FINANCE) PLAN AND DIRECTING THAT NOTICE OF APPROVAL BE PUBLISHED

MOTION: Motion to Approve Second Reading and Adoption of Ordinance 2023-18: Adoption of New Nelscott Urban Renewal District as Amended.
MOVER: Rick Mark, Councilor Ward 3
SECONDER: Riley Hoagland, Councilor Ward 2
AYES: Casper, Hoagland, Mark, Parsons, Wahlke
RESULT: Passed by Roll Call Vote

K. RESOLUTIONS

3. RESOLUTION NO. 2023-25 A RESOLUTION OF THE CITY OF LINCOLN CITY ADOPTING AN INCREASE IN RATES FOR NORTH LINCOLN SANITARY SERVICE

MOTION: Motion to Approve Resolution 2023-25 North Lincoln Sanitary Rate Review
MOVER: Riley Hoagland, Councilor Ward 2
SECONDER: Rick Mark, Councilor Ward 3
AYES: Hoagland, Mark, Wahlke
NAYS: Casper, Parsons
RESULT: Passed by Roll Call Vote

L. SPECIAL ORDER OF BUSINESS

4. Reappointment to the Boards and Committees

MOTION: Motion to Reappoint Beth Towers to the Park and Recreation Board for a "City Resident" Position with a Three-Year Term. The Term Begins 1/1/24 Expires 12/31/2026
MOVER: Judy Casper, Councilor Ward 3
SECONDER: Mitch Parsons, Councilor Ward 1
AYES: Casper, Hoagland, Mark, Parsons, Wahlke
RESULT: Passed via Voice Vote

- 5.

MOTION: Motion to Reappoint Jane Mulholland to the Park and Recreation Board for a "City Resident" Position with a Three-Year Term. The Term Begins 1/1/24 Expires 12/31/2026
MOVER: Judy Casper, Councilor Ward 3
SECONDER: Rick Mark, Councilor Ward 3
AYES: Casper, Hoagland, Mark, Parsons, Wahlke
RESULT: Passed by Voice Vote

- 6.

MOTION: Motion to Reappoint Victoria McOmie to the Sustainability Committee for a “City Resident” Position with a Three-Year Term. The Term Begins 10/8/23 Expires 10/7/2026

MOVER: Judy Casper, Councilor Ward 3

SECONDER: Mitch Parsons, Councilor Ward 1

AYES: Casper, Hoagland, Mark, Parsons, Wahlke

RESULT: Passed by Voice Vote

7.

MOTION: Motion to Reappoint Diana Bates to the Budget Committee for a “City Resident” Position with a Three-Year Term. The Term Begins 1/1/24 Expires 12/31/2026

MOVER: Judy Casper, Councilor Ward 3

SECONDER: Rick Mark, Councilor Ward 3

AYES: Casper, Hoagland, Mark, Parsons, Wahlke

RESULT: Passed by Voice Vote

M. CITY MANAGER/CITY ATTORNEY REPORTS

None

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

The council gave consensus to direct Staff to bring back language for Tobacco Prevention.

The council gave consensus to direct Staff to check into more lighting on Holmes Road.

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

None

P. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL

Councilor Parsons reminded that Council gave direction to not promote "The Thumb".

Councilor Mark thanked Ms. Robertson and Mr. Lenaerts for their work on the Nelscott project. Councilor Mark also talked about the North Lincoln Sanitary rate increase.

Councilor Hoagland gave an update on current events.

Mayor Wahlke spoke about the Council vacancies.

Q. ADJOURNMENT

Mayor Wahlke adjourned the meeting at 7:17 PM.

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG, CITY RECORDER

Council Communication

Sole Source for HVAC Units

Meeting Date:	September 11, 2023	Primary Staff Contact:	Stephanie Reid
Department:	Public Works	E-Mail:	SReid@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Daphnee Legarza	Estimated Time:	10 minutes

Question:

Should the City Council authorize an exemption to the competitive bidding process for the Replacement of Two HVAC Rooftop Units on City Hall?

Staff Recommendation:

Staff recommends City Council authorize an exemption to the competitive bidding process for the Replacement of Two HVAC Rooftop Units on City Hall.

Authority:

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

Background:

The project will replace two (2) of the existing 15 rooftop HVAC (Heating, Ventilation and Air Conditioning) Rooftop Units (RTUs) on the City Hall building. Eleven (11) other RTUs and the building HVAC controls have been replaced over the last five (5) years. Two (2) additional RTUs are scheduled for replacement next year.

Council Options:

City Council may authorize an exemption to the competitive bidding process for the HVAC Replacement Project on the draft findings.

City Council may authorize an exemption to the competitive bidding process for the HVAC Replacement Project and modify the draft findings.

City Council may disagree with the findings and direct staff to procure contracts under the competitive bidding process.

Financial Impact

The project was budgeted in the Facilities Capital Fund, Building Improvements. The amount budgeted for the project was \$100,000.00. This is currently adequate for the units and contracted install as proposed by Stewart Mechanical with a total unit and install cost of \$92,641.00.

Potential Motions:

Move to approve the exemption to the competitive bidding process for the HVAC Replacement Project based on the draft findings.

Move to authorize an exemption to the competitive bidding process for the HVAC Replacement Project with changes to the draft findings

Move to reject the draft findings and direct staff to procure contracts under the competitive bidding process.

Attachments:

- Exemption Public Notice
- Findings in Support of Alternative Contracting Method

Attachments:

- Exemption Public Notice (DOC)
- Findings in Support of Alternative Contracting Method (DOCX)

**NOTICE OF PUBLIC HEARING
CITY OF LINCOLN CITY SOLE SOURCE CONTRACTING
COMPETITIVE BIDDING EXEMPTION**

Notice is hereby given that the City Council of Lincoln City will hold a public hearing to take oral and written comments on the City's draft findings in support of an exemption from competitive bidding under ORS 279C.335 for the 2023 HVAC Rooftop unit replacement project.

The City is requesting the exemption from competitive bidding to allow for the use of a Sole Source procurement method as an alternative to the traditional low-bid method of contracting. The City's draft findings in support of the findings outline the public benefit, value, specialized expertise, and other criteria that form the basis of award.

The project is located City Hall, 801 SW Highway 101, Lincoln City, Oregon.

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

Public Hearing Information

Date: September 11, 2023

Time: City Council Meeting, 6:00 PM*

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

**(This is a regularly scheduled City Council meeting, and the public hearing will not be the first item on the agenda.)* Comments must be submitted in writing by noon on September 6, 2023 to be included in the City Council packet. Written comments received after noon September 6, 2023 will be provided to City Council at the hearing. Any person may provide oral or written comments to the City Council at the September 11, 2023 hearing. Written comments on the draft findings should be addressed to:

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

Date of Publication: August 23, 2023	Daily Journal of Commerce
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Findings in Support of Alternative Contracting Method

For Two HVAC Rooftop Units

Introduction

The Use of Alternative Contracting methods, such as Sole-Source is made possible under ORS Chapter 279C, which permits certain contracts or classes of contracts to be exempt from competitive public bidding under strict procedural safeguards.

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

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

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

Background

The current project will replace two (2) of the existing 15 rooftop HVAC (Heating, Ventilation and Air Conditioning) Rooftop Units (RTUs) on the City Hall building. Eleven (11) other RTUs and the building HVAC controls have been replaced over the last five (5) years. Two (2) additional RTUs are scheduled for replacement next year.

Previous bidding of RTU replacement and other miscellaneous mechanical repair contracts have yielded inconsistent results. Previously advertised, low-bid contracts have each gone to different mechanical contractors, with variable methods & levels of

performance. When solicited directly for bids on work, local contractors have opted to not submit or work has been flat out refused work.

The most recent mechanical projects, a phase of RTU replacement, overdue unit maintenance, as well as a system maintenance agreement have all been successfully completed by Stewart Mechanical.

