

**CITY OF LINCOLN CITY  
LINCOLN CITY COUNCIL AGENDA  
MONDAY MAY 23, 2022 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](mailto:publiccomment@lincolncity.org), by attending the City Council meeting, or by telephone.

Public comments submitted by email to [publiccomment@lincolncity.org](mailto:publiccomment@lincolncity.org) will be entered into the official record, distributed to the governing body, and summarized; however, due to personal privacy issues they are not generally published in the online Agenda packet. **\*\*PUBLIC COMMENT VIA EMAIL WILL ONLY BE RECOGNIZED UPON RECEIPT OF AN EMAIL SENT TO [publiccomment@lincolncity.org](mailto:publiccomment@lincolncity.org)\*\***

Citizens requesting to give public comment via telephone must email [publiccomment@lincolncity.org](mailto:publiccomment@lincolncity.org) no later than noon on the meeting day. The request must include the person's name, the subject the person wishes to address, and the 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 the City Recorder, 541-996-1203.

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

All information for this meeting is available at [www.lincolncity.org](http://www.lincolncity.org) under "Government" then select "Public Meeting, Agendas, Packets & Video". This meeting will be televised live on Channel 4. For additional rebroadcast times, please consult the Channel 4 guide on the hour. 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 Work Session – May 4, 2022, 3:30 PM
2. Regular Meeting – Minutes of Regular Meeting – May 9, 2022, 6:00 PM

**E. COUNCIL DELIBERATIONS**

3. ORDINANCE NO. 2022-23 AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.17 (SINGLE-FAMILY RESIDENTIAL, ROADS END), SECTION 17.17.070 (LOT REQUIREMENTS), PARAGRAPH D, TO REVISE THE LANGUAGE FOR THE FRONT SETBACK

**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. Public Hearing Property Tax Abatement

**J. ORDINANCES**

2. ORDINANCE NO. 2022-27 AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 3 (REVENUE AND FINANCE), ADDING A NEW CHAPTER 3.18 (NONPROFIT CORPORATION LOW INCOME HOUSING TAX EXEMPTION PROGRAM), TO ESTABLISH A PROGRAM FOR PROPERTY TAX EXEMPTION FOR LOW INCOME HOUSING PROVIDERS PURSUANT TO STATE LAW.

**K. RESOLUTIONS**

3. RESOLUTION NO. 2022-16 A RESOLUTION OF THE CITY OF LINCOLN CITY IMPLEMENTING LCMC 13.08.095 REGARDING DEFERRAL OF SYSTEM DEVELOPMENT CHARGES; APPROVING AN APPLICATION BY HELPING HANDS RE-ENTRY OUTREACH CENTER FOR THE DEFERRAL OF PAYMENT OF SYSTEM DEVELOPMENT CHARGES FOR DEVELOPMENT OF THE TRANSITIONAL HOUSING FACILITY AND USES DESCRIBED IN CONDITIONAL USE APPROVAL 2019-04 (DECEMBER 17, 2019) ON REAL PROPERTY IDENTIFIED AS 3454 NE HIGHWAY 101 AND 2201 NE 34TH STREET, LINCOLN CITY, OREGON.

**L. SPECIAL ORDER OF BUSINESS**

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

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

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

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

**Q. ADJOURNMENT**

CITY OF LINCOLN CITY

CITY COUNCIL MINUTES OF WORK SESSION MEETING

May 4, 2022, 3:30 PM

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

APPROVED BY CITY COUNCIL

DATE:

1. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Susan Wahlke	Mayor	Present	3:30 PM
Elaine Starmer	Councilor Ward 1	Present	3:30 PM
Sydney Kasner	Councilor Ward 2	Present	3:35 PM
Judy Casper	Councilor Ward 3	Present	3:30 PM
Riley Hoagland	Councilor Ward 2	Present	3:30 PM
Rick Mark	Councilor Ward 3	Present	3:37 PM
Mitch Parsons	Councilor Ward 1	Present	3:30 PM

Staff Present: Daphnee Legarza, City Manager; Richard Appicello, City Attorney; Alison Robertson, Economic Development and Urban Renewal Director; David Twigg, I.T. Support Specialist; Jamie Young, City Recorder.

2. DISCUSSION ITEMS

A. Parks & Recreation Presentation

Jeanne Sprague, Parks and Recreation Director, gave a presentation on the Parks and Recreation department funding as well as the Taft Park development and construction project phases. Councilor Hoagland asked if anyone has checked with Nike for the AstroTurf. Councilor Mark suggested the Timbers also for help. Ms. Sprague said she would check into those suggestions.

*Ms. Sprague spoke about grant revenue goals and the grants received this year. Ms. Sprague said the other programs started this year are commemorative benches and bricks, adopt a park, QR code donations, and scholarship funds for youth sports leagues.*

*Ms. Sprague said that Ms. Reid, Public Works Director, is helping put together a CIP (capital improvement plan). Ms. Sprague said the CIP would help outline every public amenity that the City has and its history. Ms. Sprague said that this budget year they are taking care of a lot of the deferred maintenance. Councilor Hoagland asked if the restroom upgrades would be waterless or low water. Ms. Sprague said she would look into that. Ms. Sprague said that we need to develop a cultural philanthropy and she will work with the City Manager. Councilor Hoagland said that we need to find out the compression rate and if we are already at the maximum. Councilor Hoagland explained the process of Highland Titles and the benefits. Councilor Hoagland also spoke about forest fairies.*

*Ms. Sprague for additional ideas. Councilor Hoagland said that he would still like to see a fish cleaning station at Siletz Bay. Councilor Hoagland also asked about having sustaining members. Mayor Wahlke spoke about the gas tax as well as the food and beverage tax. Councilor Hoagland mentioned there is talk about raising the marijuana tax. Councilor Hoagland brought up Mountain biking courses. Ms. Sprague said that mountain biking and disc golf cannot be put in the opening spaces but she is open to other ideas of location. Councilor Parsons asked about removing the mid-block crosswalks. Ms. Robertson spoke about parkettes and mid-block crosswalks. Councilor Hoagland spoke about the difficulty of using the crosswalks. Ms. Sprague explained this park is designated a community park due to its size versus the other park which are pocket parks, playgrounds, neighborhood parks, and beach accesses.*

### **3. ADJOURNMENT**

*Mayor Wahlke adjourned the meeting at 4:53 PM.*

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SUSAN WAHLKE, MAYOR

ATTEST:

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JAMIE YOUNG, CITY RECORDER

CITY OF LINCOLN CITY

CITY COUNCIL MINUTES OF MEETING

May 9, 2022, 6:00 PM

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

**APPROVED BY CITY COUNCIL**

**DATE:**

**A. CALL TO ORDER**

*Council President Casper called the meeting to order at 6:00 PM.*

**B. ROLL CALL**

*Council President Casper made the following changes to the agenda with unanimous consent; pulled item J5 (Ordinance 2022-22) for discussion at a later meeting and change the order of I. Presentations, to have item number two occur before item number one.*

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

*Staff Present: Daphnee Legarza, City Manager; Richard Appicello, City Attorney; Lt. Broderick, Lincoln City Police Department; Jeanne Sprague, Parks and Recreation Director; Stephanie Reid, City Engineer; Anne Marie Skinner, Planning and Community Development Director; David Twigg, I.T. Support Specialist; Jamie Young, City Recorder.*

**C. PLEDGE OF ALLEGIANCE**

*Council President Casper led The Pledge of Allegiance.*

**D. CONSENT AGENDA**

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

1. Regular Meeting – Minutes of Regular Meeting – April 25, 2022, 6:00 PM

Council President Casper made the following changes to the agenda with unanimous consent; pulled item J5 (Ordinance 2022-22) for discussion at a later meeting and change the order of I. Presentations, to have item number two occur before item number one.

**E. COUNCIL DELIBERATIONS**

*NONE*

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

*No citizens present.*

*Ms. Legarza summarized two public comments the first from Kevin Koffel of Lincoln City against banning fireworks. The second is Carol Koffel who is against banning fireworks.*

**G. PRESENTATIONS**

2. Salmon Drift Creek Watershed Council

<b>MOTION:</b>	<b>Motion to Continue the Rent Abatement for Salmon Drift Creek Watershed Council During FY 2022-23</b>
<b>MOVER:</b>	<b>Rick Mark, Councilor Ward 3</b>
<b>SECONDER:</b>	<b>Elaine Starmer, Councilor Ward I</b>
<b>AYES:</b>	Starmer, Kasner, Casper, Hoagland, Mark, Parsons
<b>ABSENT:</b>	Wahlke
<b>RESULT:</b>	<b>Passed via Voice Vote</b>

*Paul Katen from the Salmon Drift Creek Watershed Council and JoAnne Daschel, board member of the Salmon Drift Creek Watershed Council gave an update on the Salmon Drift Creek Watershed Council. Mr. Katen asked for continued rent abatement for the upcoming year. Council President Casper thanked Mr. Katen and complimented the brochure. Councilor Mark asked if there was improvement in the water quality of Schooner Creek. Mr. Katen said that they ran out of funds to check. Councilor Hoagland asked who was paying for the electric fence. Mr. Katen said that came from title 2 funding. Councilor Mark asked about the tax abatement. Mr. Appicello said that would be for the Assessor's office.*

3. Lincoln City Senior Center

*Ann Stevens, President, and Tamara Staples, Secretary for the Lincoln City Senior Center gave an update on the Senior Center. Ms. Stevens ask for a rent abatement. Councilor Hoagland asked if they knew the*

amount of the rent abatement. Ms. Stevens did not know the amount. Mr. Hoagland said that amount is \$168,000 and asked if the space is used the entire time. Councilor Mark said that he vaguely remembers questioning the number. Councilor Kasner asked about the specific services provided. Ms. Stevens explained the services. Council President Casper asked for more specific information to be brought back to Council at the first meeting in June. Ms. Stevens asked for a copy of the rent amount. Council President Casper asked that Ms. Sprague provide that information to Ms. Stevens. Council gave unanimous consent to continue the discussion to June 13, 2022.

