

CITY OF LINCOLN CITY

LINCOLN CITY COUNCIL AGENDA

MONDAY JULY 12, 2021 6:00 PM

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

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

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

All information for this meeting is available at www.lincolncity.org under "Agenda, Packets & Video". This meeting will be televised 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 Special Meeting – June 23, 2021 5:15 PM
2. Regular Meeting – Minutes of Regular Meeting – June 28, 2021 6:00 PM
3. Consent for Personnel Appointment

E. COUNCIL DELIBERATIONS

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

G. PRESENTATIONS

H. PUBLIC HEARING / ORDINANCE

I. PUBLIC HEARINGS / PUBLIC COMMENTS

1. Public Hearing: Zoning Ordinance Amendment (ZOA 2021-03) (Ordinance 2021-14) RM and GC Amendments

2. Proposed City Manager Job Description for Public Comment

J. ORDINANCES

3. ORDINANCE NO. 2021-09 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.76 (ADMINISTRATIVE PROVISIONS), ADDING A NEW SECTION LCMC 17.76.155, (COVID TIMETABLE EXTENSION) TO CREATE A PROCESS TO GRANT ALL ELIGIBLE APPROVALS AN 18 MONTH TIMETABLE EXTENSION DUE TO THE ECONOMIC IMPACT OF COVID 19
4. ORDINANCE NO. 2021-14 AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.20 (MULTI-UNIT RESIDENTIAL (R-M) ZONE), TO RESTORE SINGLE FAMILY UNITS AS PERMITTED USES UNDER LIMITED CIRCUMSTANCES; AMENDING CHAPTER 17.32 (GENERAL COMMERCIAL (GC) ZONE) TO PERMIT CONVERSION OF EXISTING HOTELS/MOTELS/RESORT UNITS TO MULTI-UNIT RESIDENTIAL WITH A PERCENTAGE DEDICATED TO WORKFORCE HOUSING
5. ORDINANCE NO. 2021-13 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.68 (TRANSIENT LODGINGS TAX REVIEW COMMITTEE), AMENDING CHAPTER 3.04 (TRANSIENT ROOM TAX) TO REPLACE TRT REVIEW COMMITTEE WITH TAX HEARING OFFICER, AMENDING CHAPTER 2.24 (VISITOR AND CONVENTION COMMITTEE); REMOVING COMMITTEE PROVISIONS FROM THE MUNICIPAL CODE

K. RESOLUTIONS

6. RESOLUTION NO. 2021-34 A RESOLUTION OF THE CITY OF LINCOLN CITY EXTENDING ESTABLISHED TEMPORARY PARKING AND TRAFFIC CONTROL MEASURES FOR A PORTION OF NW 15TH STREET AND A PORTION OF NW 34th COURT, PROHIBITING VEHICULAR TRAFFIC EXCEPT FOR EMERGENCY VEHICLES

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 SPECIAL MEETING

June 23, 2021, 5:15 PM

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

APPROVED BY CITY COUNCIL

DATE:

A. CALL TO ORDER

Mayor Wahlke called the meeting to order at 5:16 PM. Mayor Wahlke advised the public that there are now three ways to provide public comment.

1. Comments can be made through email to publiccomment@lincolncity.org;
2. Comments can be made via Zoom if a request is emailed to publiccomment@lincolncity.org by 12 pm on the meeting day;
3. Comments can be made in person at the Council Chambers (COVID-19 precautions are taken).

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Susan Wahlke	Mayor	Present	5:15 PM
Judy Casper	Councilor Ward 3	Present	5:15 PM
Riley Hoagland	Councilor Ward 2	Present	5:15 PM
Rick Mark	Councilor Ward 3	Present	5:15 PM
Mitch Parsons	Councilor Ward 1	Present	5:15 PM
Anne Marie Skinner	Councilor Ward 2	Present	5:15 PM
Vacant	Councilor Ward 1		

Staff Present: Lila Bradley, Interim City Manager; Richard Appicello, City Attorney; Sgt. Winn, Lincoln City Police Department; Tony LaSoya, I.T. Director; Jamie Young, City Recorder.

C. PLEDGE OF ALLEGIANCE

Skipped due to the meeting being held remotely.

D. CONSENT AGENDA - NONE

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

F. PUBLIC HEARINGS/PUBLIC COMMENT

G. ORDINANCES - NONE

H. RESOLUTIONS

- 1. RESOLUTION NO. 2021-28 A RESOLUTION OF THE CITY OF LINCOLN CITY, CALLING FOR A SPECIAL ELECTION TO FILL THE VACANT COUNCIL WARD 1 POSITION ON THE CITY COUNCIL FOR THE CITY OF LINCOLN CITY

Councilor Mark asked what the timeline is for people wanting to run for the Ward 1 Councilor seat. City Recorder said the deadline to file with the City is July 19th for the September 21st election. Mr. Appicello said the City deadline is 5 working days before the County deadline and the City Recorder is required to post the vacancy 20 days prior to the deadline to file. Mayor Wahlke clarified the position is for residents of Ward 1.

MOTION:	Motion to Approve Resolution No. 2021-28 Call for Special Election to Fill Vacancy
MOVER:	Mitch Parsons, Councilor Ward 1
SECONDER:	Riley Hoagland, Councilor Ward 2
AYES:	Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT:	Passed by Roll Call Vote

I. SPECIAL ORDER OF BUSINESS

J. CITY MANAGER/CITY ATTORNEY REPORTS

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

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

M. ANNOUNCEMENTS FROM COUNCIL

N. ADJOURNMENT

Mayor Wahlke adjourned the meeting at 5:23 PM

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG, CITY RECORDER

CITY OF LINCOLN CITY

CITY COUNCIL MINUTES OF MEETING

June 28, 2021, 6:00 PM

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

APPROVED BY CITY COUNCIL

DATE:

A. CALL TO ORDER

Mayor Wahlke called the meeting to order at 6:01 PM. Mayor Wahlke advised the public that there are now three ways to provide public comment.