Operational, Budget, and Financial Data

The project was budgeted in the Facilities Capital Fund, Building Improvements. The amount budgeted for the project was \$100,000.00. This is currently adequate for the units and contracted install as proposed by Stewart Mechanical with a total unit and install cost of \$92,641.00.

Public Benefit

A Sole-Source Contracting Method provides opportunity for cost savings and public benefit in this case by allowing the city to work with a singular mechanical contractor for City Hall's HVAC system. This builds familiarity with the building's mechanical system and helps build a knowledge base for both contracted and in-house maintenance on the system.

Value Engineering

The Sole-Source Contracting Method for this RTU installation project adds value through the contractor's existing knowledge base. The contractor proposing to do the install has work is familiar with the system from previous projects and is additionally contracted for system maintenance. With a set cost for maintenance, the contractor has a vested interest in ensuring function and quality of their install work.

Specialized Expertise Required

Commercial HVAC systems are a complex combination of electrical, mechanical, and programmable control systems. Advertisement for low-bid for previous phases of HVAC RTU replacement has yielded mixed results and lingering maintenance tasks that ultimately increased cost. A comprehensive understanding of each individual system is required to provide complete and accurate bids; This is simply not possible for a low-bid scenario.

Market Conditions

In addition to the mixed results of low-bid contracts for previous phases, local mechanical contractors have been solicited directly for both install and maintenance work. No local bidder has submitted for install work, even after direct solicitation, and maintenance work is now flat out declined. Sole-source contracting for this work gives the city the ability to continue working with a knowledgeable contractor and build an efficient system. This efficiency, compared to a new contractor for each phase, reduces time and construction costs for the project.

Technical Complexity

The project requires coordination & self-performance of technical skills including: mechanical, electrical, and controls programming. Advertising using the design-bid-build method would require staff to detail a large amount of information on the existing system and award to the lowest bidder regardless of performance history or familiarity with the existing, specialized equipment.

Competition and Cost Savings

The desired mechanical contractor has already submitted a bid that is both (1) competitive with previous installation contracts and (2) within the project budget. A Sole-Source method of contracting provides the city the option to work within the given budget and guarantee a high quality product.

Unlikely to Encourage Favoritism or Diminish Competition

It is unlikely that the process of selecting a contractor through the Sole-Source method will substantially diminish competition for this contract. Local mechanical contractors could additionally build the necessary level of expertise with the system and provide a competitive level of service, but bids to install new HVAC RTUs, requests for system maintenance, and solicitation for a contracted maintenance schedule have been requested from local mechanical contractors and have historically been declined. Competition will not diminish because the remaining low bid installers, contracted for a single install project, will not offer the same level of service or knowledge of the system.

Cost Savings

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

With the recommended Sole-Source award and contractor the submitted project cost has already been proposed and (1) is within the project budget and (2) competitive when compared with low-bid awards of previous phases. Changed conditions are also less likely to occur given the contractor's familiarity with the building & system.

Additionally, the desired mechanical contractor has other regularly scheduled maintenance to complete under the maintenance agreement. In contracting their team for install of the new RTUs costs for mobilization, travel, and/or labor on that additional work will be reduced.

Summary

Overall cost savings are anticipated from the Sole-Source method based on Stewart Mechanicals knowledge of the building's mechanical systems, as well as other ongoing maintenance work that could be bundled together.

Additionally, the work involves technical knowledge and skills, both general and specific to the project. A higher level of service is also expected given the contractor's knowledge of the system as well as the understood responsibility to handle future maintenance work.

This method will additionally not reduce competition. Previous phases of the same HVAC RTU replacement work have been bid competitively. These bids have resulted in similar pricing to what is proposed, but frequently result in additional cost, uncompleted work items, or returning to what was done in future maintenance. Local bidders are able to provide the consistent service needed but have declined to bid on projects or respond to maintenance requests.

Planning Staff Report

Public Hearing ZOA 2023-03

Meeting Date: September 11, 2023	Primary Staff Contact: AnneMarie Skinner
Department: City Council	E-Mail: ASkinner@lincolncity.org
Secondary Dept:	Secondary Contacts:
Approval:	Estimated Time:

Question:

Should the City Council conduct a public hearing on ZOA 2023-03 (Ordinance 2023-20 *later on this agenda*)?

Staff Recommendation:

Staff recommends the Council conduct the public hearing.

Authority:

Legal authority for ordinance amendments is as follows:

17.76.060 Type IV procedure (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 the 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.
- 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 LCMC 17.76.160. In addition to the public hearing held by the planning commission, the city council shall also conduct a public hearing on Type IV applications.
- H. Recommendation Authority.
 1. Following receipt of testimony and deliberation at the public hearing held before the planning commission, the planning commission shall provide a recommendation to the City council for all Type IV applications. The planning commission shall recommend that the city council approve or deny the proposed amendments, with or without changes. The planning commission's recommendation shall be issued as a final recommendation, and shall include findings supporting the recommendation, based on public testimony and the application's success or failure to satisfy the applicable criteria.

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

Background:

The proposed zoning ordinance amendment consists of four items. The first change is the result of a motion from City Council for staff to provide a recommendation on fencing consistency throughout the R1 zone. Staff and the Planning Commission recommend no changes to Chapter 17.17, with the recommendation to add the R1RE fencing requirements to Chapter 17.52 with the rest of the city's fencing requirements. The second change corrects an omission in a previous ordinance amendment to 17.28.020. Detached single-unit dwellings and duplexes are allowed if developed under the standards set forth within the R1-5 zone. The development standards language was inadvertently omitted when the language changed from single-family to single-unit dwellings. The third change removes a duplication and adds the R1-5 development standards. Single-unit dwellings and duplexes as an allowed use in the GC are listed twice without the R1-5 reference. The fourth change corrects the approval criteria for a design standard adjustment by removing the "all" to be consistent with the "or" already in place. Only one criterion needs to be met, not both. The "all" was inadvertently added when the approval criteria were moved from Chapter 17.74 to Chapter 17.77.

See Ordinance 2023-20 later on this agenda

Council Options:

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

- Continue the public hearing to the September 25th City Council meeting.

Attachments:

Final_Recommendation_FR_2023-08_for_ZOA_2023-03 Signed (PDF)

LINCOLN CITY PLANNING COMMISSION

IN THE MATTER OF

Amendments to Title 17, Zoning,)	Final Recommendation
regarding removing a duplication in)	2023-08
17.32, adding R1-5 in 17.28 for houses,)	
add fence requirements for 17.17 to		
17.52, and fix all to one in 17.77.010.C		

NATURE OF THE APPLICATION

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.28 (RECREATION COMMERCIAL (RC) ZONE), SECTION 17.28.020 (USES PERMITTED), PARAGRAPH E; CHAPTER 17.32 (GENERAL COMMERCIAL (GC) ZONE), SECTION 17.32.020 (USES PERMITTED), PARAGRAPH N; CHAPTER 17.52 (SUPPLEMENTARY REGULATIONS), SECTION 17.52.160 (REQUIRED SETBACKS – EXCEPTIONS), PARAGRAPH C; AND CHAPTER 17.77 (APPLICATIONS) SECTION 17.77.010 ADJUSTMENT – DESIGN STANDARDS; PARAGRAPH C.

The amendment to Chapter 17.28 is to add the clarification to the allowed use of a detached single-unit dwelling, that it’s allowed subject to compliance with the provisions of the R1-5 zone. This was inadvertently omitted when the name was changed from “single-family dwelling” to “single-unit dwelling.” The amendment to Chapter 17.32 is to remove 17.32.020.N, which is a duplication of 17.32.020.O and to add “R1-5” to 17.32.020.O. The duplication came about as a result of changing “single-family dwelling” to “single-unit dwelling.” The amendment to Section 17.77.010.C is to correct the word “all” to “one.” When the application process was moved from Chapter 17.74 to the application chapter of Chapter 17.77, the verbiage was inadvertently changed and this amendment corrects that error.