#### 4. Wastewater Plant of the Year Award

Matt Etzel, PNCWA (Pacific Northwest Clean Water Association) President, presented an award to the Wastewater Treatment Plant for Wastewater Treatment Plant of the Year for 2021. Craig Prosser, Past President of PNCWA, spoke regarding Dan Christian and his previous wastewater treatment plant history. Mr. Prosser also gave kudos to Mr. Christian and his crew. Mr. Christian thanked Mr. Prosser and Mr. Etzel on behalf of him and his crew. Mr. Christian said this is a team award and recognized Mr. Sciarrotta, Mr. Shattuck, Mr. Jones, and Mr. Kisor. Mr. Christian also thank Mr. Rutledge for his years of service before his retirement. Mr. Christian thanked Jeanne Sprague, Monte Demaris, Tony Lewis, Administration, Council, and the Budget Committee.

## H. PUBLIC HEARING / ORDINANCE

None

## I. PUBLIC HEARINGS / PUBLIC COMMENTS

### 1. ZOA 2022-06 R1RE Front Setback

6:57 PM Council President Casper opened the public hearing on ZOA 2022-06 R1-RE Front Setback. Councilor Starmer said there is a possible conflict with the outcome of the decision.

Ms. Skinner presented the report for the ZOA 2022-06 R1-RE Front Setback. Ms. Skinner summarized the comments received after the packet was published. Councilor Starmer asked if this amendment would make lots more buildable. Ms. Skinner says this would meet the housing goals and would increase developability. Mr. Appicello read Mr. Hoagland asked if this would make things more inclusive. Ms. Skinner confirmed. Mr. Appicello said if we take items away, this could trigger a measure 49 claim.

Chris Kobeck spoke on behalf of the Westons, who are the homeowners that filed the original zoning ordinance amendment.

Testimony:

Patty Kroen, Lincoln City resident, testified against ZOA 2022-06.

Janet Knipe, President of REIA, testified against ZOA 2022-06.

Annette Guido, Lincoln City resident, testified against ZOA 2022-06.

David Jamieson, Lincoln City resident, testified against ZOA 2022-06.

Council took a break from 8:15-8:24

**MOTION:** Motion to Close the Public Hearing and the Record for ZOA 2022-06 R1-RE Front Setback  
**MOVER:** Elaine Starmer, Councilor Ward I  
**SECONDER:** Mitch Parsons, Councilor Ward 1  
**AYES:** Starmer, Kasner, Casper, Hoagland, Mark, Parsons  
**ABSENT:** Wahlke  
**RESULT:** Passed via Voice Vote

2. ZOA 2022-05 Code Corrections

8:39 PM Council President Casper opened the public hearing regarding ZOA 2202-05.

Ms. Skinner presented ZOA 2022-05 Code Correction.

No citizens were present for testimony. No written testimony was received.

**MOTION:** Motion to Close the Public Hearing and Record for ZOA 2022-05 Code Corrections  
**MOVER:** Rick Mark, Councilor Ward 3  
**SECONDER:** Elaine Starmer, Councilor Ward I  
**AYES:** Starmer, Kasner, Casper, Hoagland, Mark, Parsons  
**ABSENT:** Wahlke  
**RESULT:** Passed via Voice Vote

**J. ORDINANCES**

3. ORDINANCE NO. 2022-23 AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.17 (SINGLE-FAMILY RESIDENTIAL, ROADS END), SECTION 17.17.070 (LOT REQUIREMENTS), PARAGRAPH D, TO REVISE THE LANGUAGE FOR THE FRONT SETBACK

Mr. Appicello explained the staff's recommendation on the ordinance.

Move to postpone to May 23rd by unanimous consent due to a tie vote.

**MOTION:** Motion to Approve the First Reading of Ordinance 2022-23 - ZOA 2022-06 -R-1-RE  
**MOVER:** Elaine Starmer, Councilor Ward I  
**SECONDER:** Riley Hoagland, Councilor Ward 2  
**AYES:** Kasner, Casper, Hoagland  
**NAYS:** Starmer, Mark, Parsons  
**ABSENT:** Wahlke  
**RESULT:** Failed

4. ORDINANCE NO. 2022-15 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTERS 17.04 (GENERAL PROVISIONS), 17.08 (DEFINITIONS), 17.16 (R-1), 17.17 (R-1-RE), 17.18 (VR), 17.24 (PC), 17.28 (RC), 17.29 (RCC), 17.32 (GC), 17.36 (PI), 17.40 (RR), 17.42 (P), 17.46 (NR), 17.52 (SUPPLEMENTARY REGULATIONS), 17.64 (NONCONFORMING SITUATIONS), 17.74 (DESIGN STANDARDS), 17.76 (PROCEDURES), 17.77 (APPLICATIONS), 17.80 (PROVISIONS APPLYING TO SPECIAL USES) and TITLE 16 (SUBDIVISIONS), CHAPTER 16.08 (PROCEDURE) TO MAKE CORRECTIONS.

**MOTION:** Motion to Approve the First Reading of Ordinance 2022-15 - ZOA 2022-05 -Corrections  
**MOVER:** Mitch Parsons, Councilor Ward 1  
**SECONDER:** Elaine Starmer, Councilor Ward I  
**AYES:** Starmer, Kasner, Casper, Hoagland, Mark, Parsons  
**ABSENT:** Wahlke  
**RESULT:** Passed by Roll Call Vote

5.

**MOTION:** Motion to Approve Second Reading and Adoption of Ordinance 2022-15 - ZOA 2022-05 -Corrections  
**MOVER:** Mitch Parsons, Councilor Ward 1  
**SECONDER:** Elaine Starmer, Councilor Ward I  
**AYES:** Starmer, Kasner, Casper, Hoagland, Mark, Parsons  
**ABSENT:** Wahlke  
**RESULT:** Passed by Roll Call Vote

6.

**MOTION:** Motion to Approve Second Reading and Adoption of Ordinance 2022-20 Expand Park Fireworks Prohibitions to Other City Property  
**RESULT:** Died Without a Second

7.

**MOTION:** Motion to Approve Second Reading and Adoption of Ordinance 2022-20 Expand Park Fireworks Prohibitions to Other City Property  
**MOVER:** Sydney Kasner, Councilor Ward 2  
**SECONDER:** Elaine Starmer, Councilor Ward I  
**AYES:** Starmer, Kasner, Casper, Mark  
**NAYS:** Hoagland, Parsons  
**ABSENT:** Wahlke  
**RESULT:** Passed by Roll Call Vote

*Councilor Mark said that he thinks the fine should be higher than the changed amount. Mr. Appicello explained the fine amount. Councilor Hoagland asked if we have the previous year's fireworks numbers. Mr. Appicello said we do not currently have a fine amount. Councilor Mark asked when this would take effect. Mr. Appicello said it would take effect in 30 days.*

*Council President Casper postponed ordinance 2022-22 for the June 13th meeting. Councilor Hoagland asked if this was being postponed due to the absence of the Mayor. Ms. Skinner explained that Staff was trying to re-work this committee rather than disband and need a little more time.*

## K. RESOLUTIONS

NONE

## L. SPECIAL ORDER OF BUSINESS

8. Villages Wetland Delineation and Survey

**MOTION:** Motion to Award a Contract to PBS Engineering in the Amount of \$95,000 Using \$30,000 from Sitka Wood and \$65,000 from the Contingency Fund for the Villages Wetland Delineation and Survey

**MOVER:** Riley Hoagland, Councilor Ward 2

**SECONDER:** Mitch Parsons, Councilor Ward 1

**AYES:** Starmer, Kasner, Casper, Hoagland, Mark, Parsons

**ABSENT:** Wahlke

**RESULT:** Passed by Roll Call Vote

*Stephanie Reid, Public Works Director, and Anne Marie Skinner, Planning and Community Development Director spoke about the Villages wetland delineation and survey. Ms. Reid asked that a contract be awarded to PBS Engineering in the amount of \$95,000. Councilor Starmer asked if there was a timeline. Ms. Reid said the work should be complete in about six months. Ms. Reid said this money would need to be taken out of the Villages fund. Councilor Mark asked if PBS was on the approved list. Ms. Reid confirmed and said the PBS is our go-to for anything environmental.*

#### 9. SW 63rd and SW Inlet Overlay Construction Award

**MOTION:** Motion to Award the SW 69th and SW Inlet Overlay Construction Award to Road and Driveway in the Amount of \$226,484.80

**MOVER:** Rick Mark, Councilor Ward 3

**SECONDER:** Sydney Kasner, Councilor Ward 2

**AYES:** Starmer, Kasner, Casper, Hoagland, Mark, Parsons

**ABSENT:** Wahlke

**RESULT:** Passed by Roll Call Vote

*Stephanie Reid, Public Works Director, spoke about the SW 69th (corrected) and SW Inlet overlay construction award. Ms. Reid would like to award this project to Road & Driveway in the amount of \$226,484.80. Councilor Mark asked about the speed bumps. Ms. Reid said those would remain. Council President Casper asked when this would be done. Ms. Reid said it depends on their schedule.*

#### M. CITY MANAGER/CITY ATTORNEY REPORTS

*Ms. Legarza said the next work session is May 25th and she is working on topics.*

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

NONE

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

NONE

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

*Mr. Hoagland said he said National Treatment Court Month celebration would be held, Tuesday, May 24<sup>th</sup>, at 9 AM in Newport, OR at the Performing Arts Center. Mr. Hoagland said under the sustainability; the street sweeper has plastic bristles and asked if the paint used was toxic. Councilor Hoagland also mentioned the amount of paper used and asked if it's purchased from sustainable sources, as well as the composting program. Councilor Hoagland said he spoke with the Parks and Recreation Director about Scotch Broom being an invasive species as he is very sensitive to it. Councilor Hoagland said it is all over town and does not see any enforcement. Councilor Hoagland spoke regarding the redaction opportunities including going back in time and going forward. Councilor Hoagland said there are opportunities for internships.*

*Councilor Mark spoke about the gas-powered leaf blowers. Mr. Hoagland said the leaf blower (2-cycle engine running) is the equivalent of driving a thousand miles. Councilor Mark spoke about his tour of the wastewater treatment plant. Councilor Mark was on a Zoom conference for a Statewide Emergency Council and he invited the Council's Executive Director to put together a presentation for the 3rd or 4th quarter of this year.*

*Councilor Kasner said that she appreciated the involvement of the community on the ZOA and any topic. Councilor Kasner said she was looking at the exclusionary aspect and thinking about it more generally. Councilor Kasner said that she has heard the comments and will continue to ponder.*

*Councilor Starmer asked for her wastewater treatment plant tour with Kasner.*

*Councilor Parsons asked staff to look into the Forest Fairies and adding items to the Styrofoam ban. Councilor Parsons reminded everyone to vote in the Primary election.*

*Council President Casper announced the broadband advisory team is located in Salem and the policy is being put together for how to get broadband to your area. Councilor Casper spoke about the funding being put together by President Biden for low-income assistance with broadband. Councilor Casper said the wastewater treatment plant is wonderful, she spent her birthday there.*

**Q. ADJOURNMENT**

*Council President Casper adjourned the meeting at 9:32 PM.*

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SUSAN WAHLKE, MAYOR

ATTEST:

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JAMIE YOUNG, CITY RECORDER

# Council Communication

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## Ordinance 2022-23 - ZOA 2022-06 -R-1-RE

Meeting Date:	May 23, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Planning Commission	Secondary Contacts:	AnneMarie Skinner
Approval:	Jamie Young	Estimated Time:	10 minutes

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**Question:** Should the City Council conduct and approve First and Second Reading of Ordinance 2022-23?