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

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Susan Wahlke	Mayor	Present	6:00 PM
Judy Casper	Councilor Ward 3	Present	6:00 PM
Riley Hoagland	Councilor Ward 2	Present	6:00 PM
Rick Mark	Councilor Ward 3	Present	6:00 PM
Mitch Parsons	Councilor Ward 1	Present	6:00 PM
Anne Marie Skinner	Councilor Ward 2	Present	6:00 PM
Vacant	Councilor Ward 1		

Staff Present: Lila Bradley, Interim City Manager; Richard Appicello, City Attorney; LT. Broderick, Lincoln City Police Department; Alison Robertson, Economic Development and Urban Renewal Director; Stephanie Reid, City Engineer; Sungman "Simon" Kim, Planning and Community Development Director; Kirsten Brodbeck-Kenney, Library Director; Debbie Bridges, Finance Director; David Twigg, I.T. Support Specialist; Jamie Young, City Recorder.

C. PLEDGE OF ALLEGIANCE

Skipped due to the meeting being held remotely.

Mayor Wahlke amended the agenda to add resolution 2021-31 as 14 under resolutions and renumber Special Order of Business. Unanimous consent from Council.

D. MOTION TO ACCEPT THE CONSENT AGENDA

1. Regular Meeting – Minutes of Regular Meeting – June 14, 2021, 6:00 PM

MOTION:	City Council - Regular Meeting - Jun 14, 2021, 6:00 PM, as Corrected
MOVER:	Anne Marie Skinner, Councilor Ward 2
SECONDER:	Judy Casper, Councilor Ward 3
AYES:	Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT:	Passed via Voice Vote

2. Initiation of Amendments to Adopted City Comprehensive Plan Map regarding the UGB

MOTION:	Initiation of Amendments to Adopted City Comprehensive Plan Map Regarding the UGB
MOVER:	Anne Marie Skinner, Councilor Ward 2
SECONDER:	Judy Casper, Councilor Ward 3
AYES:	Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT:	Passed

3. Initiation of Amendments to restore Administrative Adjustment to Title 17.

MOTION:	Initiation of Amendments to restore Administrative Adjustment to Title 17.
MOVER:	Anne Marie Skinner, Councilor Ward 2
SECONDER:	Judy Casper, Councilor Ward 3
AYES:	Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT:	Passed

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

No Citizens present for comment.

Ms. Bradley summarized public comments from Ms. Kaisner regarding personal fireworks; Mr. Riegelmann against no parking on SW Beach; Ms. Chadwell, Mr. Chadwell, Mr. Garrison in favor of the order banning parking.

G. PRESENTATIONS**H. PUBLIC HEARING / ORDINANCE****I. PUBLIC HEARINGS / PUBLIC COMMENTS**

1. Public Hearing: Amendment to LCMC Title 17, to Restore Administrative Adjustment (or some version other than site design review adjustment) removed in Ordinance 2020-15.

MOTION:	Motion to Close Public Hearing and Record for Ordinance 2021-09 COVID Time Extension
MOVER:	Rick Mark, Councilor Ward 3
SECONDER:	Anne Marie Skinner, Councilor Ward 2
AYES:	Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT:	Passed by Voice Vote

Mayor Wahlke opened the public hearing at 6:14 PM. Mr. Appicello said the Lincoln City City Council initiated this amendment to the zoning code in February 2021. The rationale is that the COVID pandemic has stalled development (especially lending) and an extension process is warranted for those with valid approvals. An 18-month extension is proposed as a ministerial act; it is not an opportunity to revisit the prior approval. No Citizens were present for comment or written testimony received. Councilor Skinner asked which project this would assist. Mr. Appicello said they did not want to influence the decision and did not say.

2. Public Hearing: Alternative Contracting method - ESTER LEE PUMP STATION IMPROVEMENT PROJECT

MOTION:	Motion to Close Hearing and Record for Ester Lee Pump Station Project
MOVER:	Anne Marie Skinner, Councilor Ward 2
SECONDER:	Riley Hoagland, Councilor Ward 2
AYES:	Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT:	Passed via Voice Vote

Mayor Wahlke opened the public hearing at 6:21 PM Stephanie Reid, City Engineer, presented the Ester Lee Pump Station Project. No Citizens were present for comment or written testimony received.

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

Mayor Wahlke opened the public hearing at 6:26 PM. Debbie Bridges, Finance Director, said that they like to get public comment upon presenting new rates. No Citizens present for comment or written testimony received.

MOTION:	Motion to Close Public Hearing and Record for Resolution 2021-29 Setting Water /Sewer Rates
MOVER:	Anne Marie Skinner, Councilor Ward 2
SECONDER:	Rick Mark, Councilor Ward 3
AYES:	Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT:	Passed via Voice Vote

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

Mayor Wahlke opened the public hearing at 6:29 PM. Debbie Bridges, Finance Director, presented the staff report for the budget. No Citizens present for comment or written testimony received.

MOTION: Motion to Close Public Hearing and Comment for Resolution 2021-30 Supplemental Budget FY2020-2021
MOVER: Rick Mark, Councilor Ward 3
SECONDER: Judy Casper, Councilor Ward 3
AYES: Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT: Passed via Voice Vote

5.

Mayor Wahlke opened the public hearing at 6:32 PM. Mr. Appicello presented the information for the public hearing for Ordinance 2021-10. No Citizens present for comment or written testimony received.

MOTION: Motion to Close the Public Hearing and Record for Ordinance 2021-10 Chapter 15.16 Variance and Appeal
MOVER: Anne Marie Skinner, Councilor Ward 2
SECONDER: Riley Hoagland, Councilor Ward 2
AYES: Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT: Passed by Voice Vote

J. ORDINANCES

6. ORDINANCE NO. 2021-09 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.76 (ADMINISTRATIVE PROVISIONS), ADDING A NEW SECTION LCMC 17.76.155, (COVID TIMETABLE EXTENSION) TO CREATE A PROCESS TO GRANT ALL ELIGIBLE APPROVALS AN 18 MONTH TIMETABLE EXTENSION DUE TO THE ECONOMIC IMPACT OF COVID 19

MOTION: Motion to Approve First Reading Ordinance 2021-09 COVID Time Extension
MOVER: Riley Hoagland, Councilor Ward 2
SECONDER: Mitch Parsons, Councilor Ward 1
AYES: Wahlke, Casper, Hoagland, Mark, Parsons
NAYS: Skinner
RESULT: Passed via Voice Vote

The vote was not unanimous, the second reading will be held at the next meeting on July 12, 2021, at 6 PM.