FINAL RECOMMENDATION

Based on the evidence and public testimony presented at the public hearing on July 18, 2023, including the staff report and written comments, the Planning Commission recommends on a 4-0 vote that the City Council approve the draft language (Exhibit A Findings follow). Commissioners Baker, Blackerby, Bunnett, and Vincent unanimously voted in favor of recommending the proposed changes described above. Commissioner Sumner was not present (officially excused), and Commissioner Glasgow abstained from voting since this was his first meeting as a newly-appointed commissioner and did not have background on the issues or proposed amendments.

All public testimony received and all written comments expressed adamant opposition to any changes to the fencing requirements in the R1RE zone and supported the option to keep all fencing requirements as is in the R1RE zone (Chapter 17.17), but add them to

Section 17.52.160 where the city's other fencing requirements are stated. There were no comments or oral testimony received regarding the three corrections.

APPROVED THIS 15th day of August, 2023



Robert I. Vincent
Planning Commission Chair

ATTEST:

Anne Marie Skinner

Anne Marie Skinner, Planning & Community Development Director

EXHIBIT A – FINDINGS FOR ORDINANCE 2023-XX

Procedural Posture:

The above-referenced proposed ordinance was properly noticed pursuant to ORS 197.610. No city-wide notice was provided as the amendment does not rezone property or change permitted uses. Notice to DLCDC was properly made on March 29, 2023, and July 6, 2023. Notices for the public hearings before the City Council on September 11, 2023, and the Planning Commission on July 18, 2023, were also published in the local newspaper as required by City Code on May 2, 2023, and May 9, 2023.

Note that the original noticed and published hearing dates of May 16, 2023 for Planning Commission and June 26, 2023 for City Council were continued to July 18, 2023 for Planning Commission and September 11, 2023 for City Council due to lack of a quorum for the Planning Commission meeting on May 16, 2023.

Summary

ZOA 2023-03 proposes amending Lincoln City Municipal Code (LCMC) Title 17 to revise Chapter 17.08 Definitions; simplify zone titles and abbreviations by eliminating the hyphen; simplify setback language; consolidate development restriction of all city services to Chapter 17.04 and add exception for houses; clarify exemption of residential from design standards; and add exemption of accessory structures from design standards.

The findings in support of the application as contained in the staff supporting materials and the Planning Commission staff report, together with other correspondence in favor of the amendment, are hereby incorporated herein by this reference.

No written or oral comments were received regarding the three “housekeeping” correction items. Both written comments and were oral testimony were received expressing adamant opposition to making any changes to the fencing requirements in the R1RE zone and very much in favor of leaving the R1RE fencing requirements as is, but adding those requirements to Chapter 17.52 where the rest of the city’s fencing requirements are stated.

Applicable Criteria:

LCMC 17.77.130 provides, (emphasis added):

17.77.130 Text amendment.

A. Purpose. The text amendment process shall be used for legislative amendments to LCMC Title 16, this title, 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.

Staff analysis of Statewide Planning Goals and Comprehensive Plan provisions:

A. Statewide Planning Goals

(1) Goal 1: Citizen Involvement

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

All documents relating to the proposal (amendment) were made available for public review and/or purchase, and were posted on the city's website. Staff was available to interpret and explain the technical information. The local newspaper published hearing notices in accordance with notice requirements. The planning commission and city council each held a public hearing at which citizens were invited to participate. Therefore, the amendment is consistent with Goal 1.

(2) Goal 2: Land Use Planning

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

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

(3) Goal 3: Agricultural Lands

"To preserve and maintain agricultural lands."

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

(4) Goal 4: Forest Lands

"To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land"

consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.”

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

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

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

The amendment only affects areas intended for urban development. The amendment by itself does not permit development in any areas of protected natural resources, scenic or historic areas, or open spaces. The amendment is consistent with Goal 5.

(6) Goal 6: Air, Water and Land Resources Quality

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

The amendment will not adversely affect the quality of the air or water. The amendment by itself does not permit development that might affect water or air quality. The existing ordinances and plan requirements relating to water and air quality will continue to apply to all properties that might be affected. Therefore, the amendment is consistent with Goal 6.

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

“To protect people and property from natural hazards.”

The amendment by itself does not allow development within any natural hazard area. The existing ordinances and plan requirements relating to natural hazards will continue to apply to all properties that might be affected by natural hazards. Therefore, the amendment is consistent with Goal 7.

(8) Goal 8: Recreational Needs

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

The proposed ordinance amendment does not relate to recreation as that term is used in this goal and does not adversely affect the provision of or ability to site recreational areas in the city. The amendment is consistent with Goal 8.

(9) Goal 9: Economic Development

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

The proposed ordinance amendment does not relate to economic development as that term is used in this goal and does not adversely affect the provision of or ability to site businesses in the city. The amendment is consistent with Goal 9.

(10) Goal 10: Housing

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

The amendment does not relate to housing and does not adversely affect the provision of or ability to develop housing in the city. The amendment is consistent with Goal 10.

(11) Goal 11: Public Facilities and Services

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

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

(12) Goal 12: Transportation

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

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

(13) Goal 13: Energy Conservation

"To conserve energy."

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

(14) Goal 14: Urbanization

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

The amendment does not directly relate or pertain to the urbanization of Lincoln City. Accordingly, Goal 14 is met or is not applicable.

(15) Goal 15: Willamette River Greenway

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

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

(16) Goal 16: Estuarine Resources

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

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

(17) Goal 17: Coastal Shorelands

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

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

(18) Goal 18: Beaches and Dunes

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

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

(19) Goal 19: Ocean Resources

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

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

B. Comprehensive Plan Goals

(1) Planning Goal

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

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

(2) Citizen Involvement Goal

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

The City has developed a citizen involvement program, outlined in Resolution No. 94-33. The City has a Committee for Citizen Involvement (the Planning Commission). In addition, the public hearing process, with two notices to the public through publication in the local newspaper and review of the amendment by the Planning Commission (the Committee for Citizen Involvement/local appointed citizen board) and the City Council (elected citizen representatives) establishes conformance with this goal.

(3) Public Services and Utilities Goal

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

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

(4) Urbanization Goal

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

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

(5) Natural Hazard Goal

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

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

(6) Housing Goal

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

The amendment does not directly impact housing and does not adversely affect the provision of or ability to develop housing in the city. The amendment is consistent with this goal.

(7) Economy Goal

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

The proposed ordinance amendment does not relate to economic development as that term is used in this goal and does not adversely affect the provision of or ability to site businesses in the city. The amendment is consistent with this goal.

(8) Aesthetic Goal

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

The correction portions of the amendment do not specifically relate to aesthetics. However, the leaving the fencing requirements in Chapter 17.17 as they are currently stated serves to preserve the aesthetics and unique characteristic of the Roads End neighborhood, as well as preserving ocean views. This goal is met or is not applicable.

(9) Transportation Goal

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

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

(10) Energy Goal

"To conserve energy."

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

(11) Overall Environmental Goal

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

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

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

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

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

Title	Final Recommendation FR 2023-08 for ZOA 2023-03
File name	FR 2023-08 for ZOA 2023-03.doc
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Status	● Signed

Document History



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IP: 206.192.237.34



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08 / 16 / 2023

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18:41:22 UTC

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IP: 174.247.182.135



SIGNED

08 / 16 / 2023

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IP: 174.247.182.135



COMPLETED

08 / 16 / 2023

18:41:58 UTC

The document has been completed.

Council Communication

Ordinance 2023--20 / ZOA 2023-03

Meeting Date: September 11, 2023 Primary Staff Contact: AnneMarie Skinner
 Department: Planning Department E-Mail: ASkinner@lincolncity.org
 Secondary Dept: Planning Commission Secondary Contacts: AnneMarie Skinner
 Approval: Daphnee Legarza Estimated Time: 10 minutes

Question: Should the City Council conduct and approve First and Second Reading and adopt Ordinance 2023-20?