### ORDINANCE NO. 2022-23

**AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.17 (SINGLE-FAMILY RESIDENTIAL, ROADS END), SECTION 17.17.070 (LOT REQUIREMENTS), PARAGRAPH D, TO REVISE THE LANGUAGE FOR THE FRONT SETBACK**

#### Staff Recommendation:

Staff recommends Council conduct and approve First Reading and conduct and approve Second Reading and adopt Ordinance 2022-23.

#### 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:

This ordinance was the subject of a public hearing on May 9, 2022. On May 9, 2022 the hearing was closed and the record was closed. After a tie vote on a motion to approve First Reading, the ordinance was continued to May 23, 2022 so that the full Council would be present for consideration of the matter. The ordinance now contains only the staff recommendation (instead of multiple options) and the findings have been modified. If changes are proposed based on further discussion, changes will need to be read or the matter can be continued to a

subsequent meeting to make changes.

This ordinance was a privately initiated text amendment. The intent of the ordinance is to provide some relief from the 20-foot front setback in the R-1-RE zone for elevated decks above 7 feet (allowing for a five-foot reduction in the setback to fifteen feet for elevated decks).

Please note: The R-1-RE already contains a relief provision from the 20-foot front setback in the form of front yard averaging to lots that abut Logan Road - based on lots within 100 feet.

Except that the minimum setbacks from Logan Road need not exceed the average setback of buildings on all lots within 100 feet of the lot on which the proposed building is to be located and that abut Logan Road.

Staff initially recommended removal of the averaging provision in favor of the five-foot reduction allowance for elevated decks. If the averaging provision stays, staff recommends clarification that the lots on the same side of the street within 100 feet be examined with the additional language to require the applicant to pay for a survey when averaging is requested.

#### **Applicant's Proposed Language:**

D. The minimum front yard shall be 20 feet. Except that the minimum setbacks from Logan Road need not exceed the average setback of buildings on all lots within 100 feet of the lot on **the same side of the street** which the proposed building is to be located and that abut Logan Road. **The 20-foot front setback shall not apply to elevated decks that extend from the dwelling wall into the front setback provided that the lowest point of the elevated deck structure is a minimum of seven feet above grade and a minimum 15-foot setback is maintained. Permitted encroaching decks may be either cantilevered (i.e., supported by only the wall of the structure from which it projects), or supported by posts and beams if the posts and beams meet all building code requirements and the posts are within the minimum 15-foot setback.**

#### **Staff's recommended language after Planning Commission:**

D. The minimum front ~~yard setback~~ shall be 20 feet. Except that the minimum setbacks from Logan Road need not exceed the average setback of buildings on all lots within 100 feet of the lot on **the same side of the street** which the proposed building is to be located and that abut Logan Road. **The applicant shall retain the services of an Oregon-licensed land surveyor to prepare and submit a survey, at their sole cost and expense, when averaging is proposed to be used to determine the setback. The 20-foot front setback shall not apply to elevated decks that extend from the dwelling wall into the front setback provided that the lowest point of the elevated deck structure is a minimum of seven feet above grade and a minimum 15-foot setback is maintained. Permitted encroaching decks may be either cantilevered or**

**supported by posts and beams if the posts and beams meet all building and fire code requirements, and the posts and beams are within the minimum 15-foot setback.**

**Planning Commission recommended Language:**

D. The minimum front **yard-setback** shall be 20 feet. Except that the minimum setbacks from Logan Road need not exceed the average setback of buildings on all lots within 100 feet of the lot on **the same side of the street** which the proposed building is to be located and that abut Logan Road. **The applicant shall prepare and submit a survey, at their sole cost and expense, when averaging is proposed to be used to determine the setback.**

**Staff's recommended language prior to Planning Commission- (Note: *this language actually trades the averaging relief from the 20 foot setback for the elevated deck relief*):**

D. The minimum front **yard-setback** shall be 20 feet. ~~Except that the minimum setbacks from Logan Road need not exceed the average setback of buildings on all lots within 100 feet of the lot on which the proposed building is to be located and that abut Logan Road.~~ **The 20-foot front setback shall not apply to elevated decks that extend from the dwelling wall into the front setback provided that the lowest point of the elevated deck structure is a minimum of seven feet above grade and a minimum 15-foot setback is maintained. Permitted encroaching decks may be either cantilevered or supported by posts and beams if the posts and beams meet all building code requirements and the posts and beams are within the minimum 15-foot setback.**

Note: Staff no longer recommends this language due to Measure 49 concerns with elimination of the averaging provision.

Staff's current recommended language (keeping averaging and the 5-foot reduction) is included in the draft ordinance. Other options will need to be read.

**Council Options:**

1. Conduct and approve First Reading. In unanimous, Conduct and approve Second Reading and adopt the ordinance.
2. Continue First Reading to June 2022.
3. Do not proceed with proposed ordinance.

**Potential Motions:**

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

**ORDINANCE NO. 2022-23****AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING),  
AMENDING CHAPTER 17.17 (SINGLE-FAMILY RESIDENTIAL, ROADS END), SECTION  
17.17.070 (LOT REQUIREMENTS), PARAGRAPH D, TO REVISE THE LANGUAGE FOR THE  
FRONT SETBACK**

*Council:*

Motion to approve First Reading of Ordinance 2022-23.

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

*Council:*

Motion to approve Second Reading and adopt Ordinance 2022-23.

**Attachments:**

Ordinance 2022-23 5-16-22 (DOCX)

Ordinance 2022-23 findings ra no markup (DOC)

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**ORDINANCE NO. 2022-23**  
**AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING),**  
**AMENDING CHAPTER 17.17 (SINGLE-FAMILY RESIDENTIAL, ROADS END), SECTION**  
**17.17.070 (LOT REQUIREMENTS), PARAGRAPH D, TO REVISE THE LANGUAGE FOR THE**  
**FRONT SETBACK**

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

**The City Council finds:**

- A. The amendments to the Lincoln City Municipal Code are in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in attached Exhibit "A"; and
- B. The amendments are in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements; and
- C. The City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610, of its consideration of the proposed amendment(s) on March 2, 2022; City staff determined that the amendment does not remove uses from any zone and accordingly did not require a city-wide mailing under ORS 227.186(4); and
- D. The Planning Commission, on April 5, 2022, held a public hearing and considered the amendments contained within this ordinance. On April 5, 2022, the Planning Commission voted to transmit the amendments to the City Council with a recommendation that the ordinance be adopted, with changes removing some of the requested relief from the 20 foot setback; and
- E. The City Council conducted the public hearing on May 9, 2022, closed the hearing, closed the record, and deliberated on the proposed amendments on May 9, 2022. The matter was continued to May 23 2022 for consideration of the full Council following a tie vote; and
- F. All persons were given an opportunity to provide written and/or oral testimony on the proposed ordinance amendments.

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

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

1 D. The minimum front **yard-setback** shall be 20 feet. Except that the minimum setbacks  
 2 from Logan Road need not exceed the average setback of buildings on all lots within 100  
 3 feet of the lot on **the same side of the street** which the proposed building is to be  
 4 located and that abut Logan Road. **The applicant shall retain the services of an**  
 5 **Oregon-licensed land surveyor to prepare and submit a survey, at the applicant's**  
 6 **sole cost and expense, when averaging is proposed to be used to determine the**  
 7 **setback. The 20-foot front setback shall not apply to elevated decks that extend**  
 8 **from the dwelling wall into the front setback provided that the lowest point of the**  
 9 **elevated deck structure is a minimum of seven feet above grade and a minimum**  
 10 **15-foot setback is maintained. Permitted encroaching decks may be either**  
 11 **cantilevered or supported by posts and beams if the posts and beams meet all**  
 12 **building and fire code requirements, and the posts and beams are within the**  
 13 **minimum 15-foot setback.**

14  
 15 **SECTION 2. Findings Adopted.** The findings contained in the Whereas Clauses of this  
 16 ordinance, together with the Findings set forth in Exhibit A, as well as the competent substantial  
 17 evidence in the whole record of this legislative proceeding are incorporated into this section by  
 18 reference as if fully set forth herein, and are adopted in support of this legislative action.

19  
 20 **SECTION 3. Severability.** The sections, subsections, paragraphs and clauses of this ordinance  
 21 are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the  
 22 validity of the remaining sections, subsections, paragraphs and clauses.

23  
 24 **SECTION 4. Ordinance Effective Date.** Pursuant to Chapter IX, Section 9.3, this ordinance  
 25 takes effect 30 days after the date of its adoption.

26  
 27 **SECTION 5. Codification.** Provisions of this Ordinance shall be incorporated in the City of  
 28 Lincoln City Municipal Code and the word "ordinance" may be changed to "code", "article",  
 29 "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or  
 30 re-lettered, provided that any Whereas clauses and boilerplate provisions (i.e. Sections 2-5) need  
 31 not be codified and the City Recorder is authorized to correct any cross-references and any  
 32 typographical errors.

33  
 34 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section  
 35 9.2 of the City of Lincoln City Charter on the 23<sup>rd</sup> day of May, 2022 (First Reading) and on the  
 36 23<sup>rd</sup> day of May, 2022 (Second Reading).

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1 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 23<sup>rd</sup> day of May,  
2 2022.