7. ORDINANCE NO. 2021-10 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, CHAPTER 15.16 (FLOOD DAMAGE PREVENTION); SECTION 15.16.450 TO SPECIFY APPLICABLE PROCEDURES FOR APPEALS AND VARIANCES

MOTION: Motion to Approve First Reading Ordinance 2021-10 Amends Chapter 15.16
MOVER: Riley Hoagland, Councilor Ward 2
SECONDER: Judy Casper, Councilor Ward 3
AYES: Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT: Passed via Voice Vote

8.

MOTION: Motion to Approve Second Reading Ordinance 2021-10 Amends Chapter 15.16
MOVER: Judy Casper, Councilor Ward 3
SECONDER: Riley Hoagland, Councilor Ward 2
AYES: Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT: Passed by Voice Vote

9. ORDINANCE 2021-11 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING ORDINANCE 2019-42, CONCERNING THE VACATION OF A PORTION OF NW 44th PLACE, TO CORRECT AN ERROR IN EXHIBIT A

MOTION: Motion to Approve First Reading of Ordinance 2021-11 Amending Ordinance 2019-42 to Correct an Error in Exhibit A
MOVER: Mitch Parsons, Councilor Ward 1
SECONDER: Anne Marie Skinner, Councilor Ward 2
AYES: Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT: Passed by Roll Call Vote

10.

MOTION: Motion to Approve Second Reading of Ordinance 2021-11 Amending Ordinance 2019-42 to correct an error in Exhibit A
MOVER: Mitch Parsons, Councilor Ward 1
SECONDER: Anne Marie Skinner, Councilor Ward 2
AYES: Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT: Passed by Roll Call Vote

K. RESOLUTIONS

11. RESOLUTION NO. 2021-22 A RESOLUTION OF THE CITY OF LINCOLN CITY, ADOPTING FINDINGS FOR A PUBLIC CONTRACT EXEMPTION AND AUTHORIZING AN ALTERNATIVE CONTRACTING METHOD FOR THE ESTER LEE PUMP STATION IMPROVEMENT PROJECT.

MOTION: Motion to Approve Resolution 2021-22 Alternative Contracting Method Ester Lee Pump Station Project
MOVER: Anne Marie Skinner, Councilor Ward 2
SECONDER: Riley Hoagland, Councilor Ward 2
AYES: Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT: Passed on First Reading

12. RESOLUTION NO. 2021-29 A RESOLUTION SETTING FORTH WATER/SEWER RATES

MOTION: Motion to Approve Resolution 2021-29 Setting Water/Sewer Rates
MOVER: Judy Casper, Councilor Ward 3
SECONDER: Rick Mark, Councilor Ward 3
AYES: Wahlke, Casper, Hoagland, Mark, Skinner
NAYS: Parsons
RESULT: Passed via Voice Vote

13. RESOLUTION 2021-30 A RESOLUTION ADOPTING THE SUPPLEMENTAL BUDGET OF THE CITY OF LINCOLN CITY, OREGON, FOR THE FISCAL YEAR 2020-2021, AS APPROVED BY THE CITY COUNCIL, AND MAKING APPROPRIATIONS

MOTION: Motion to Approve Resolution 2021-30 Supplemental Budget FY2020-21
MOVER: Judy Casper, Councilor Ward 3
SECONDER: Anne Marie Skinner, Councilor Ward 2
AYES: Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT: Passed via Voice Vote

14. RESOLUTION NO. 2021-32 A RESOLUTION OF THE CITY OF LINCOLN CITY ESTABLISHING PARKING AND TRAFFIC CONTROL MEASURES FOR A PORTION OF SW BEACH AVENUE

MOTION: Motion to Approve Resolution 2021-32- Parking and Traffic Control SW Beach
MOVER: Rick Mark, Councilor Ward 3
SECONDER: Mitch Parsons, Councilor Ward 1
AYES: Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT: Passed via Voice Vote

15. RESOLUTION 2021-33 A RESOLUTION OF THE CITY OF LINCOLN CITY AUTHORIZING STAFF TO APPLY FOR AN HB 2003 PLANNING ASSISTANCE GRANT FROM THE OREGON STATE DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT TO PRODUCE THE LINCOLN CITY HOUSING PRODUCTION STRATEGY.

MOTION: Motion to Approve Resolution 2021-33 Authorizing Staff to Apply for an HB 2003 Planning Assistance Grant
MOVER: Anne Marie Skinner, Councilor Ward 2
SECONDER: Mitch Parsons, Councilor Ward 1
AYES: Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT: Passed by Roll Call Vote

16.

Council would like staff to notify State Parks about the closures.

MOTION: Motion to Approve Resolution 2021-31 Establishing Parking and Traffic Controls NW 15th and NW 36th Street, Effective June 29th, 2021, at Noon Until July 13, 2021, at Noon.
MOVER: Anne Marie Skinner, Councilor Ward 2
SECONDER: Mitch Parsons, Councilor Ward 1
AYES: Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT: Passed by Voice Vote

L. SPECIAL ORDER OF BUSINESS

17. Reestablishing Late Fees and Water Shutoffs

MOTION:	Motion to Direct Staff to Remove Moratorium and Collect Late Fees for Past Due Water Billings and Occupational Tax Permits
MOVER:	Rick Mark, Councilor Ward 3
SECONDER:	Anne Marie Skinner, Councilor Ward 2
AYES:	Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT:	Passed by Roll Call Vote

Ms. Bridges would like to return to the standard billing practices. The Finance Department has not been charging interest or late fees.

18. Appointment to Sustainability Committee - Applicant Victoria McOmie

Councilor Casper and Councilor Hoagland interviewed Ms. McOmie and both recommend the appointment for a term expiring October 2023. Ms. Skinner asked about the work session Council asked to have scheduled with the Sustainability Committee.