ORDINANCE NO. 2023-20

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.28 (RECREATION COMMERCIAL (RC) ZONE), SECTION 17.28.020 (USES PERMITTED), PARAGRAPH E; CHAPTER 17.32 (GENERAL COMMERCIAL (GC) ZONE), SECTION 17.32.020 (USES PERMITTED), PARAGRAPH N; CHAPTER 17.52 (SUPPLEMENTARY REGULATIONS), SECTION 17.52.160 (REQUIRED SETBACKS – EXCEPTIONS), PARAGRAPH C (FENCES); AMENDING CHAPTER 17.17 (SINGLE-UNIT RESIDENTIAL ROADS END (R1-RE) ZONE), SECTION 17.17.050 (RESTRICTIONS) AND CHAPTER 17.77 (APPLICATIONS), SECTION 17.77.010 ADJUSTMENT – DESIGN STANDARD; PARAGRAPH C. MAKING VARIOUS CLARIFICATIONS OF SETBACKS, HEIGHT AND OTHER REQUIREMENTS

Staff Recommendation:

Staff recommends Council conduct and approve First and Second Reading and adopt Ordinance 2023-20.

Authority:

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

Background:

See Public hearing staff report for background on ZOA 2023-03.

Planning Staff and Planning Commission recommendation (Do not conform fences in R-1-RE, leave as is and add only a cross-reference):

SECTION 3. Chapter 17.52 (*Supplementary Regulations*), Section 17.52.160. Paragraph C, is hereby amended to read as follows:

C. Fences. Fences **in any zone except the R1RE zone**, within required setback areas up to and on the property line, may not exceed seven feet in height 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.

- 1. Fences in the R1RE zone may not exceed three and one-half feet in height in a required front setback area or required street side setback area, or more than six feet in height in any other required setback area. Fences in the R1RE zone may not conflict with the requirements of a clear vision area as provided in LCMC 17.52.060 or the clear vision areas of adjacent private driveways.**

SECTION 4. Chapter 17.17 (*Single-Unit Residential Roads End (R1-RE) Zone*), Section 17.17.050. (*Restrictions*) is hereby amended to read as follows:

A. Lighting shall be as required by LCMC 17.52.150;

B. Fencing may not exceed three and one-half feet in height in a required front setback area or required street side setback area, or more than six feet in any other required setback area; **[See also LCMC 17.52.160.C.1.]**

C. Planned unit developments that include housing incompatible with single-family R1 zone are prohibited.

All changes must be read.

Council Options:

1. Conduct and approve First and Second Reading and adopt the ordinance.
2. Continue to September 25, 2023.
3. Continue Second Reading to September 25, 2023.
4. Do not proceed with proposed ordinance.

Potential Motions:

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

ORDINANCE NO. 2023-20

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.28 (RECREATION COMMERCIAL (RC) ZONE), SECTION 17.28.020 (USES PERMITTED), PARAGRAPH E; CHAPTER 17.32 (GENERAL COMMERCIAL (GC) ZONE), SECTION 17.32.020 (USES PERMITTED), PARAGRAPH N; CHAPTER 17.52 (SUPPLEMENTARY REGULATIONS), SECTION 17.52.160 (REQUIRED SETBACKS – EXCEPTIONS), PARAGRAPH C (FENCES); AMENDING CHAPTER 17.17 (SINGLE-UNIT RESIDENTIAL ROADS END (R1-RE) ZONE), SECTION 17.17.050 (RESTRICTIONS) AND CHAPTER 17.77 (APPLICATIONS), SECTION 17.77.010 ADJUSTMENT – DESIGN STANDARD; PARAGRAPH C. MAKING VARIOUS CLARIFICATIONS OF SETBACKS, HEIGHT AND OTHER REQUIREMENTS

Council:

Motion to approve First Reading of Ordinance 2023-20.

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

Council:

Motion to approve Second Reading and adopt Ordinance 2023-20.

Attachments:

Ordinance 2023-20 for 9-11-23 (DOCX)

Findings for Ord 2023-20 (DOC)

ORDINANCE NO. 2023-20

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.28 (RECREATION COMMERCIAL (RC) ZONE), SECTION 17.28.020 (USES PERMITTED), PARAGRAPH E; CHAPTER 17.32 (GENERAL COMMERCIAL (GC) ZONE), SECTION 17.32.020 (USES PERMITTED), PARAGRAPH N; CHAPTER 17.52 (SUPPLEMENTARY REGULATIONS), SECTION 17.52.160 (REQUIRED SETBACKS – EXCEPTIONS), PARAGRAPH C (FENCES); AMENDING CHAPTER 17.17 (SINGLE-UNIT RESIDENTIAL ROADS END (R1-RE) ZONE), SECTION 17.17.050 (RESTRICTIONS) AND CHAPTER 17.77 (APPLICATIONS), SECTION 17.77.010 ADJUSTMENT – DESIGN STANDARD; PARAGRAPH C. MAKING VARIOUS CLARIFICATIONS OF SETBACKS, HEIGHT AND OTHER REQUIREMENTS

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

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

2.1 Powers of the City

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

2.2 Construction of Charter

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

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

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

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

3
4 **WHEREAS**, The City duly notified the Oregon Department of Land Conservation and
5 Development pursuant to ORS 197.610, of its consideration of the proposed amendment(s) on
6 March 29, 2023; City staff determined that the amendment does not remove uses from any zone
7 and accordingly did not require a city-wide mailing under ORS 227.186(4); and

8
9 **WHEREAS**, The Planning Commission, on July 18, 2023, held a public hearing and considered
10 the amendments contained within this ordinance. On July 18, 2023, the Planning Commission
11 voted to transmit the amendments to the City Council; and

12
13 **WHEREAS**, The City Council conducted the public hearing on September 11, 2023, closed the
14 hearing, closed the record, and deliberated on the proposed amendments on September 11,
15 2023; and

16
17 **WHEREAS**, All persons were given an opportunity to provide written and/or oral testimony on
18 the proposed ordinance amendments.

19

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

21

22 **SECTION 1.** Chapter 17.28 (*Recreation Commercial (RC) Zone, Section 17.28.020 (uses permitted),*
23 *Paragraph E*, is hereby amended to read as follows:

24

25 E. Detached single-unit dwellings and duplexes, **if developed under the**
26 **standards set forth within the R1-5 zone;**

27

28 **SECTION 2.** Chapter 17.32 (*General Commercial (GC) Zone), Section 17.32.020 (Uses permitted),*
29 *Paragraphs N and O*, are hereby amended to read as follows:

30

31 ~~**N. Single-unit dwellings and duplexes;**~~

32

33 O. Detached single-unit dwellings and duplexes, if developed under the
34 standards set forth within the R1-5 zone;

35

36 **SECTION 3.** Chapter 17.52 (*Supplementary Regulations), Section 17.52.160. Paragraph C*, is
37 hereby amended to read as follows:

38

39 C. Fences. Fences **in any zone except the R1RE zone**, within required setback
40 areas up to and on the property line, may not exceed seven feet in height nor
41 conflict with requirements of a clear vision area as provided in LCMC 17.52.060 or
42 the clear vision areas of adjacent private driveways.

43

1 **1. Fences in the R1RE zone may not exceed three and one-half feet in**
2 **height in a required front setback area or required street side**
3 **setback area, or more than six feet in height in any other required**
4 **setback area. Fences in the R1RE zone may not conflict with the**
5 **requirements of a clear vision area as provided in LCMC 17.52.060**
6 **or the clear vision areas of adjacent private driveways.**
7

8 **SECTION 4.** Chapter 17.17 (*Single-Unit Residential Roads End (R1-RE) Zone*), Section 17.17.050.
9 (*Restrictions*) is hereby amended to read as follows:

10
11 A. Lighting shall be as required by LCMC 17.52.150;

12
13 B. Fencing may not exceed three and one-half feet in height in a required front setback
14 area or required street side setback area, or more than six feet in any other required
15 setback area; **[See also LCMC 17.52.160.C.1.]**

16
17 C. Planned unit developments that include housing incompatible with single-family R1
18 zone are prohibited.