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SUSAN WAHLKE, MAYOR

ATTEST:

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JAMIE YOUNG, CITY RECORDER

APPROVED AS TO FORM:

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RICHARD APPICELLO, CITY ATTORNEY

## ORDINANCE 2022-23 EXHIBIT A – FINDINGS

Procedural Posture:

The above-referenced privately-initiated proposed ordinance was properly noticed pursuant to ORS 197.610. The ordinance proposes an amendment to front setback provisions in Chapter 17.17 Single-Family Residential, Roads End (R-1-RE). Accordingly all property owners in R-1-RE were mailed notice of the public hearings before the Planning Commission and Council on March 15, 2022. Notice to DLCD was made on March 2, 2022. Notices for the public hearings before Council and the Planning Commission were also published in the local newspaper on March 22, 2022, and March 29, 2022.

The substance of the proposed amendment, with changes as recommended by staff before Council on May 23, 2022 is as follows:

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

D. The minimum front **yard-setback** shall be 20 feet. Except that the minimum setbacks from Logan Road need not exceed the average setback of buildings on all lots within 100 feet of the lot on **the same side of the street** which the proposed building is to be located and that abut Logan Road. **The applicant shall retain the services of an Oregon-licensed land surveyor to prepare and submit a survey, at the applicant's sole cost and expense, when averaging is proposed to be used to determine the setback. The 20-foot front setback shall not apply to elevated decks that extend from the dwelling wall into the front setback provided that the lowest point of the elevated deck structure is a minimum of seven feet above grade and a minimum 15-foot setback is maintained. Permitted encroaching decks may be either cantilevered or supported by posts and beams if the posts and beams meet all building and fire code requirements, and the posts and beams are within the minimum 15-foot setback.**

In sum, Ordinance 2022-23 provides clarification to the averaging option for the front setback requirement in the R-1-RE zone by specifying that the averaging applies to buildings on the same side of the street as the subject property and the amendment adds a requirement for a survey of the setback distances (at the sole expense of the applicant), if the average option is chosen. The ordinance also adds an allowance to encroach into the 20 foot front setback up to five feet with an elevated deck (at least 7 feet above grade). The deck may be cantilevered or supported by posts, subject to compliance with building and fire codes.

The Planning Commission recommended approval of the clarification of the averaging provisions but did not recommend the reduction to 15 feet for elevated decks. The Commission cited aesthetics and public participation as reasons for the negative portion of the recommendation. Notwithstanding the Commission's recommendation, the City Council finds and determines that the aesthetics and public participation goals are not violated by the proposed amendment as more particularly described herein.

The findings in support of the application as contained in the applicant's submittal and supplemental materials, the Planning Commission staff report, and the City Council staff report, together with other correspondence from staff, are hereby incorporated herein by this reference.

Rejection of certain comments by opponents:

At both the Planning Commission and Council hearings, written and oral comments were received from opponents, specifically in opposition to the applicant's requested 5-foot setback reduction for elevated decks. The comments reflect some confusion and perhaps disinformation regarding the scope of the proposed amendment (one characterized the change as building up to the property line). Specific allegations concerning compliance with Goals and Plan Policies will be addressed below; however, two general allegations are summarily addressed here.

First, several individuals alleged wrongdoing on the part of the private applicants for this text amendment. The gist of the comments was that the requested text amendment must be denied and the applicant's punished because the applicants had violated the code, among other things. Staff notified the Council and Commission that there exists no code provision disqualifying applicants who have previously violated the code from submitting a text amendment. At best, such testimony is irrelevant; at worst, such testimony is prejudicial. The Planning Commission recommendation included a finding that expressly rejected such testimony:

The Planning Commission expressly rejects as a basis for this recommendation the inappropriate personal attacks on the applicant made by several citizens providing public comment.

The City Council concurs with the Planning Commission. A private applicant for a text amendment to the Lincoln City Municipal Code is entitled to a full and fair hearing on the legislative proposal. No provision of the code disqualifies such applications. The Council does not use legislative text amendment processes to punish individuals who have violated the Code. Code enforcement processes exist to achieve compliance and have been appropriately utilized. The Council finds and determines that such personal attacks and requests to punish the applicants are irrelevant and prejudicial and are expressly rejected as contrary to due process.

Second, several individuals alleged or implied that there is a contract between the City of Lincoln City and Roads End residents and groups. The gist of the comments are that the Council cannot change or modify the R-1-RE zoning and that the Council promised that the zoning would remain different. Staff notified the Council that enacting legislation (including an amendment) is an exercise of the City's police power and is expressly authorized by the City Charter, Oregon Statutes, Administrative Rules, the Comprehensive Plan and Municipal Code. Moreover, the Council may not "contract away the police power", which would improperly binding future City Councils.

It is undisputed that the annexation of Roads End was contentious, and resulted in litigation. It is undisputed that the City agreed to delay rezoning by five years and that there was a great deal of public participation in the rezoning effort. It is also clear, that that effort does not become a contract or promise to never change the zoning. This amendment was privately- initiated as authorized by the Code. In fact, examination of the codified municipal code shows the City has already amended the R-1-RE zone, five times since 2017: Ordinances 2019-21; 2019-24; 2020-03; 2020-13, & 2020-14. The Council finds and determines that the City's exercise of the police power in amending the R-1-RE is not burdened by any contract not to amend the R-1-RE with Roads End residents or organizations.

**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. (Ord. 2020-15 § 2)

**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."*

The City's Code implements the requirements of Oregon Statutes, the Administrative Rules, and the Comprehensive Plan as it relates to citizen involvement. Text amendments under LCMC 17.77.130 are processed as Type IV proceedings under LCMC 17.76.060. Accordingly, 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. Notices of the public hearings were mailed to all property owners in the R-1-RE zone and neighborhood associations on March 15, 2022. The planning commission and city council each held a public hearing at which citizens were invited to participate in person, in writing and if necessary by telephone. Citizens participated in writing and in person before the Planning Commission on April 5, 2022 and before Council on May 9, 2022. Written comments were accepted while the record was open. Therefore, the amendment is consistent with Goal 1. The findings under Lincoln City Comprehensive Planning Goal 2 (citizen involvement goal) are incorporated herein by this reference.

- (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 and does not adversely affect opportunities for a variety of economic activities. The amendment is consistent with Goal 9 or is not applicable.

(10) Goal 10: Housing

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

The amendment does not relate to providing housing and does not adversely impact provisions for opportunities to provide housing. Goal 10 is not applicable.

(11) Goal 11: Public Facilities and Services

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

The amendment does not relate directly to public facilities and services. 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.

Opponents assert that this goal is violated because it does not promote the general welfare. Opponents cite the number of comments opposed to the amendment as proof that the amendment is not for the general welfare. Closer examination of the comments reveals many requests for more information and several mischaracterizations of the proposal. The Council finds and determines that the general welfare is not determined merely by counting opponents; it is a determination by the governing body that the legislative proposal has a valid public purpose and that it is not contrary to adopted policies and laws. The Council finds and determines that the modest adjustment to the R-1-RE front setback will facilitate development of elevated decks in the zone, adding a desirable architectural feature to the zone and bringing the zone closer to allowances for such features previously permitted under county zoning.

## (2) Citizen Involvement Goal

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

The findings of compliance under Statewide Planning Goal 1 (citizen involvement) are incorporated herein by this reference. The City has developed a citizen involvement program. With the adoption of Measure 56, text amendment proposals impacting the text of the R-1-RE are sent to all owners with R-1-RE zoning. Notice was also sent to official associations. In addition, the existing public hearing process, conducted in accordance with the Code, provides notice and an opportunity to be heard to the public. Meetings are noticed through publication in the local newspaper, website agendas and materials, and written notice. Finally review of the amendment by the Planning Commission (a citizen board) and separately by the City Council (elected citizen representatives) affords an opportunity for written and oral comments to be submitted

by interested parties and groups. Compliance with statutory and code established public processes established conformance with this goal.

Opponents, including the Roads End Improvement Association, argue Goal 1 is violated because this "major code change" did not have community meetings separate and apart from the public hearings before Council and the Planning Commission. In other correspondence REIA admits "this goal is technically met." Council finds and determines that the amendment is not a "major change" to the R-1-RE zoning; the change includes clarification of a measurement (100 foot averaging) and a text amendment to authorize a five foot encroachment into the front setback for elevated decks. These changes do not require community meetings separate and apart from the required public hearing. Such community meetings are not required; in the past extensive community participation occurred in the development of a new zoning chapter; small changes do not warrant such process. Notwithstanding this complaint, REIA identifies in the record that the Planning Director attended a REIA Saturday meeting, and covered the proposed amendment in her presentation.

#### (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 relate to housing and does not adversely impact provisions for opportunities to provide housing. This goal is not applicable.

Opponents argue this amendment violates the Housing Goal "to protect residential areas from incompatible development." The allowance for a 5 foot encroachment into the 20 foot front setback for a deck above seven feet is not incompatible development; it is compatible residential development; the modest lessening of the front setback facilitates some use of the front setback area for an aesthetic feature. The Council finds and determines that the reference policy on incompatible development concerns encroachment of commercial uses (like VRDs) into residential areas, not minor adjustments to front setbacks to permit elevated decks on residences. The Council extensively used this incompatible development policy to justify its treatment of vacation rentals as accessory uses in residential zones in Ordinances 2014-21, 22, & 23. The proposed use of the policy to quash a privately initiated amendment processed by a property owner is inappropriate.

Opponents extensively rely on the purpose statement of the R-1-RE:

To retain and maintain the historic and traditional nature of the Roads End neighborhood, to promote and encourage a suitable environment for family living and to protect and stabilize the residential characteristics of the area."

While the purpose statement reflects protection and stabilization of residential areas from encroachment by commercial development, the Council finds and determines that it does not mean that legislative efforts to make the District more inclusionary (by reducing certain impediments to development) are incompatible with the purpose. While the modest amendment proposed in this amendment only lessens a small impediment to development, (only authorizing elevated decks), such efforts are part of larger efforts to re-evaluate land use restrictions to facilitate inclusion.

#### (7) Economy Goal

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

The amendment does not relate to economic development or the tourist industry. This goal is not applicable.

#### (8) Aesthetic Goal

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

The amendment does not relate directly to aesthetics. This goal is either not applicable or is met. The aesthetics of Roads End development can be enhanced with such architectural features, such as the proposed modest allowance for an elevated deck.