MOTION:	Motion to Appointment to Sustainability Committee - Applicant Victoria McOmie
MOVER:	Judy Casper, Councilor Ward 3
SECONDER:	Riley Hoagland, Councilor Ward 2
AYES:	Wahlke, Casper, Hoagland, Mark, Parsons, Skinner
RESULT:	Passed via Voice Vote

M. CITY MANAGER/CITY ATTORNEY REPORTS

Ms. Bradley said they will set up meetings with the Sustainability Committee and a work session with Code Enforcement. Ms. Bradley said in regards to Ms. Skinner's question about the wetlands and canals, there is a joint meeting with The Devils Lake Water Improvement District. Ms. Bradley said the DLWID (Devils Lake Water Improvement District) would be able to give some advice. Councilor Hoagland said there is a large tree down by SE 3rd Pump Station. Ms. Bradley said that Ms. Reid is working on getting that taken care of. Ms. Reid said that she sent an email to the homeowners association of the canal regards grants and stream funding.

Mr. Appicello said that he does not have anything at this time.

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

19.

MOTION:	Motion to Approve Option 3 as discussed in Executive Session on the Continuing Code Violations
MOVER:	Judy Casper, Councilor Ward 3
SECONDER:	Anne Marie Skinner, Councilor Ward 2
AYES:	Casper, Hoagland, Mark, Parsons, Skinner
NAYS:	Wahlke
RESULT:	Passed by Voice Vote

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

No Citizens present for comment.

P. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL

Councilor Mark is concerned about cars blocking the highway at Dutch Bros. and Starbucks. Ms. Bradley said that ODOT has been contacted; they do not have a solution. Ms. Reid said that ODOT suggested barricade signs. Councilor Parsons said that ticketing is an option. Ms. Skinner also said this is an issue at Dairy Queen as well.

Councilor Mark said that he is disappointed about the fireworks sales and would like to look at next year prohibiting the fireworks tents. Councilor Skinner agrees and said if we need to get it on the ballot, then we need to do that. Councilor Hoagland asked if this would be tent only or other retailers as well. Councilor Parsons said there is already an issue with illegal fireworks and it could take away Police resources, a bigger discussion is needed.

Councilor Parsons would like to know if the artwork on NE Port Lane would be reinstalled. Ms. Bradley said that art would be removed, repaired, and placed elsewhere. A painting or similar will be installed at NE Port Lane.

Councilor Casper gave kudos to the City workers that kept the trash under control in her neighborhood.

Mayor Wahlke said she would like everyone to have a safe weekend and there is a moderate drought. She said also gave a reminder of fireworks and fire safety. Ms. Bradley said there would be two rented signs to display safety messages at each end of town. Mayor Wahlke read a safety message about fireworks and consequences from Sargent Winn in partnership with North Lincoln Fire and Rescue. Mayor Wahlke also listed the professional shows available to the public.

Q. ADJOURNMENT

Mayor Wahlke Adjourned the meeting at 8:01 PM

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG, CITY RECORDER

Council Communication

Personnel Appointment Consent

Meeting Date:	July 12, 2021	Primary Staff Contact:	Abigail Edwards
Department:	Human Resources	E-Mail:	ADonowho@lincolncity.org
Secondary Dept:		Secondary Contacts:	Abigail Edwards
Approval:	Lila Bradley	Estimated Time:	5 minutes

To the Honorable Mayor and City Council:

When an interim City Manager is in place, the City Charter in the Lincoln City Municipal Code Chapter 5, Section 2.9 requires the appointment or removal of personnel to be approved by the Council.

Interviews were conducted, and the following recommendation has been reviewed and approved by the Interim City Manager. Please consider the following personnel appointment for ratification:

Name:	<u>Tyler Melton</u>
Position Applied For:	<u>Water Treatment Plant Operator</u>
Background Check:	<u>Passed at time of initial hire—current employee</u>
Pre-Employment Physical:	<u>Passed at time of initial hire</u>

Tyler Melton is currently a City Parks and Recreation employee, with a good employment history. This is a promotion and transfer from Parks to Public Works.

Potential Motions:

A motion to approve the personnel appointment as recommended by staff in accordance with LCMC 5.2.9.

Public Hearing - Ordinance 2021-14 (RM and GC)

Meeting Date: July 12, 2021 Primary Staff Contact: Sungman Kim
 Department: Planning Department E-Mail: SKim@lincolncity.org

Question:

Should the City Council conduct a public hearing on Zoning Ordinance Amendment ZOA-2021-03 (Ordinance 2021-14 - RM and GC Amendments)?

Staff Recommendation:

Staff recommends the Council conduct the public hearing.

Planning Commission Recommendation:

Proceed with RM amendments with changes [change 8,000 to 10,000 square feet and add reference to R-1 standards] (Section 1); abandon (Section 2) based on new legislation.

Staff agrees, except it may be premature to abandon Section 2 altogether. Staff requests the ordinance be divided. Adopt RM now and continue GC amendments to August 23, 2021 to give time for staff to study the impact of conversion legislation HB 3261 (attached).

Authority:

Legal authority for text amendments is as follows:

17.76.060 Type IV (Legislative).

- A. General Description. Type IV procedures apply to "legislative" matters. Legislative decisions are made by the City Council and involve the adoption or amendment of policy by ordinance. Legislative decisions may also apply to applications involving a geographic area containing many properties. Type IV procedures require general public notice and a public hearing.
- B. When Applicable. Table 17.76.020-1 identifies Type IV applications. Applications not listed on Table 17.76.020-1 may be identified as Type IV by the director based on the general description in this section.
- C. Pre-application Conference. Pre-application conferences are not required for Type IV applications.

D. Application Requirements.

1. Application forms. Legislative applications must be made on forms provided by the department.
2. Submittal Information. The application shall contain all of the following information:
 - a. The information requested on the application form;
 - b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable); and
 - c. The required fee as adopted by City Council resolution, except when the City initiates request.

E. Mailed Notice of Public Hearing. The notification procedure for Type IV requests must conform to state land use laws (ORS 227.175) and as follows:

1. In accordance with procedures required by the Oregon Department of Land Conservation and Development (DLCD), the department shall notify DLCD of legislative amendments at least 35 days before the first public hearing at which public testimony or new evidence will be received.
2. At least 20 days, but not more than 40 days, before the date of the first public hearing, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - a. Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one comprehensive plan land use designation to another), see ORS 227.186 for instructions;
 - b. Any affected governmental agency;
 - c. Any person who requests notice in writing; and
 - d. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
3. For each mailing of notice, the department shall prepare an affidavit of mailing.