19
20 **SECTION 5.** Chapter 17.77 (*Applications*), Section 17.77.010. (*Adjustment- design standard*)
21 *Paragraph C. (Approval Criteria)*, is hereby amended to read as follows:

22
23 To approve a design standard adjustment, the review authority shall make
24 additional findings of fact, based on evidence provided by the applicant, that **one**
25 **all** of the following **criterion is criteria are** satisfied:

26
27 **SECTION 6. Findings Adopted.** The findings contained in the Whereas Clauses of this
28 ordinance, together with the Findings set forth in Exhibit A, as well as the competent substantial
29 evidence in the whole record of this legislative proceeding are incorporated into this section by
30 reference as if fully set forth herein, and are adopted in support of this legislative action.

31
32 **SECTION 7. Severability.** The sections, subsections, paragraphs and clauses of this ordinance
33 are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the
34 validity of the remaining sections, subsections, paragraphs and clauses.

35
36 **SECTION 8. Ordinance Effective Date.** Pursuant to Chapter IX, Section 9.3, this ordinance
37 takes effect 30 days after the date of its adoption.

38
39 **SECTION 9. Codification.** Provisions of this Ordinance shall be incorporated in the City of
40 Lincoln City Municipal Code and the word "ordinance" may be changed to "code", "article",
41 "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or
42 re-lettered, provided that any Whereas clauses and boilerplate provisions (i.e. Sections 6-9) need

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

3
4 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section
5 9.2 of the City of Lincoln City Charter on the 11th day of September, 2023 (First Reading) and on
6 the 11th day of September, 2023 (Second Reading).

7
8 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 11th day of
9 September, 2023.

10
11
12
13 _____
14 SUSAN WAHLKE, MAYOR

15 ATTEST:

16
17
18 _____
19 JAMIE YOUNG, CITY RECORDER

20
21 APPROVED AS TO FORM:

22
23
24 _____
25 RICHARD APPICELLO, CITY ATTORNEY
26
27

EXHIBIT A – FINDINGS FOR ORDINANCE 2023-20

Procedural Posture:

The above-referenced proposed ordinance was properly noticed pursuant to ORS 197.610. No city-wide notice was provided as the amendment does not rezone property or change permitted uses. Notice to DLCDC was properly made on March 29, 2023, and July 6, 2023. Notices for the public hearings before the City Council on September 11, 2023, and the Planning Commission on July 18, 2023, were also published in the local newspaper as required by City Code on May 2, 2023, and May 9, 2023.

Note that the original noticed and published hearing dates of May 16, 2023 for Planning Commission and June 26, 2023 for City Council were continued to July 18, 2023 for Planning Commission and September 11, 2023 for City Council due to lack of a quorum for the Planning Commission meeting on May 16, 2023.

Summary

Ordinance 2023-20 proposes amending Lincoln City Municipal Code (LCMC) Title 17 to add R1-5 development standards to 17.28.020.E for detached dwellings and duplexes in the Recreation Commercial zone; remove a duplication in 17.32.030 and add reference to the R1-5 development standards for detached dwellings and duplexes; replace the word “all” with “one” in 17.77.010.C and replace “criteria are” with “criterion is”; and cross-reference the fencing requirements in 17.17 with 17.52.160 for clarity.

The findings in support of the application as contained in the staff supporting materials and the Planning Commission staff report, together with other correspondence in favor of the amendment, are hereby incorporated herein by this reference.

No written or oral comments were received regarding the three “housekeeping” correction items. Both written comments and oral testimony were received expressing adamant opposition to making any changes to the fencing requirements in the R1RE zone and very much in favor of leaving the R1RE fencing requirements as is, but adding those requirements to Chapter 17.52 where the rest of the city’s fencing requirements are stated.

Applicable Criteria:

LCMC 17.77.130 provides, (emphasis added):

17.77.130 Text amendment.

A. Purpose. The text amendment process shall be used for legislative amendments to LCMC Title 16, this title, 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.

Staff analysis of Statewide Planning Goals and Comprehensive Plan provisions:

- A. Statewide Planning Goals
(1) Goal 1: Citizen Involvement

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

All documents relating to the proposal (amendment) were made available for public review and/or purchase, and were posted on the city's website. Staff was available to interpret and explain the technical information. The local newspaper published hearing notices in accordance with notice requirements. The planning commission and city council each held a public hearing at which citizens were invited to participate. Therefore, the amendment is consistent with Goal 1.

(2) Goal 2: Land Use Planning

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

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

(3) Goal 3: Agricultural Lands

"To preserve and maintain agricultural lands."

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

(4) Goal 4: Forest Lands

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

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

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

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

The amendment only affects areas intended for urban development. The amendment by itself does not permit development in any areas of protected natural resources, scenic or historic areas, or open spaces. The amendment is consistent with Goal 5.

(6) Goal 6: Air, Water and Land Resources Quality

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

The amendment will not adversely affect the quality of the air or water. The amendment by itself does not permit development that might affect water or air quality. The existing ordinances and plan requirements relating to water and air quality will continue to apply to all properties that might be affected. Therefore, the amendment is consistent with Goal 6.

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

"To protect people and property from natural hazards."

The amendment by itself does not allow development within any natural hazard area. The existing ordinances and plan requirements relating to natural hazards will continue to apply to all properties that might be affected by natural hazards. Therefore, the amendment is consistent with Goal 7.

(8) Goal 8: Recreational Needs

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

The proposed ordinance amendment does not relate to recreation as that term is used in this goal and does not adversely affect the provision of or ability to site recreational areas in the city. The amendment is consistent with Goal 8.

(9) Goal 9: Economic Development

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

The proposed ordinance amendment does not relate to economic development as that term is used in this goal and does not adversely affect the provision of or ability to site businesses in the city. The amendment is consistent with Goal 9.

(10) Goal 10: Housing

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

The amendment does not relate to housing and does not adversely affect the provision of or ability to develop housing in the city. The amendment is consistent with Goal 10.

(11) Goal 11: Public Facilities and Services

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

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

(12) Goal 12: Transportation

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

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

(13) Goal 13: Energy Conservation

"To conserve energy."

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

(14) Goal 14: Urbanization

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

The amendment does not directly relate or pertain to the urbanization of Lincoln City. Accordingly, Goal 14 is met or is not applicable.

(15) Goal 15: Willamette River Greenway

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

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

(16) Goal 16: Estuarine Resources

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

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

(17) Goal 17: Coastal Shorelands

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

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

(18) Goal 18: Beaches and Dunes

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

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

(19) Goal 19: Ocean Resources

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

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

B. Comprehensive Plan Goals

(1) Planning Goal

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

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

(2) Citizen Involvement Goal

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

The City has developed a citizen involvement program, outlined in Resolution No. 94-33. The City has a Committee for Citizen Involvement (the Planning Commission). In addition, the public hearing process, with two notices to the public through publication in the local newspaper and review of the amendment by the Planning Commission (the Committee for Citizen Involvement/local appointed citizen board) and the City Council (elected citizen representatives) establishes conformance with this goal.

(3) Public Services and Utilities Goal

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

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

(4) Urbanization Goal

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

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

(5) Natural Hazard Goal

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

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

(6) Housing Goal

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

The amendment does not directly impact housing and does not adversely affect the provision of or ability to develop housing in the city. The amendment is consistent with this goal.