Opponents argue that the aesthetics goal in the comprehensive plan is not met. The amendment would authorize elevated decks which would extend five feet into the 20 foot front setback. REIA argues this amendment is an "egregious trespass in the aesthetics of the historic neighborhood in Roads End." REIA and others also argue the amendment will create encroachments that could affect the privacy of neighbors and bring greater density in Roads End. The Council finds and determines that this is a modest amendment to the front setback and it is not contrary to the aesthetic goal; in addition, the proposed amendment will not adversely impact privacy (as the allowance for decks concerns the front (street side) setback not the interior side yard. Further while elevated decks do not change density, increased density is a goal in any inclusive zoning district. The Council's recent zoning amendment to allow duplexes in R-1-RE demonstrates that objective. The Council finds and determines that while elevated decks are not on the list of architectural features, [LCMC 17.17.100], a modest allowance for elevated decks, as presented here, does further the aesthetics goals by adding character to the façade of the building. REIA's objections are not well founded; the argument that the requested allowance for an elevated deck is not consistent with the "maintain the historical" purpose of the R-1-RE ignores that the deck to be rebuilt on the private applicant's property existed between 1997 and 2015, as it was permitted "historically" under County regulations. The Council expressly finds and determines that the purpose statement of the R-1-RE is not a command to leave the zone unamended, but rather recognition that the area developed extensively under County zoning and that nonconformity with City residential zones is recognized. This amendment is consistent with recognizing the County's historical allowances for such elevated decks. To the extent the Planning Commission based its denial on violation of the aesthetics goal, the Council expressly rejects that finding of the Planning Commission.

(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.

Opponents argue that the overall environmental goal is violated by this amendment which would authorize elevated decks which would extend five feet into the existing 20 foot front setback. REIA argues such decks do not enhance the Roads End community. The Council finds and determines that the Overall Environmental Goals concerns the "natural environment". The amendment concerns elevated decks in the 20 foot front setback area and does not impact the natural environment. The policy concerns balance; this modest amendment to facilitate elevated decks does not disrupt the balance already achieved under existing regulations.

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

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

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

# Council Communication

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## Public Hearing Property Tax Abatement

Meeting Date: May 23, 2022	Primary Staff Contact: Richard Appicello
Department: City Attorney	E-Mail: RAppicello@lincolncity.org
Secondary Dept:	Secondary Contacts:
Approval:	Estimated Time: 10 minutes

---

### Question:

Should the City Council approve Ordinance 2022-27 (later on Agenda)?

### Staff Recommendation:

Staff recommends Council conduct the Public Hearing and thereafter approve Ordinance 2022-27 later on this Agenda:

### ORDINANCE NO. 2022-27

**AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 3(REVENUE AND FINANCE), ADDING A NEW CHAPTER 3.20 (MULTIPLE UNIT PROPERTY TAX EXEMPTION), TO ESTABLISH A PROGRAM FOR PROPERTY TAX EXEMPTION FOR MULTIPLE-UNIT AFFORDABLE HOUSING PURSUANT TO STATE LAW.**

### Background:

Council adopted this tax abatement in 1994 with Resolution 94-29. This ordinance codifies that adoption and updates it. Supporting materials for this public hearing appear later on this Agenda under ordinance 2022-27.

### Council Options:

1. Conduct the public hearing.
2. Approve Ordinance 2022-27, with or without modifications.
3. Postpone for additional information.
4. Do not approve Ordinance 2022-27.

**Potential Motions:**

See Ordinance 2022-27 on this Agenda.

## Council Communication

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### Ordinance 2022-27 Property Tax Abatement

Meeting Date:	May 23, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:		Estimated Time:	5 minutes

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#### Question(s):

Should the City Council conduct and approve First and Second Reading of Ordinance 2022-27 entitled:

#### **ORDINANCE NO. 2022-27**

**AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 3 (REVENUE AND FINANCE), ADDING A NEW CHAPTER 3.18 (NONPROFIT CORPORATION LOW INCOME HOUSING TAX EXEMPTION PROGRAM), TO ESTABLISH A PROGRAM FOR PROPERTY TAX EXEMPTION FOR LOW INCOME HOUSING PROVIDERS PURSUANT TO STATE LAW.**

#### Staff Recommendation:

Staff recommends Council conduct First Reading of Ordinance 2022-27 and, *if unanimous*, Conduct and approve Second Reading. Any changes must be read.

#### Authority:

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

#### Background:

The city adopted Resolution 94-29 on September 26, 1994. This Resolution adopted ORS 307.540 through ORS 307.547 and established a program for processing property tax exemptions for low income housing.

In 1994 the City did not adopt any City criteria for the exemption. Such requirements are expressly authorized by statute. ORS 307.541 provides, in pertinent part:

(f) The information disclosed on the application filed pursuant to ORS 307.545 meets any other criteria adopted by the governing body.

(2) A governing body that adopts the provisions of ORS 307.540 to 307.548 may adopt additional criteria for exemption that do not conflict with the criteria described in subsection (1)(a) to (e) of this section.

In addition, after 1985, cities have been able to change their adopted definition of low income:

(2) According to the election of a governing body pursuant to ORS 307.543 (1), "low income" means:

(a) Income at or below 60 percent of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development;

(b)(A) For the initial year that persons occupy property for which an application for exemption is filed under ORS 307.545, income at or below 60 percent of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development; and

(B) For every subsequent consecutive year that the persons occupy the property, income at or below 80 percent of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development; or

(c) For housing units on property that is awarded tax credits through the federal Low-Income Housing Tax Credit program and is a qualified low-income housing project meeting the requirements of 26 U.S.C. 42(g)(1)(C), income at or below 80 percent of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development, provided the average area median income of all housing units on the property is at or below 60 percent of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development. [1985 c.660 §1; 1993 c.168 §7; 2005 c.94 §39; 2015 c.141 §1; 2015 c.180 §45; 2021 c.528 §5] (staff recommendation in Ordinance)

The attached ordinance is modeled after Forest Grove's ordinance which imposed only modest city requirements (criminal history). [3.18.020(A)(5)].

Council could choose a reasonable period of time for the exemption to expire. Forest Grove did establish a six-year limit on the exemption; however, city staff tied the length of the extension to any affordability covenant for the property, subject to statutory authorization (currently expires in 2027).

**Financial Impact:**

Non-taxable city property to be conveyed to affordable housing provider will not be subject to property taxation provided compliance with the limitations in the ordinance and statute are met.

**Council Options:**

1. Conduct and approve First Reading. Read changes, if any. Conduct and Approve Second Reading and Adopt the Ordinance.
2. Conduct and approve First Reading. Read changes, if any. Continue Second Reading to June 13, 2022 [or]
3. Continue First Reading to June 13, 2022.

**Potential Motions:**

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

**ORDINANCE NO. 2022-27**

**AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE,  
TITLE 3 (REVENUE AND FINANCE), ADDING A NEW CHAPTER 3.18 (NONPROFIT  
CORPORATION LOW INCOME HOUSING TAX EXEMPTION PROGRAM), TO  
ESTABLISH A PROGRAM FOR PROPERTY TAX EXEMPTION FOR LOW INCOME  
HOUSING PROVIDERS PURSUANT TO STATE LAW.**

Motion to approve First Reading of Ordinance 2022-27.

*If unanimous: City Attorney conducts Second Reading*

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

*Council:*

1. Motion to approve Second Reading and adopt Ordinance 2022-27.

**[or]**

2. Motion to set Second Reading for June 13, 2022.

**Attachments:**

Ordinance 2022-27 Corrected May 16 2022 (DOCX)

**ORDINANCE NO. 2022-27**

**AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE,  
TITLE 3(REVENUE AND FINANCE), ADDING A NEW CHAPTER 3.18 (NONPROFIT  
CORPORATION LOW INCOME HOUSING TAX EXEMPTION PROGRAM), TO ESTABLISH A  
PROGRAM FOR PROPERTY TAX EXEMPTION FOR LOW INCOME HOUSING PROVIDERS  
PURSUANT TO STATE LAW.**

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

**The City Council finds:**

The Oregon legislature created the Non-Profit Corporation Low Income Tax Exemption in 1985 to increase the supply of affordable husing in the State; and

The Oregon Legislature adopted and the Governor signed SB 503, codified as ORS 307.540 to 307.548, pertaining to the Non-Profit Low-Income Housing Tax Exemption; and

The Lincoln City City Council has previously adopted goals and objectives related to affordable housing, including adoption of Resolution 94-29 which adopted ORS 307.540 through 307.547 and established a process for exemption from property tax for non-profit corporations providing low-income housing; and

The City Council desires to create housing policy that supports a diverse housing stock for all of the City's residents; and

The City Council wishes to amend the Lincoln City Municipal Code to establish and codify a Non-Profit Corporation Low-Income Housing Tax Exemption program, as authorized by ORS 307.540 to 307.548, to increase the supply of affordable housing; and

The City Council held a public hearing on May 23, 2022, and, after considering public testimony, and information contained in the record, voted to adopt the amendments; and

The City Council finds and determines tht the proposed amendments are consistent with ORS 307.540 to 307.548.

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

**SECTION 1.** Chapter 3.18 (*Non-Profit Corporation Low Income Housing Tax Exemption*) is hereby added to the Lincoln City Municipal Code, as follows:

1           **NON-PROFIT CORPORATION LOW-INCOME HOUSING TAX EXEMPTION**

2

3           **3.18.005 DEFINITIONS**

4

5           **DEBARMENT.** Action taken by a debarring official under federal or state law to  
6           exclude a contractor from government contracting and government-approved  
7           subcontracting for a reasonable, specified period.

8

9           **GOVERNING BODY.** City of Lincoln City City Council.

10

11           **LOW-INCOME.** For housing units on property that is awarded tax credits through the  
12           federal Low-Income Housing Tax Credit program and is a qualified low-income  
13           housing project meeting the requirements of 26 U.S.C. 42(g)(1)(C), income at or below  
14           80 percent of the area median income as determined by the Oregon Housing Stability  
15           Council based on information from the United States Department of Housing and  
16           Urban Development, provided the average area median income of all housing units on  
17           the property is at or below 60 percent of the area median income as determined by the  
18           Oregon Housing Stability Council based on information from the United States  
19           Department of Housing and Urban Development.

20

21           **3.18.010 ADOPTION.**

22

23           The Lincoln City City Council hereby ratifies the adoption of Resolution 94-29 and  
24           hereby re-adopts ORS 307.540 through ORS 307.548 (2021). Applications for  
25           exemption shall be accepted in accordance with the provisions of the Act and  
26           determination shall be made by the City governing body under the provisions of the  
27           Act whether or not the applicant qualifies for the exemption.