F. Published Notice of Public Hearing. Notice of the public hearings for Type IV applications shall be published two times in a newspaper of general circulation in the city, at least 10 days but not more than 21 days before the first scheduled public hearing on the proposal.

G. Public Hearing Procedure. The Planning Commission shall conduct the public hearing on Type IV applications in accordance with the procedures set forth in subsection

17.76.160. In addition to the public hearing held by the Planning Commission, the City Council shall also conduct a public hearing on Type IV applications.

H. Recommendation Authority.

1. Following receipt of testimony and deliberation at the public hearing held before the Planning Commission, the Planning Commission shall provide a recommendation to the City Council for all Type IV applications. The Planning Commission shall recommend that the City Council approve or deny the proposed amendments, with or without changes. The Planning Commission's recommendation shall be issued as a Final Recommendation, and shall include findings supporting the recommendation, based on public testimony and the application's success or failure to satisfy the applicable criteria.
2. Decision Authority. Upon receiving the Planning Commission's Final Recommendation, the City Council shall hold a public hearing on the Type IV application.

I. Notice of Decision.

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

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

Background:

The City Council directed staff to present some options to allow single family residential developments in the Multiple-Unit Residential (R-M) Zone at their regular meeting on April 26, 2021. After reviewing options presented by the staff, the City Council unanimously determined to initiate the amendment at their regular meeting on May 10, 2021.

This amendment provides reasonable adjustments to restore some single family use to

the R-M zone, while accommodating workforce housing units immediately in the G-C zone. The City has been looking for an opportunity to support low-income workforce population and the American Rescue Plan Act provides such opportunity.

The amendment to the RM zone is based upon recommendations from prior Planning Director Townsend, with some modification. Essentially the amendments propose to restore existing single family as a permitted use, and permit new single family on existing lots of record provided the lots are 8000 square feet or less.

The amendment also proposes to allow conversion of hotel/motel units to multi-family residential in order to provide alternative housing. The conversion provision includes a requirement to provide a percentage of workforce housing

The Ordinance and supporting findings (Exhibit A) can be found under "Ordinances" on this Agenda. NOTE: Two Ordinances are provided, one contains both RM and GC proposed amendments, one contains only the RM changes.

The City notified the DLCD on May 21, 2021. Written notices were mailed to the owner of the properties that his Ordinance proposed to change on June 15, 2021.

Analysis

This ordinance presents two issues. One concerns the RM Zoning District, the other the GC Zoning District.

RM District

Attached please find the October 16, 2020 memorandum from former Director Richard Townsend on some unintended consequences of Ordinance 2020-10 enacted on August 10, 2020 (previously emailed to Council).

During the April 26, 2021 Council meeting, Councilor Skinner raised the issue of the RM Zoning District amendment in 2020 and the removal of single family residential as a permitted use. Staff noted the above-referenced memorandum from Mr. Townsend had already been prepared, and Council by unanimous consent directed staff to revisit the 2020 amendment and present some options.

In short, legal and planning staff concur in the analysis and recommendations from the former Director Townsend, particularly recommendations 1 and 2. Staff recommends slight adjustment (*size to 8000 square feet and change in the referenced date to the effective date of Ordinance 2020-10 - September 9, 2020*) based on the following:

Currently, the R-M zone occupies total 1,153 lots on 347.1 acres. Among the lots, there are 793 lots (69%) smaller than 8,000 square feet on 85 acres (24%). Further, 104 lots are smaller than 2,500 square feet, and it only occupies 3.5 acres. Currently, there are 180 vacant lots on 17.90 acres. Therefore, it is reasonable to allow **“Detached single-family dwelling unit, including manufactured dwelling, if located on a lawfully-created lot with an area of 8,000 square feet or less that existed on September 9, 2020”** and focus on development of the remaining 262.1-acres in the zone (lots greater than 8,000 square feet).

It is also reasonable to allow existing single-family dwelling units as a conforming use by adding **“Detached single-family dwelling unit, including manufactured dwelling, if existing on or if a building permit was applied for before September 9, 2020, and remains valid, and if developed under the standards set forth for single-family dwelling units within the R-1 zone.”**

R-M Zone	Percentage				
Count:	1,153	lots			100%
Minimum:	65.4	sq.ft.	0.0015	acres	
Maximum:	710,105.6	sq.ft.	16.3018	acres	
Sum:	15,120,682.8	sq.ft.	347.1231	acres	100%
Mean:	13,114.2	sq.ft.	0.3011	acres	
Std:	37,151.3	sq.ft.	0.8529	acres	

Lots Smaller than 8,000 sq.ft.

Count:	793	lots			69%
Minimum:	65.4	sq.ft.	0.0015	acres	
Maximum:	7,995.6	sq.ft.	0.1836	acres	
Sum:	3,702,977.0	sq.ft.	85.0087	acres	24%
Mean:	4,669.6	sq.ft.	0.1072	acres	
Std:	1,654.2	sq.ft.	0.0380	acres	

Lots Smaller than 2,500 sq.ft.

Count:	104	lots			9%
Minimum:	65.4	sq.ft.	0.0015	acres	
Maximum:	2,492.7	sq.ft.	0.0572	acres	
Sum:	153,315.0	sq.ft.	3.5196	acres	1%
Mean:	1,474.2	sq.ft.	0.0338	acres	
Std:	540.5	sq.ft.	0.0124	acres	

GC District

Also on the April 26, 2021 Agenda was a Resolution (Resolution 2021-18) to add two additional hotels to the list of emergency operations uses (extended stay hotels for fire victims). In response to questioning, the attorney noted that there are several bills in the legislature to allow conversion of hotels to shelters and housing. [e.g. HB3261 and HB2006].

As your new Planning Director, I am suggesting that we may want to get ahead of the issue and amend our GC Chapter to expressly authorize conversion, especially when the conversion is for workforce housing purposes. While the restoration of single family to the RM zone (above) may be viewed by DLCD as contrary to the purposes of Goal 10, to provide the full range of housing types / diverse housing, the allowance for conversion to multi-family workforce in the GC zone may be seen as an offset to that restoration. Examples include Ocean Breeze Hotel, Coastal Lincoln City Motel, and Motel 6 that would generate approximately 130 affordable units.