(7) Economy Goal

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

The proposed ordinance amendment does not relate to economic development as that term is used in this goal and does not adversely affect the provision of or ability to site businesses in the city. The amendment is consistent with this goal.

(8) Aesthetic Goal

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

The correction portions of the amendment do not specifically relate to aesthetics. However, the leaving the fencing requirements in Chapter 17.17 as they are currently

stated serves to preserve the aesthetics and unique characteristic of the Roads End neighborhood, as well as preserving ocean views. This goal is met or is not applicable.

(9) Transportation Goal

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

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

(10) Energy Goal

"To conserve energy."

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

(11) Overall Environmental Goal

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

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

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

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

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

Council Communication

Planning Commission Interview- Jason Corso

Meeting Date:	September 11, 2023	Primary Staff Contact:	Jamie Young
Department:	City Council	E-Mail:	JYoung@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Daphnee Legarza	Estimated Time:	10 minutes

Question:

Should the City Council approve the appointment of Jason Corso for a position on the Planning Commission?

Staff Recommendation:

Following interviews, make appointments as desired.

Background:

One application has been received for an appointment for the one City Resident positions. This position is a partial 4-year term expiring 12/31/25.

The application is attached. Also attached, please find the questions to be used for Planning Commission interview with the City Council. A copy of these questions has been sent to the candidate.

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

The Planning Commission currently has one (1) vacant position. The vacant position was noticed to the media, Lincolncity.org, and the Facebook page; and was also advertised at City Hall and the Driftwood Public Library.

The applicant has successfully completed the interview/background process and is a City Resident.

Council Options:

Interview, review, and discuss the possible appointment of Jason Corso to City Resident positions on the Planning Commission, with the terms beginning 9/12/2023 expiring 12/31/2025.

Potential Motion:

- 1. I move to appoint Jason Corso to the Planning Commission for the term beginning 9/12/2023 and expiring 12/31/2025.**

Attachments:

NEW Planning Commissioner questions FINAL (PDF)

Corso, Jason_Application_Redacted (PDF)

Corso Ref completed (PDF)

Re_ Reference check for Committee applicant-Jason Corso Completed.pdf (PDF)

MEMORANDUM TO CC--APPOINTED BODIES BG CHECK PASS_FAIL DETERMINATION-Corso.Jason (PDF)

1. Why do you want to serve on the Planning Commission?
2. How would you prepare for a Planning Commission meeting?
3. Some issues that the commission hears may be controversial and draw large audiences. At public hearings, planning commissioners must discuss openly among themselves any given matter before a decision is made, and they must do so before sometimes large and sometimes unfriendly audiences. Do you think you work well in group situations under such circumstances? Please tell us about a time when you had to do this.
4. What do you think is the most important skill for a Planning Commissioner to have?
5. This position requires that you listen to the public and your fellow commissioners. Importantly, it requires that you separate relevant comments from irrelevant and prejudicial comments. Do you consider yourself a good listener? Can you separate and dispassionately reject prejudicial and irrelevant comments?
6. Are you able to make a decision on a case based on the applicable criteria, even if it is at odds with your personal preferences and opinions? Please give us an example of a time when you had to make a criteria-based decision, without using your personal preferences and opinions as part of that decision.
7. Assume a controversial land use issue is before the Commission. How would you reconcile your personal opinions and emotions should they be in conflict with the goals of the Lincoln City Comprehensive Plan or applicable criteria set forth in the Lincoln City Municipal Code?



CITY OF LINCOLN CITY

Committee / Board / Commission Application

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

- | | |
|--|--|
| <input checked="" type="checkbox"/> Arts Committee
<input type="checkbox"/> *Budget Committee
<input type="checkbox"/> Community Sustainability Committee
<input type="checkbox"/> URA Ad Hoc Committee | <input type="checkbox"/> Parks and Recreation Board
<input checked="" type="checkbox"/> Planning Commission
<input type="checkbox"/> Library Board |
|--|--|

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

NAME:	Jason Corso	DATE:	08/18/2023
HOME ADDRESS:			
MAILING ADDRESS:			
CITY, STATE, ZIP:	Lincoln City, OR 97367		
E-MAIL ADDRESS:			
HOME PHONE:		CELL PHONE:	

RESIDENCY AND SPECIFIC ELIGIBILITY CRITERIA

- Do you reside within the City limits: Yes Length of Time ~2 yrs
- Do you reside within the Urban Growth Boundary? Yes Length of Time ~2 yrs
- Do you reside within the Lincoln County School District North: Yes No
- Are you a registered voter in Lincoln County? Yes No
- Are you a Lincoln City business owner or Manager? Yes No
- If yes, please indicate which business you own/manage? _____



QUALIFICATIONS/EXPERIENCE (Additional space is provided on back)

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

23 years experience working in various planning roles at Intel Corporation.
MBA - University of Portland BS - University of Oregon

List names of volunteer/work supervisors:

Catherine Wight
Dan Lynnworth
Kimberly Gomez

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

None

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

None

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

I've been attending city council meetings since the beginning of 2023, and I'd like to get more involved in Lincoln City activities and various commissions.

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

Name: George Wagenblast Phone: [Redacted]

Name: Don Clark Phone: [Redacted]

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

[Redacted Signature]

08/18/2023

SIGNATURE

DATE



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

COMMITTEE VOLUNTEER EMERGENCY CONTACT INFORMATION FORM

FULL NAME:	Jason Paul Corso
START DATE:	tbd
NAME OF COMMITTEE, BOARD, OR COMMISSION:	tbd
CITY STAFF REPRESENTATIVE:	tbd
HOME ADDRESS:	[REDACTED]
MAILING ADDRESS:	[REDACTED]
HOME PHONE:	
CELL PHONE:	
PERSONAL E-MAIL ADDRESS:	

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

DATE:	08/18/2023
VOLUNTEER SIGNATURE:	[REDACTED]

ALL PERSONAL INFORMATION WILL BE KEPT STRICTLY CONFIDENTIAL



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

PLEASE READ CAREFULLY BEFORE SIGNING!

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

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



SIGNATURE

8-18-2023

DATE



Human Resources

REFERENCE CHECK- COMMITTEES

Reference regarding: Jason Corso (**Arts Committee, Planning Commission**)

Reference: George Wagenblast

Reference taken by; date / time: August 28, 2023

- What is your professional relationship with the applicant?

Neighbor

- How long have you known him/her?

Almost 2 years

- How long have you worked / served with him/her?

Neighbor

- Did you hire or select him/her? If not, would you hire/select him/her given the opportunity to do so? Yes
- Do you have personal knowledge of the applicant serving on any boards? If so, please describe. If not, would serving on our **Arts Committee, Planning Commission** be a good match based on your knowledge of the applicant? Would you recommend him/her for the **Arts Committee, Planning Commission**? Does the applicant possess good decision making / reasoning skills? I do believe Jason has the skills to do a good job.
- Does the applicant have good communication / interpersonal skills?
Yes
- Is he/she responsible and reliable?
Yes
- What are his/her strongest skills? On time, thinks clearly and very organized. Does he/she possess any special skills? Organized and computer skills that should serve well



Human Resources

-
- If applicable, what was his/her reason for leaving the position he/she held when you worked / volunteered together?

Retired

- Are there any areas he/she could use help in developing (i.e. written communication, organization)? What do we need to provide to help him/her succeed on the **Arts Committee, Planning Commission.**

Again computer skills that should work well

- Do you have any other feedback you could provide that would help us make a decision? Not at this time

-

From: [Don Clark](#)
To: [Nina Graham](#)
Subject: Re: Reference check for Committee applicant-Jason Corso
Date: Monday, August 28, 2023 9:34:06 AM
Attachments: [image001.png](#)

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Jason is our Son in Law.

We have known him for almost 30 years.

Yes I would select Jason for the Planning commission.

He worked for Intel for 20 plus years in a planning position as a team leader where he delt with very high level discussions.