28

29           **3.18.020 NON-PROFIT CORPORATION LOW-INCOME HOUSING EXEMPTION;  
30           CRITERIA**

31

32           (A)     The governing body shall use the following criteria to determine whether  
33           property is exempt from ad valorem property taxation as provided in this section. The  
34           corporation must meet all of the criteria below to be granted a tax exemption:

35

36                     (1)     The property is owned or being purchased by a corporation  
37                     described in Section 501(c)(3) or (4) of the Internal Revenue Code that is exempt  
38                     from income taxation under 501(a) of the Internal Revenue Code.

39

40                     (2)     Upon liquidation, the assets of the corporation are required to be  
41                     applied first in payment of all outstanding obligations, and the balance remaining,  
42                     in cash and in kind, to be distributed to corporations exempt from taxation and  
43                     operated exclusively for religious, charitable, scientific, literary or educational  
44                     purposes or to the State of Oregon.

1 (3) The property is:

2  
3 a. Occupied by low-income persons; or

4  
5 b. Held for the purpose of developing low-income housing for a  
6 reasonable period of time, not to exceed the duration of any affordability  
7 covenant burdening the property and subject to the authorization  
8 limitations of the statute, as it may be amended.

9  
10 (4) The property or portion of the property receiving the exemption is  
11 actually and exclusively used for the purposes described in Section 501(c)(3)  
12 or (4) of the Internal Revenue Code.

13  
14 (5) The corporation:

15  
16 a. Is not presently debarred, suspended, proposed for  
17 debarment, or declared ineligible by any Federal or State agency;

18  
19 b. Has not, within the three-year period preceding the application ,  
20 been convicted of or had a civil judgment rendered against it for commission  
21 of fraud or a criminal offense in connection with obtaining, attempting to  
22 obtain, or performing a public transaction or contract under a public  
23 transaction; or been convicted of any Federal or State statutes of embezzlement  
24 theft, forgery, bribery, falsification, destruction of records, making false  
25 statements, receiving stolen property, or any other offense indicating a lack of  
26 business integrity or business honesty; and

27  
28 c. Is not presently indicted for or otherwise criminally or civilly  
29 charged by a Federal, State, or local government entity with commission of any  
30 of the offenses enumerated in subsection (A)(5)(b) of this section.

31  
32 (B) In applying the criteria identified in subsection A of this section to determine  
33 whether the property qualifies for exemption, the governing body may consider any  
34 information provided by the corporation regardless of whether that information was  
35 included in the application or was otherwise provided by the corporation. If the  
36 corporation does not complete the application as provided under 3.18.030, however,  
37 then the governing body may reject the application.

38  
39 (C) For purposes of subsection A of this section, a corporation that only has a  
40 leasehold interest in property is deemed to be a purchaser of that property if:

41  
42  
43  
44 (1) The corporation is obligated under the terms of the lease to pay the ad

1 valorem taxes on the real and personal property used in this activity on that property;  
2 or

3  
4 (2) The rent payable by the corporation has been established to reflect the  
5 savings resulting from the exemption from taxation.

6  
7 (D) A partnership shall be treated the same as a corporation to which this section  
8 applies if the corporation is:

9  
10 (1) A general partner of the partnership; and

11  
12 (2) Responsible for the day to day operation of the property that is the  
13 subject of the exemption.

14  
15 **3.18.030 APPLICATION FOR EXEMPTION**

16  
17 (A) To seek the exemption provided by 3.18.020, the corporation shall file an  
18 application for exemption with the City for each assessment year the corporation wants  
19 the exemption.

20  
21 (B) The application shall be filed on or before March 1 of the assessment year for  
22 which the exemption is applied for, unless the property designated is acquired after  
23 March 1 and before July 1. If the property designated is acquired after March 1 and  
24 before July 1, the claim for that year shall be filed within 30 days after the date of  
25 acquisition.

26  
27 (C) The application shall include the following information as applicable:

28  
29 (1) A description of the property for which the exemption is requested;

30  
31 (2) A description of the charitable purpose of the project and whether all  
32 or a portion of the property is being used for that purpose;

33  
34 (3) A certification of income levels of low-income occupants;

35  
36 (4) A description of how the tax exemption will benefit project residents;

37  
38 (5) A description of the development of the property if the property is  
39 being held for future low-income housing development;

40  
41  
42  
43 (6) A declaration certifying that the corporation has been granted

1 exemption from income taxation under Section 501(a) of the Internal Revenue  
2 Code as an organization described in Section 501(c)(3) or 501(c)(4) of the Internal  
3 Revenue Code; and

4  
5 (7) A certification that the corporation meets the criteria provided for in  
6 3.18.020(A)(5).

7  
8 (D) The applicant shall verify the information in the application by oath or  
9 affirmation.

10  
11 **3.18.040 DETERMINATION OF ELIGIBILITY FOR EXEMPTION; NOTICE TO COUNTY**  
12 **ASSESSOR**

13  
14 (A) Except as otherwise provided in subsection B of this section, within 30 days  
15 of the filing of an application under 3.18.030, the governing body shall determine  
16 whether the applicant qualifies for the exemption granted under 3.18.020. If the  
17 governing body determines the applicant qualifies, then the governing body shall  
18 certify to the County Assessor that all or a portion of the property shall be exempt  
19 from taxation under the levy of the certifying governing body.

20  
21 (B) If the governing body has previously determined that the applicant qualified  
22 for the exemption granted under this chapter, then the governing body shall use  
23 the criteria that were in place when the applicant was first granted the exemption  
24 for the property, including if desired, the definition of low income housing, each  
25 year the applicant reapplies for the exemption.

26  
27 (C) Upon receipt of certification under subsection A of this section, the County  
28 Assessor shall exempt the property from taxation to the extent certified by the  
29 governing body.

30  
31 **3.18.050 TERMINATION OF EXEMPTION**

32  
33 (A) If the City determines that property that has received an exemption under  
34 this chapter in anticipation of future development of low-income housing is  
35 being used for any purposes other than the provision of low-income housing, or  
36 that any provision of this chapter is not being complied with, the City shall give  
37 notice of the proposed termination of the exemption to the owner by mailing  
38 the notice to the last known address of the owner, and to every known lender by  
39 mailing the notice to the last known address of every known lender. The notice  
40 shall state the reasons for the proposed termination and require the owner to  
41 appear at a specified time, not less than 20 days after mailing the notice, to show  
42 cause, if any, why the exemption should not be terminated.

43  
44 (B) If the owner fails to appear and show cause why the exemption should not

1 be terminated, the City shall notify every known lender, and shall allow any lender  
2 not less than 30 days after the date the notice of failure to appear and show  
3 cause is mailed to cure any noncompliance or to provide adequate assurance to  
4 the governing body that all noncompliance shall be remedied.

5  
6 (C) If the owner fails to appear and show cause why the exemption should not  
7 be terminated, and the lender fails to cure or give adequate assurance of the cure  
8 of noncompliance , the governing body shall adopt a resolution stating its findings  
9 that terminate the exemption. A copy of the resolution shall be filed within 10 days  
10 after its adoption with the County Assessor, and a copy shall be sent to the owner  
11 at the owner's last known address and to the lender at the last known address of  
12 the lender within 10 days of its adoption.

13  
14 (D) Upon the County Assessor's receipt of the governing body's termination  
15 findings:

16  
17 (1) The exemption granted to the housing unit or portion under this  
18 chapter shall terminate immediately, without right of notice or appeal;

19  
20 (2) The property shall be assessed and taxed as other property  
21 similarly situated is assessed and taxed;

22  
23 (3) Notwithstanding ORS 311.235, there shall be added to the  
24 general property tax roll, for the property in question, for the tax year next  
25 following the presentation or discovery, to be collected and distributed in  
26 the same manner as other real property tax, an amount equal to the  
27 difference between the taxes assessed against the property and the taxes  
28 that would have been assessed against the property had it not been exempt  
29 under this chapter for each of the years, not to exceed the last 10 years,  
30 during which the property was exempt from taxation under this chapter.

31  
32 (4) The assessment and tax rolls shall show potential additional tax  
33 liability for each property granted an exemption under this chapter because the  
34 property is being held for future development of low-income housing.

35  
36 (5) Additional taxes collected under this section shall be deemed to have  
37 been imposed in the year to which the additional taxes relate.

38  
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41  
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43  
44

**3.18.060 DELEGATION OF ADMINISTRATIVE AUTHORITY**

1  
2 (A) The governing body hereby delegates to the City Manager, or designee, all  
3 authority necessary to make all determinations and otherwise administer the provisions  
4 of this chapter, excepting determinations and actions required to be made or taken by  
5 the governing body pursuant to 3.18.050.  
6

7 **SECTION 2. Findings Adopted.** The findings contained in the Whereas Clauses of this  
8 ordinance, together with the Findings set forth in Exhibit A, as well as the competent substantial  
9 evidence in the whole record of this legislative proceeding are incorporated into this section by  
10 reference as if fully set forth herein, and are adopted in support of this legislative action.  
11

12 **SECTION 3. Severability.** The sections, subsections, paragraphs and clauses of this ordinance  
13 are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the  
14 validity of the remaining sections, subsections, paragraphs and clauses.  
15

16 **SECTION 4. Savings.** Notwithstanding the amendment to this Title, the existing Title remains  
17 valid and in full force and effect for purposes of all criminal, civil or administrative code  
18 enforcement cases or land use actions or applications filed or commenced during the time said  
19 ordinances were operative. Nothing in this Ordinance affects the validity of prosecutions  
20 commenced and continued under the laws in effect at the time the matters were originally filed.  
21

22 **SECTION 5. Ordinance Effective Date.** Pursuant to Chapter IX, Section 9.3, this ordinance  
23 takes effect 30 days after the date of its adoption. The Exemption described in Chapter 3.18  
24 already has documented support the County and the School District whose combined levying  
25 authority with the city on a typical Lincoln City property exceeds 51 percent.  
26

27 **SECTION 6 Codification.** Provisions of this Ordinance shall be incorporated in the City of  
28 Lincoln City Municipal Code and the word "ordinance" may be changed to "code", "article",  
29 "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or  
30 re-lettered, provided that any Whereas clauses and boilerplate provisions (i.e. Sections 2-6) need  
31 not be codified and the City Recorder is authorized to correct any cross-references and any  
32 typographical errors.  
33

34 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section  
35 9.2 of the City of Lincoln City Charter on the 23<sup>rd</sup> day of May, 2022 (First Reading) and on the  
36 23<sup>rd</sup> day of May, 2022 (Second Reading).  
37  
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43

44 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 23<sup>rd</sup> day of May, 2022.