LCMC 17.32.020 (General Commercial (GC) Zone) currently permitted uses that include some residential: Single-family, duplex, manufactured homes, and tiny homes. This zone does not list: "multi-family" and/or "residential condominium" as permitted. An amendment to add a permitted use of: "**Conversion of Existing Hotel/Motel/Resort Units to Multi-Unit Residential including 20% of the units as workforce housing. For purposes of this section only "workforce housing" means not to exceed 125% of median family income / area median income for Lincoln County**" should be considered.

Council Options

- Hold the required public hearing scheduled for this evening and review all the evidence in the record. If the hearing is closed and the record is closed, deliberate on the proposed amendment. [Action is taken under "Ordinances" later on the Agenda].
NOTE: Council could divide the ordinance (1) RM amendments and (2) GC amendments and have them proceed separately.
- Continue the public hearing until the July 26th City Council meeting.
- Close the public hearing but leave the record open until 5 p.m. on July 26th.

MEMORANDUM

To: Ron Chandler, Richard Appicello
From: Richard Townsend
Date: October 16, 2020
Re: R-M Zone non-conforming single-unit dwellings

Ordinance 2020-10 amended the list of allowed uses in the R-M zone to eliminate single-unit dwellings. The purpose of this amendment, to preserve R-M lands for multi-unit development, is laudable. This amendment, however, had the side-effect of rendering more than 600 existing single-unit dwellings non-conforming. This has serious implications for financing and selling these properties. Purchasers are reluctant to buy into non-conforming situations, and lenders are especially reluctant to take non-conformities as security for loans for purchasing or refinancing. This is because in most circumstances, a non-conforming structure or use that has been substantially damaged or destroyed is required to come into conformance with the code.

The municipal code does have a safety valve with respect to non-conforming single-unit dwellings that are substantially damaged or destroyed. LCMC 17.64.010.E. contains a process for allowing such a dwelling to be rebuilt, but only to its former height and footprint. No enlargement is allowed. The process involves the homeowner filing an application with the Planning & Community Development Department. The Planning & Community Development director then reviews the application and makes an administrative decision. A decision to approve an application to restore a nonconforming structure must include findings of all the following:

1. The damage was not intentionally caused by the property owner;
2. The restoration does not increase the degree of nonconformity or add new nonconformity, and restored structures conform to requirements of the code;
3. Restoration is according to plans approved by the fire marshal, building inspector and floodplain manager, and, if required, in conformance with a geo-technical report;
4. The restored structure or use does not encroach unlawfully on adjacent properties;

5. The restoration complies with reasonable conditions imposed by the city on a building permit in order to mitigate any new or increased adverse impact on adjacent property.

This allowance for rebuilding and the process involved provide limited reassurance to buyers and lenders. They like a clear and unambiguous ability to replace a building they are looking to buy or lend on.

To correct this problem there are a number of approaches. I will describe a few in the following paragraphs. I do not include merely undoing the change, because the change was needed (it just had a major fault in how it was set up). I present them in declining order of preferability in my estimation.

1. Allow single-unit dwellings on existing small lots

One approach would be to amend the R-M zone to allow single-unit dwellings on existing small lots. Substantial areas of the R-M zone are highly parcelized with small lots, most of which have been built on. Oceanlake east of the highway is a good example. Small lots are unlikely to be assembled for multi-unit development since most of them already host existing dwellings. Allowing single-unit dwellings on existing small lots would address the vast majority of the newly-created non-conformities. An amendment to the list of permitted uses in the R-M zone could be as simple as this:

Single-unit dwelling, if located on a lawfully-created lot with an area of 10,000 square feet or less that existed on January 1, 2021.

This approach would allow the existing single-unit dwellings to continue as permitted uses, and also would allow construction of new single-unit dwellings on existing in-fill lots. The 10,000 square foot size is arbitrary and conceivably could be smaller, such as 7,500 or 6,000 square feet. Some analysis would be useful to see what size might be best.

2. Allow existing single-unit dwellings as permitted uses

In an effort to prevent prime commercial lands in the GC zone from being used for mini-warehouse developments that did not contribute to a lively commercial environment, in 2008 the city adopted a code amendment that eliminated mini-warehouses as an allowed use in the GC zone. But since there were some existing mini-warehouse developments in the GC zone, and an outright ban would render them non-conforming, the amendment designated existing mini-warehouse developments as conforming uses.

In the list of permitted uses in the GC zone (LCMC 17.32.020), this language was inserted:

o. Mini-warehouses, if existing on or if site plan approval was applied for before June 9, 2008. Mini-warehouses in existence on or applied for before June 9, 2008, may be expanded within the boundaries of the lot or lots they occupied as of that date, subject to the standards applicable as of the date of application for expansion.

Similar language could be inserted into the list of permitted uses for the RM zone (LCMC 17.20.020), such as this:

Single-unit dwellings, if existing on or if a building permit was applied for before January 1, 2021, and if developed under the standards set forth for single-unit dwellings within the R-1 zone (except for the building coverage standards, which shall be as set out in LCMC [17.20.060\(D\)](#)).

This approach does not address undeveloped in-fill lots, but Ordinance 2020-10 allows duplexes on lots as small as 2,500 square feet, so existing infill lots still have a reasonable development alternative.

3. Rezone some R-M areas to R-1

A third option is to rezone those areas of the R-M zone that are highly parcelized and intensively developed with single-unit dwellings into the R-1 zone. I took a quick look at the R-M zoned areas in the city at identified 550 lots, with a total area of 104 acres, that logically could be rezoned to R-1. They are shown on the maps accompanying this memo.