Jason has made many high-level presentations using power point and other tools, and is a very good public speaker.

Jason is very dedicated and committed to completing the tasks assigned.

I highly recommend Jason, he will be a true asset to the committee and the community.

Don Clark

From: Nina Graham <ngraham@lincolncity.org>
Sent: Monday, August 28, 2023 8:55 AM
To: [REDACTED]
Subject: Reference check for Committee applicant-Jason Corso

Hello-

Please see attached reference form for Jason Corso who is applying for our Arts Committee and Planning Commission. Please fill out and send back to me at your earliest convenience.

Thank you,



Niña Graham, HR Supervisor

City of Lincoln City | Administration
 801 SW Hwy 101 | PO Box 50 | Lincoln City, OR
 P: 541.557.1139 | F: 541.557.1139
 E: ngraham@lincolncity.org | W: LincolnCity.org



MEMORANDUM

To: City of Lincoln City Mayor and Council

From: Human Resources Department

Date: September 5, 2023

Re: Council Volunteer Appointment—Background Report and References

To the Honorable Mayor and City Council:

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

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

Name: Jason Corso

Position Applied For: Arts Committee, Planning Commission

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

Respectfully,

Nina Graham

Niña Graham
HR Supervisor

Council Communication

Boards and Committees Reappointment

Meeting Date:	September 11, 2023	Primary Staff Contact:	Jamie Young
Department:	City Council	E-Mail:	JYoung@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Daphnee Legarza	Estimated Time:	

Background:

At the July 24, 2023 meeting Council made a motion to direct the City Recorder to use the abbreviated reappointment process pending a new background and schedule the Committee members for reappoint at the next Council meeting.

Question:

Should the City Council reappoint Kim Blackerby and Krista Eddy to the committees they are currently serving on?

Staff

Recommendation:

Staff recommends that Council reappoint Kim Blackerby and Krista Eddy to the committees they are currently serving on for a full term.

Authority:

Reappointment to the Lincoln City Budget Committee is authorized under LCMC Chapters 2.06.015 Recruitment and appointment process.

G. Reappointment. Requests for reappointment of appointive public officers (only for those who have previously completed the interview, reference and background check) may be processed using this abbreviated procedure. The council, by motion, may direct the city recorder to place appointive officers on the agenda for reappointment, subject only to an update of the background investigation (pursuant to a current release). Unless council by motion directs the use of the abbreviated procedure, all reappointments shall follow the procedure identified herein for original applicants. (Ord. 2021-20 § 1; Ord. 2017-05 § 1)

Council**Options:**

Review and discuss the recommendation for reappointment of Kim Blackerby and Krista Eddy to the committees they are currently serving on.

Potential Motions:

1. I move to reappoint Krista Eddy to the Public Arts Committee for a "City Resident" position with a three-year term. The term begins 1/1/24 expires 12/31/2026.
2. I move to reappoint Kim Blackerby to the Planning Commission for a "City Resident" position with a four-year term. The term begins 1/1/24 expires 12/31/2027.

Attachments:

MEMORANDUM TO CC--APPOINTED BODIES BG CHECK PASS_FAIL DETERMINATION-Eddy.Krista (PDF)

MEMORANDUM TO CC--APPOINTED BODIES BG CHECK PASS_FAIL DETERMINATION-Blackerby.Kim (PDF)



MEMORANDUM

To: City of Lincoln City Mayor and Council

From: Human Resources Department

Date: September 5, 2023

Re: Council Volunteer Reappointment—Background Report and References

To the Honorable Mayor and City Council:

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

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

Name: Krista Eddy

Position Applied For: Arts Committee

Respectfully,

Nina Graham

Niña Graham

HR Supervisor



MEMORANDUM

To: City of Lincoln City Mayor and Council
From: Human Resources Department
Date: September 1, 2023
Re: Council Volunteer Reappointment—Background Report

To the Honorable Mayor and City Council:

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

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

Name: Kim Blackerby
Position Applied For: Planning Commission

Thank you.

Respectfully,

Nina Graham

Niña Graham
HR Supervisor

Council Communication

OPRD Proposed Changes to OAR 736-024-0025

Meeting Date:	September 11, 2023	Primary Staff Contact:	Jeanne Sprague
Department:	Parks and Recreation	E-Mail:	JSprague@lincolncity.org
Secondary Dept:	Police	Secondary Contacts:	
Approval:	Daphnee Legarza	Estimated Time:	10 mins

Question:

Should the City Council approve the OPRD recommendations to proposed changes to OAR 736-024-0025 ocean shore vehicle access in Lincoln City?

Staff Recommendation:

Staff recommends the Council approve the OPRD recommendations to proposed changes to OAR 736-024-0025 ocean shore vehicle access in Lincoln City.

Authority:

See attached document for the letter and staff report from OPRD Director Lisa Sumption.

Background:

In February 2023, Oregon Parks and Recreation Department received a request from the City of Lincoln City to consider closure of the ocean shore vehicle access area at NW 34th Court and to review beach parking access at NW 15th Street. The Oregon State Parks and Recreation Commission approved opening rulemaking at their February 23, 2023 meeting.

Following this meeting, the OPRD convened a Rule Advisory Committee comprised of community representatives, law enforcement, recreational users and department employees to review the areas and consider impacts to safety, access, scenic and recreation values, seashore resources and beach management.

After review from the Rule Advisory Committee, OPRD staff recommended taking public

comment on a broader proposal to consider moving 300 feet of open beach from 34th Court to 15th Street to expand the portion of the ocean shore open at that location seasonally.

Public comment on this proposed rule change was open from June 1 through July 20. During that time, 133 comments were received via email, online form or in writing. Twenty-two people provided comment verballing during a public hearing held on July 18 in Lincoln City and virtually.

OPRD Staff Recommendation: Based on the comments received and information shared during the Rule Advisory Committee meetings, Oregon Parks and Recreation Department staff recommend to the Director a proposed rule amendment be presented to the Commission to permanently close NW 34th Court to vehicle traffic on the ocean shore. This location would continue to be open for official use and to emergency vehicles. At NW 15th Street, staff recommend a seasonal closure within the current 150 ft on each side of NW 15th street. The access point would be closed from May 1 through September 30 or whenever conditions warrant a closure for safety reasons. At this time, staff do not recommend expanding the area open to vehicle traffic at this location. This location would continue to be open for official use and to emergency vehicles.

At both locations, staff recommend additional signage indicating locations for accessible beach access points to address concerns raised over accessibility for individuals with disabilities. In addition, OPRD will improve communication regarding accessible beach locations and drive on beach permits for individuals with disabilities.

Council Options:

Approve the OPRD Staff recommendations for ocean shore vehicle access in Lincoln City.

Reject the OPRD Staff recommendations for ocean shore vehicle access in Lincoln City.

Financial Impact

Very limited staff time. 4-8 hrs/year for one Parks Maintenance staff to install and remove bollards.

Potential Motions:

Move to approve the OPRD Staff recommendations for ocean shore vehicle access in

Lincoln City.

Attachments:

OPRD letter and staff recommendations

Attachments:

OPRD letter and staff recommendations (PDF)



Oregon

Tina Kotek, Governor

Parks and Recreation Department

725 Summer St. NE, Suite C

Salem, OR 97301-1271

(503) 986-0707

Fax (503) 986-0794

stateparks.oregon.gov



August 18, 2023

Jeanne Sprague
 Director
 Lincoln City Parks and Recreation
 PO Box 50
 Lincoln City, OR 97367

Dear Director Sprague,

Thank you for working with our team on proposed changes to OAR 736-024-0025 regarding ocean shore vehicle access in Lincoln City.

Attached you will find the staff report and recommendations from OPRD. I am supportive of these recommendations and will submit them to the Oregon State Parks and Recreation Commission pending concurrence from the city of Lincoln City.