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

ATTEST:

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

APPROVED AS TO FORM:

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

# Council Communication

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## Resolution 2022-16 SDC Deferral - Helping Hands

Meeting Date:	May 23, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Administration	Secondary Contacts:	Daphnee Legarza
Approval:	Jamie Young	Estimated Time:	10 minutes

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### Question:

Should the City Council approve Resolution 2022-16 entitled:

### RESOLUTION NO. 2022-16

**A RESOLUTION OF THE CITY OF LINCOLN CITY IMPLEMENTING LCMC 13.08.095 REGARDING DEFERRAL OF SYSTEM DEVELOPMENT CHARGES; APPROVING AN APPLICATION BY HELPING HANDS RE-ENTRY OUTREACH CENTER FOR THE DEFERRAL OF PAYMENT OF SYSTEM DEVELOPMENT CHARGES FOR DEVELOPMENT OF THE TRANSITIONAL HOUSING FACILITY AND USES DESCRIBED IN CONDITIONAL USE APPROVAL 2019-04 (DECEMBER 17, 2019) ON REAL PROPERTY IDENTIFIED AS 3454 NE HIGHWAY 101 AND 2201 NE 34TH STREET, LINCOLN CITY, OREGON.**

### Staff Recommendation:

Staff recommends approval of Resolution 2022-16.

### Authority:

#### 13.08.095 Deferrals.

*A. The city council may approve an application for deferral of the requirement to pay systems development charges, or for continuation of an approved deferral, for a qualified entity that meets all the following criteria:*

- 1. The use proposed by the applicant fits within a type of use identified by the city council by resolution as lacking in the city and urgently needed, such as child care;*
- 2. The use serves a widespread community need, as identified by the applicant;*
- 3. The deferral applicant is a nonprofit corporation, or any agency or subdivision of the federal, state or local government, or a private entity that has committed to the proposed use*

*in a binding executed agreement with the city (e.g., a 30-year affordability covenant for workforce housing);*

*4. The applicant demonstrates the need for financial support to develop the use;*

*5. The applicant demonstrates local support for the use, such as through fundraising for the use;*

*6. The development will occur on property located within the city limits;*

*7. The applicant agrees to enter into an agreement to pay systems development charges if the city approves the application.*

*B. An application for deferral of payment of systems development charges or a continuation of a deferral shall be submitted to the city manager for review. The city manager shall review the application and make a recommendation to the city council, which in its discretion may approve or deny the application, decline to take action, or take other action such as requesting additional information.*

*C. Any approval of an application for deferral or continuation of a deferral under this section shall be contingent on the city and the applicant entering into an agreement in which the applicant acknowledges the terms of the deferral and agrees to pay systems development charges in the amount calculated at the time the use no longer qualifies for deferral, as specified in subsection (D) of this section. If the applicant is not the property owner, the property owner will be required to consent to the deferral application and sign the agreement. The agreement shall be recorded and shall run with the land.*

*D. The deferral will apply until such time as a new use occupies the building that was constructed in conjunction with an approved deferral. If the new use would not meet the application criteria to qualify for continuation of the deferral of system development charges, prior to use or occupancy of the facility by a new use all applicable system development charges shall be paid. The system development charges owed will be based on the approved schedule and methodology of system development charges in effect for the new use at the time of occupancy.*

*E. The city council may approve a deferral of payment of systems development charges under this section for up to 10 years, with possible extensions of time as approved by the city council, provided the use continues to qualify for deferral. (Ord. 2016-01 § 2; Ord. 2011-05 § 1)*

## **Background**

Legal counsel for Helping Hands Re-Entry Outreach Centers submitted an application to the Lincoln City City Council for deferral of system development charges pursuant to LCMC 13.08.095. Per the LCMC 13.08.095.B., the application materials have been forwarded to the City Manager for review and recommendation.

## **Analysis**

**The city council may approve an application for deferral of the requirement to pay systems development charges, or for continuation of an approved deferral, for a qualified entity that meets all the following criteria:**

**1. The use proposed by the applicant fits within a type of use identified by the city council by resolution as lacking in the city and urgently needed, such as child care;**

The City Council approved Resolution 2020-02, which authorized, *inter alia*, the conveyance of a \$400,000 property to the applicant specifically because the Council desired the establishment of the uses proposed by the applicant in Conditional use approval 2019-04:

*The Council finds and determines that this proposal to sell / convey the subject property to "Helping Hands Re-Entry Outreach Centers," a "Qualifying non-profit corporation" meets all applicable statutory minimum criteria for eligibility to sell real property, as more fully set forth herein. Further the City Council finds and determines that the proposed disposition of real property is deemed "necessary or convenient" to the City, and "furthers the public interest" as the sale will further the City Council's desire to provide the services described in approved CUP 2019-04 to the City of Lincoln City's homeless population. The Council further finds and determines that the property identified herein is not necessary for City use. The findings herein are supported by competent substantial evidence in the whole record, incorporated herein by this reference.*

The criterion is met.

**2. The use serves a widespread community need, as identified by the applicant;**

The uses identified in the 2019 Conditional Use Approval (2019-04) address a widespread community need for homeless sheltering and residential transitional services (including training) for the Lincoln City community; Resolution 2020-02 and associated deed, notes, and security instruments require provision of such services to the Lincoln City Community. The criterion is met.

**3. The deferral applicant is a nonprofit corporation, or any agency or subdivision of the federal, state or local government, or a private entity that has committed to the proposed use in a binding executed agreement with the city (e.g., a 30-year affordability covenant for workforce housing);**

The deferral applicant Helping Hands Re-Entry Outreach Centers is a 501(c)(3) Oregon Non-Profit. See Oregon Secretary of State Corporations Division Registration No. 638900-90. The above referenced Resolution and associated deed, notes and security instruments require provision of the proposed use or the property will revert to City ownership. The criterion is met.

**4. The applicant demonstrates the need for financial support to develop the use;**

The deferral applicant Helping Hands Re-Entry Outreach Centers is a 501(c)(3) not-for-profit organization supported by community donations. Financial need is apparent.

The criterion is met.

**5. The applicant demonstrates local support for the use, such as through fundraising for the use;**

The applicant asserts that it operates eleven (11) "transitional housing" and training facilities in Oregon. The applicant has many homeless referral partners and volunteers in each of the communities it serves. It expects the same model will be followed when the facility opens in Lincoln City (opening anticipated in August).

The criterion is met.

**6. The development will occur on property located within the city limits;**

The Helping Hands facility is located within the City Limits of the City of Lincoln City.

The criterion is met.

**7. The applicant agrees to enter into an agreement to pay systems development charges if the city approves the application.**

The applicant has indicated they are willing to enter into an agreement with the city in accordance with the terms of the Ordinance (i.e. by the acknowledging the terms of the deferral ordinance and resolution, and the applicant agrees to pay SDC charges should the terms of the deferral ordinance and the Resolution be violated or the deferral expires). The criterion is met.

**B. An application for deferral of payment of systems development charges or a continuation of a deferral shall be submitted to the city manager for review. The city manager shall review the application and make a recommendation to the city council, which in its discretion may approve or deny the application, decline to take action, or take other action such as requesting additional information.**

The City Manager recommends approval of the Deferral Resolution.

**C. Any approval of an application for deferral or continuation of a deferral under this section shall be contingent on the city and the applicant entering into an agreement in which the applicant acknowledges the terms of the deferral and agrees to pay systems development charges in the amount calculated at the time the use no longer qualifies for deferral, as specified in subsection (D) of this section. If the applicant is not the property owner, the property owner will be required to consent to the deferral application and sign the agreement. The agreement shall be recorded and shall run with the land.**

The SDC deferral resolution includes the agreement and will be recorded and run with the land.

**D. The deferral will apply until such time as a new use occupies the building that was constructed in conjunction with an approved deferral. If the new use would not meet the application criteria to qualify for continuation of the deferral of system development charges, prior to use or occupancy of the facility by a new use all applicable system development charges shall be paid. The system development charges owed will be based on the approved schedule and methodology of system development charges in effect for the new use at the time of occupancy.**

The SDC deferral resolution includes reference to this Code provision on change of use.

**E. The city council may approve a deferral of payment of systems development charges under this section for up to 10 years, with possible extensions of time as approved by the city council, provided the use continues to qualify for deferral. (Ord. 2016-01 § 2; Ord. 2011-05 § 1)**

The SDC deferral resolution will be recorded and effective for ten (10) years and may only be extended by Resolution (also recorded) of the Council should the use continue to qualify.

**Council Options:**

Approve the Resolution.

Do Not approve the Resolution.

Continue the matter and request additional information.

**Financial Impact**

Deferral of SDC amounts stated herein.

**Potential Motions:**

Move to approve Resolution 2022-16.

Move to reject the proposed Resolution.

**Attachments:**

Resolution 2022-16 (DOC)

**RESOLUTION NO. 2022-16**

**A RESOLUTION OF THE CITY OF LINCOLN CITY IMPLEMENTING LCMC 13.08.095 REGARDING DEFERRAL OF SYSTEM DEVELOPMENT CHARGES; APPROVING AN APPLICATION BY HELPING HANDS RE-ENTRY OUTREACH CENTER FOR THE DEFERRAL OF PAYMENT OF SYSTEM DEVELOPMENT CHARGES FOR DEVELOPMENT OF THE TRANSITIONAL HOUSING FACILITY AND USES DESCRIBED IN CONDITIONAL USE APPROVAL 2019-04 (DECEMBER 17, 2019) ON REAL PROPERTY IDENTIFIED AS 3454 NE HIGHWAY 101 AND 2201 NE 34TH STREET, LINCOLN CITY, OREGON.**

**RECITALS**

The City Council adopted Ordinance 2011-05 on March 14, 2011, establishing criteria for qualified uses subject to deferral of payment of system development charges.

Ordinance 2011-05, codified at LCMC 13.08.095, amended Chapter 13.08 to allow for deferral of system development charges for certain uses that meet adopted criteria, including but not limited to a use "identified by the city council by Resolution as lacking in the city and urgently needed."