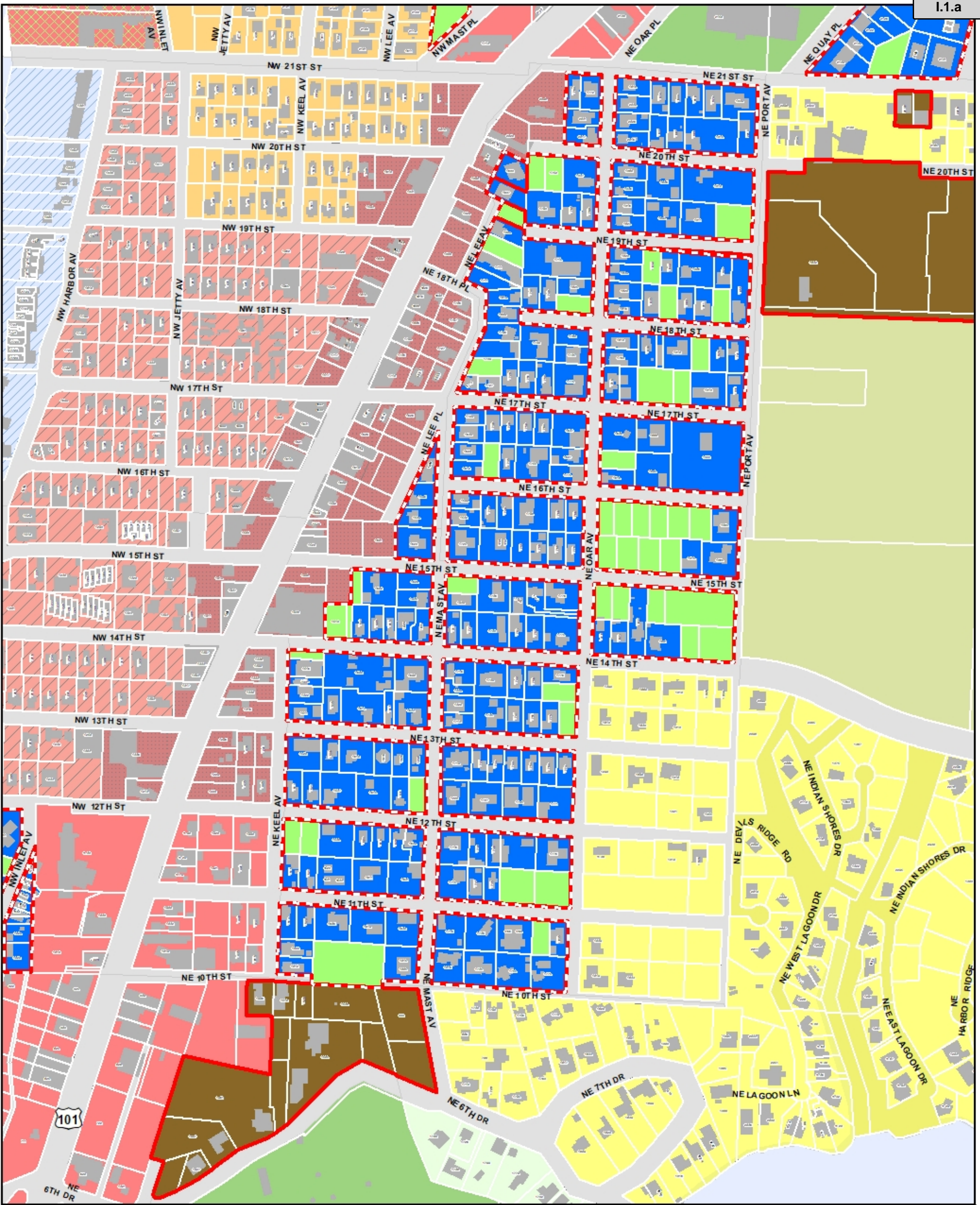
Such rezoning would have little to no effect on the amount of buildable land in the R-M zone for multi-unit dwellings. I believe the areas shown as rezoning candidates were excluded from the buildable lands inventory since they already were developed. The buildable land inventory showed a need for up to 47.1 acres of land for multi-unit and town-house development, and a supply of 83.5 acres, again net of the lands already built on.



Multi-Family Zones by use

October 2020

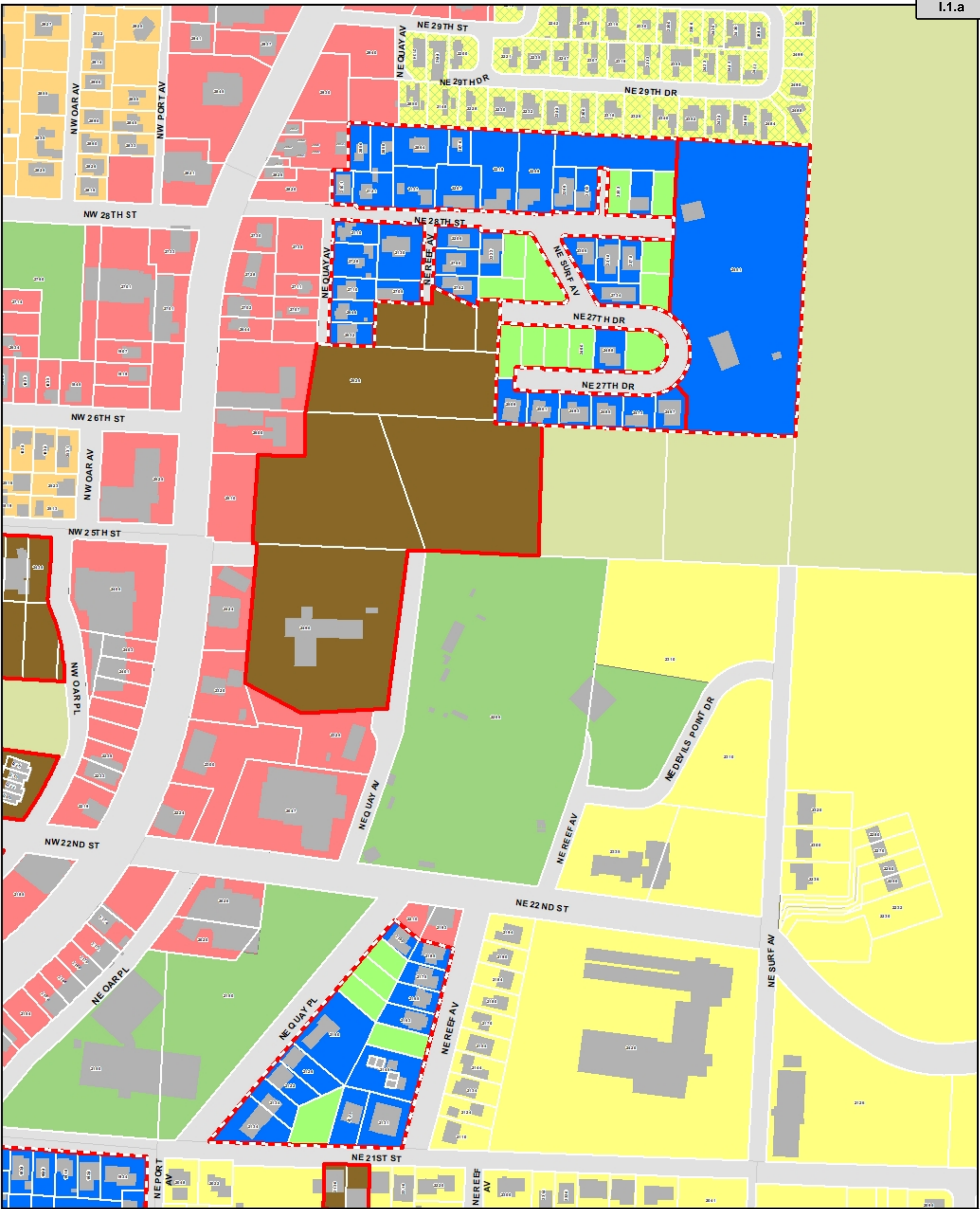
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530 Built Lots : 83 ac +/-	R-1-7.5	R-R	NP-NCR	P-C	County P-F
120 Unbuilt Lots : 17.0 ac +/-	R-1-5	VR	OP-IM	P-I	M-W
4 Water : 2.0 ac +/-	R-1-RE	R-C	TVC	OP-OF	
	R-1	NP-NBMU	G-C	OS	