In accordance with ORS 390.678(4), I am seeking approval from the city of Lincoln City before we ask our commission to adopt the proposed rules. Your approval could be in the form of a resolution of the city council or any other similar instrument issued by an official authorized to speak for the city.

Please let me or Katie Gauthier know if you have questions or need additional information.

Sincerely,

Lisa Sumption

Lisa Sumption (Aug 21, 2023 08:06 PDT)

Lisa Sumption
 Director

Council Communication

Interim City Attorney Services Contract

Meeting Date:	September 11, 2023	Primary Staff Contact:	Daphnee Legarza
Department:	City Council	E-Mail:	DLegarza@lincolncity.org
Secondary Dept:	Planning Department	Secondary Contacts:	
Approval:	Daphnee Legarza	Estimated Time:	5 mins.

Question:

Should the City Council approve the attached personal services contract for emergency interim municipal legal services for the City?

Staff Recommendation:

Staff recommends Council approve the contract for interim municipal legal services. Staff recommends Council authorize the City Manager to make minor changes if requested, without further action by Council.

Authority:

ORS 279B.080 permits heads of contracting agencies to make emergency procurement of goods or services. Emergency procurement is defined as circumstances that could not have been reasonably foreseen; create a substantial risk of loss, damage or interruption of services; and require prompt execution of a contract to remedy the condition.

Background:

Last month the City Council terminated without cause the City Attorney's employment contract. As such there is a backlog of construction contracts, agreements and other legal documents needing legal review and signature along with pending litigation, and upcoming code enforcement and court related items in need of legal representation.

City management has reach out to a couple legal firms in the state that specialize in municipal law to inquire regarding their ability to provide interim municipal legal services. Both firms indicated that they are not able to provide these services at this time.

Council Options:

1. Approve the proposed interim municipal legal services contract
2. Do not approve the proposed interim municipal legal services contract

Potential Motions:

Motion to approve the proposed Personal Services Contract for emergency interim municipal legal services and authorize the City Manager to make minor changes, without further action by the Council.

Attachments:

Interim Contract for Attorney Services - City of Lincoln City-D Robinson (C) (PDF)

**EMERGENCY CONTRACT TO PROVIDE CITY ATTORNEY SERVICES
FOR THE CITY OF LINCOLN CITY, OREGON**

Under this contract amendment (“Contract”), effective _____, 2023 between the City of Lincoln City, Oregon (“City”), a municipal corporation, and David James Robinson, P.C., (“Attorney”), together known as the “parties”, the following is hereby agreed:

1. Independent Contractor. The City agrees to engage Attorney as an independent contractor who will provide representation in legal matters in connection with Attorney providing City Attorney services for the City, with services to commence upon the execution of this Contract.
2. Duties. Attorney agrees to provide services that will cover a variety of matters, including, but not limited to, attendance at bi-monthly City Council meetings at City Manager discretion, reviewing Council packet materials and commenting as needed; reviewing contracts and agreements; drafting contracts, ordinances, and resolutions; general land use; procurement, and providing litigation and code enforcement support and representing City as needed.

Attorney will regularly send the City information and correspondence regarding matters worked on by Attorney on the City’s behalf. These copies will be the City’s file copies. City will segregate the parties’ communications in a file marked “attorney-client privilege” and safeguard the contents of the file from unauthorized disclosure, and said file will be exempt from public records disclosure. Attorney will keep the information in a file in Attorney’s office. The file in Attorney’s office will be Attorney’s file. Attorney will return any original documents provided unless required to be filed in court.

3. Provision of Services. While it is agreed that David James Robinson shall personally serve as Attorney and shall be available to fill the duties of that office, it is understood that he may delegate his duties under this Contract to another attorney in his office, in the event that he employs an attorney. Upon such delegation, Attorney shall retain responsibility for fulfilling the duties and responsibilities under this Contract.

4. Term. This attorney retainage is on an emergency basis of nine (9) months or upon the City Council’s successful procurement of a city attorney under an RFP.

5. Billing. Attorney agrees to provide an itemized monthly bill for services and expenses to the City Manager. The City will satisfy payment of Attorney’s invoice on the same schedule as other entities contracted with the City.

6. Fee Schedule. Compensation for Attorney’s services will align with the following fee schedule:

- a. Attorney Rate: Attorney will bill in 15-minute increments at a rate of \$175/hour for the first 40 hours billed in a calendar month with additional hours billed at a rate of \$300/hour. Each month, the City Manager shall be notified once billing hours approach forty (40) hours.

- b. Office Assistant: Services provided by Attorney’s office assistant in furtherance of the Contract with the City will be billed at a rate of \$50/hour. Attorney’s office

assistant will only be utilized if the City's staff are unavailable to assist Attorney with administrative tasks reasonably connected to Attorney's performance of the Contract.

c. Council Meetings: Attorney will bill as described above in section 6(a) for Attorney's attendance at city council meetings.

d. Travel: Travel time for in person meetings is billed as described in 6(a).

e. Out-of-Pocket Costs: Attorney's out-of-pocket costs for expenses relating to representation of the City, such as court filing fees, postage, copying, shall be accounted for and included on Attorney's monthly invoice to the City.

7. No Benefits. Attorney acknowledges that this Contract to perform city attorney services does not entitle Attorney to any City provided benefits, such as retirement, paid leave, medical, insurance or additional employment benefits beyond those specified in this Agreement.
8. Outside Contractors. If Attorney determines that it would benefit the City to hire an outside contractor, the cost of which would be passed on to the City, the City must first authorize the expense. Examples of tasks for which Attorney might seek to hire a contractor include real estate appraisals and independent investigations of workplace complaints.
9. Worker's Compensation Coverage. Attorney hereby certifies that he has qualified for the State of Oregon Worker's Compensation Coverage either as a carrier-insured employer or as a self-insured employer.
10. Termination. With or without cause, the City may discharge Attorney at any time and Attorney reserves the right to withdraw from further representation of the City at any time upon reasonable written notice to the City. Upon the date of termination, Attorney will be entitled to all compensation then due. Any unearned fees shall be refunded to the City. The City shall be responsible for all outstanding costs incurred in the City's case(s) as per Section 6(e) above.
11. Integration. This Contract sets forth and establishes the entire understanding between the City and Attorney, and it supersedes any prior oral or written understandings or communications between the parties. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Contract. The parties by mutual written agreement may amend any provision of this Contract during the life of the Contract. Such amendments shall be incorporated and made a part of this Contract.
12. Binding Effect. This Contract will be binding on the parties and their respective heirs, personal representatives, successors, and permitted assigns, and will inure to their benefit.
13. Time of Essence. Time is of the essence with respect to all dates and time periods in this Contract.

- 14. Severability. If a provision of this Contract is determined to be unenforceable in any respect, the enforceability of the provision in any other respect and of the remaining provisions of this Contract will not be impaired.
- 15. Survival. All provisions of this Contract and existing obligations of the parties that would reasonably be expected to survive the termination of this Contract will do so.
- 16. Remedies. The parties will have all remedies available to them at law or in equity. All available remedies are cumulative and may be exercised singularly or concurrently.
- 17. Venue. Any action or proceeding arising out of this Contract will be litigated in courts located in Marion County, Oregon. Each party consents and submits to the jurisdiction of any local, state, or federal court located in or near Marion County, Oregon.
- 18. Waiver. Failure of either party at any time to require performance of any provision of this Contract shall not limit the parties' rights to enforce the provision(s), nor shall any waiver of any breach of any provision(s) be considered a waiver of any succeeding breach of the provision itself or any other provision.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in duplicate by the parties' duly authorized representatives whose signatures appear below. In signing below, each party hereby acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions. Each person signing this Contract represents and warrants to have the authority to sign this Contract.

CITY OF LINCOLN CITY

ATTORNEY

BY: _____
Mayor

David James Robinson, P.C.

DATE: _____

DATE: _____

ATTEST: _____, City Recorder