Homeless sheltering, specifically transitional programs like Helping Hands which support a path out of homelessness, as more fully described in Conditional Use Approval 2019-04, incorporated herein by this reference, are desperately needed in the City of Lincoln City;

Helping Hands Re-Entry Outreach Centers has applied for SDC deferral in accordance with LCMC 13.08.095 for 3454 NE Highway 101 and 2201 NE 34<sup>th</sup> Street, Lincoln City, Oregon, such property being more particularly described in Exhibit A (Legal Description) attached hereto and made a part hereof by this reference.

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

**SECTION 1. RECITALS.**

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

**SECTION 2. HOMELESS SHELTERING AND “TRANSITIONAL HOUSING” IDENTIFIED AS URGENT NEED.**

Based on the Findings set forth in the whole record and referenced in Section 1 above, the City Council finds and determines that the sheltering and transitional housing program as approved by the Lincoln City Planning Commission Conditional Use 2019-04, is lacking and urgently needed in the City of Lincoln City.

**SECTION 3. APPLICATION FOR DEFERRAL OF PAYMENT OF SYSTEM DEVELOPMENT CHARGES.**

The City Council makes the following findings concerning the application submitted by deferral applicant Helping Hands Re-Entry Outreach Centers:

**A. The city council may approve an application for deferral of the requirement to pay systems development charges, or for continuation of an approved deferral, for a qualified entity that meets all the following criteria:**

**1. The use proposed by the applicant fits within a type of use identified by the City Council by resolution as lacking in the City and urgently needed, such as child care;**

The City Council approved Resolution 2020-02, which authorized, *inter alia*, the conveyance of a \$400,000 property to the applicant specifically because the Council desired the establishment of the uses proposed by the applicant in Conditional Use Permit 2019-04:

*The Council finds and determines that this proposal to sell/convey the subject property to “Helping Hands Re-Entry Outreach Centers,” a “Qualifying non-profit corporation” meets all applicable statutory minimum criteria for eligibility to sell real property, as more fully set forth herein. Further the City Council finds and determines that the proposed disposition of real property is deemed “necessary or convenient” to the City, and “furthers the public interest” as the sale will further the City Council’s desire to provide the services described in approved CUP 2019-04 to the City of Lincoln City’s homeless population. The Council further finds and determines that the property identified herein is not necessary for City use. The findings herein are supported by competent substantial evidence in the whole record, incorporated herein by this reference.*

The criterion is met.

**2. The use serves a widespread community need, as identified by the applicant;**

The uses identified in the approved 2019 Conditional Use Permit (2019-04) address a widespread community need for homeless sheltering and residential transitional services (including training) for the Lincoln City community; Resolution 2020-02 and

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associated deed, notes, and security instruments require provision of such services to the Lincoln City Community. The criterion is met.

**3. The deferral applicant is a nonprofit corporation, or any agency or subdivision of the federal, state or local government, or a private entity that has committed to the proposed use in a binding executed agreement with the City (e.g., a 30-year affordability covenant for workforce housing);**

The deferral applicant Helping Hands Re-Entry Outreach Centers is a 501(c)(3) Oregon Non-Profit. See Oregon Secretary of State Corporations Division Registration No. 638900-90. The above referenced Resolution and associated deed, notes and security instruments require provision of the proposed use or the property will revert to City ownership. The criterion is met.

**4. The applicant demonstrates the need for financial support to develop the use;**

The deferral applicant Helping Hands Re-Entry Outreach Centers is a 501(c)(3) not-for-profit organization supported by community donations. Financial need is apparent. The criterion is met.

**5. The applicant demonstrates local support for the use, such as through fundraising for the use;**

The applicant asserts that it operates eleven (11) “transitional housing” and training facilities in Oregon. The applicant has many homeless referral partners and volunteers in each of the communities it serves. It expects the same model will be followed when the facility opens in Lincoln City (opening anticipated in August). The criterion is met.

**6. The development will occur on property located within the City limits;**

The Helping Hands facility is located within the City Limits of the City of Lincoln City. The criterion is met.

**7. The applicant agrees to enter into an agreement to pay systems development charges if the City approves the application.**

The applicant has indicated they are willing to enter into an agreement with the City in accordance with the terms of the Ordinance (i.e. by the acknowledging the terms of the deferral ordinance and resolution, and the applicant agrees to pay SDC charges should the terms of the deferral ordinance and the Resolution be violated or the deferral expires). The criterion is met.

**B. An application for deferral of payment of systems development charges or a continuation of a deferral shall be submitted to the City Manager for review. The City Manager shall review the application and make a recommendation to the City Council, which in its discretion may approve or deny the application, decline to take action, or take other action such as requesting additional information.**

1 The City Manager recommends approval of the Deferral Resolution.

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3 **C. Any approval of an application for deferral or continuation of a deferral under this section**  
4 **shall be contingent on the City and the applicant entering into an agreement in which the**  
5 **applicant acknowledges the terms of the deferral and agrees to pay systems development**  
6 **charges in the amount calculated at the time the use no longer qualifies for deferral, as**  
7 **specified in subsection (D) of this section. If the applicant is not the property owner, the**  
8 **property owner will be required to consent to the deferral application and sign the**  
9 **agreement. The agreement shall be recorded and shall run with the land.**

10 The SDC deferral resolution includes the agreement and will be recorded and run with the land.

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13 **D. The deferral will apply until such time as a new use occupies the building that was**  
14 **constructed in conjunction with an approved deferral. If the new use would not meet the**  
15 **application criteria to qualify for continuation of the deferral of system development**  
16 **charges, prior to use or occupancy of the facility by a new use all applicable system**  
17 **development charges shall be paid. The system development charges owed will be based on**  
18 **the approved schedule and methodology of system development charges in effect for the**  
19 **new use at the time of occupancy.**

20 The SDC deferral resolution includes reference to this Code provision on change of use.

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22  
23 **E. The City Council may approve a deferral of payment of systems development charges**  
24 **under this section for up to 10 years, with possible extensions of time as approved by the**  
25 **City Council, provided the use continues to qualify for deferral. (Ord. 2016-01 § 2; Ord. 2011-**  
26 **05 § 1)**

27  
28 The SDC deferral resolution will be recorded and effective for ten (10) years and may only be  
29 extended by Resolution of the Council (also recorded) should the use continue to qualify.

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31 **SECTION 4. APPROVAL OF APPLICATION FOR DEFERRAL OF PAYMENT OF**  
32 **SYSTEM DEVELOPMENT CHARGES.**

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34 Based on the findings set forth in Section 3 above, the City Council finds and  
35 determines that the application meets the criteria for approval in LCMC 13.08.095 and  
36 approves the request by Helping Hands Re-Entry Outreach Centers to defer payment  
37 of system development charges in the amount of \$89,610.00 subject to the  
38 applicant’s execution of concurrence with this Resolution, as its Agreement to the  
39 terms and conditions of the LCMC 13.08.095 and this Resolution, including specifically  
40 the terms set forth in paragraphs C and D above.

41  
42 **SECTION 5. AGREEMENT AND DEVELOPMENT.** Execution of the Concurrence  
43 below by the undersigned applicant constitutes agreement to the terms and  
44 conditions of the ordinance [LCMC 13.08.095] and this Resolution, including  
45 specifically the Agreement of the Applicant to pay the \$89,610.00 System

1 Development Charge in the event the property no longer qualifies for deferral  
2 whether by expiration of the deferral or breach of the agreement by change of use.  
3 The real property subject to the deferral of payment of system development charges  
4 as approved by this Resolution is legally described in Exhibit A attached hereto and  
5 made a part hereof by this reference. The Applicant acknowledges that this  
6 Resolution shall be recorded to evidence this Agreement and the Agreement shall run  
7 with the land.

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9 **SECTION 6. EFFECTIVE DATE.** This Resolution is effective as of the date of its  
10 adoption and execution by the Applicant of the Concurrence below.

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12 **PASSED AND APPROVED** by the City Council of the City of Lincoln City, Oregon, this  
13 23<sup>rd</sup> day of May, 2022.

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17 SUSAN WAHLKE, MAYOR

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19 ATTEST:

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23 JAMIE YOUNG, CITY RECORDER

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25 APPROVED AS TO FORM:  
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29 RICHARD APPICELLO, CITY ATTORNEY

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32 CONCURRENCE / AGREEMENT  
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36 HELPING HANDS RE-ENTRY OUTREACH CENTERS

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EXHIBIT A

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**R247720 & R252290 and 7-11-02CC Tax Lots 300 and 500**  
**PARCEL 1: 3454 NE Hwy 101, Lincoln City, OR 97367**  
**PARCEL 2: 2201 NE 34<sup>th</sup> Street, Lincoln City, OR 97367**

PARCEL I:

That part of Section 2, Township 7 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon, described as follows:

Beginning at a point on the North line of Government Lot 25 that is North 89° 39' East 450.19 feet from the Northwest corner of said Lot 25, said point being the Northeast corner of the premises conveyed by Woodrow C. Sax, et ux, to John R. Fuller and Anna L. Fuller, husband and wife, by deed recorded April 15, 1940 in Book 84, page 76, Deed Records for Lincoln County; thence South 0° 07' West 131 feet to the North line of N.E. 34th Street (formerly known as Lohkamp Lane); thence North 89° 39' East along the North line of said N.E. 34th Street 159 feet; thence North 0° 07' East 130.75 feet to the North line of said Government Lot 25; thence South 89° 39' West 159 feet along the North line of said lot to the point of beginning.

PARCEL II:

A tract of land situated in Government Lot 25 in Section 2, Township 7 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon, described as follows:

Beginning at the Northwest corner of said Government Lot 25; thence East along the North line of said lot to the Easterly line of the Oregon Coast Highway, said point being the Northwest corner of the John R. Fuller tract described in deed recorded April 15, 1940 in Book 84, page 76, Deed Records; thence East along the North line of said Fuller tract 130 feet; thence South along the East line of said Fuller tract 50 feet to the Southeast corner thereof and the true point of beginning of the premises herein described; thence South 80 feet; thence West, parallel with the North line of said Government Lot 25 to the Easterly line of the aforementioned highway; thence Northwesterly along the Easterly line of said highway to the Southwest corner of aforementioned Fuller tract; thence East along the South line of said Fuller tract to the true point of beginning.