Lincoln City Multi-Family Zones by use

October 2020

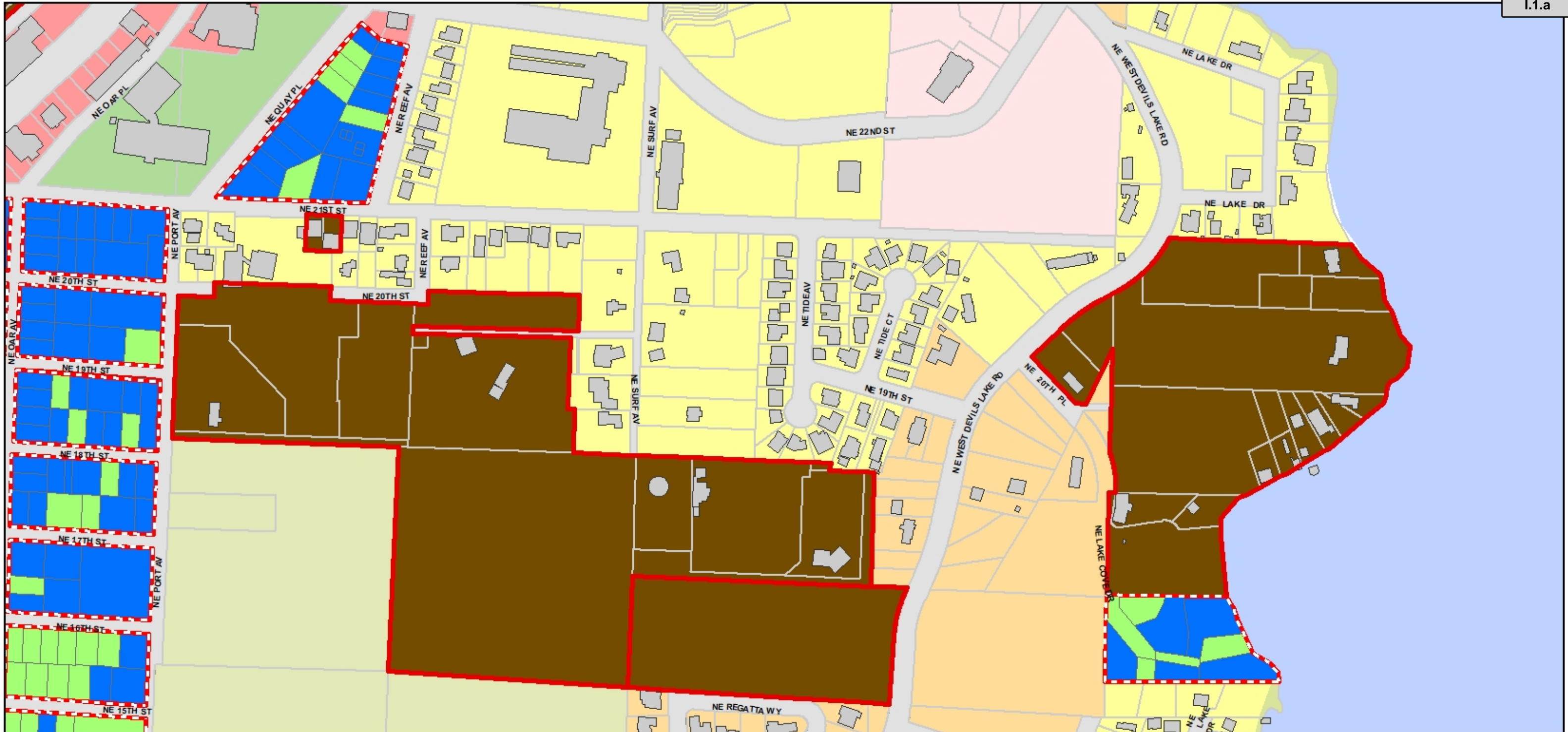
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4 Water : 2.0 ac +/-	R-1-RE	NP-NBMU	OP-MSH	County P-F
** The exact number of built vs unbuilt lots is not exact as building footprints and situs addresses can be deceiving.	R-1	NP-NBD	P-C	M-W
	R-M	NP-NCR	P-I	



Lincoln City Multi-Family Zones by use

October 2020

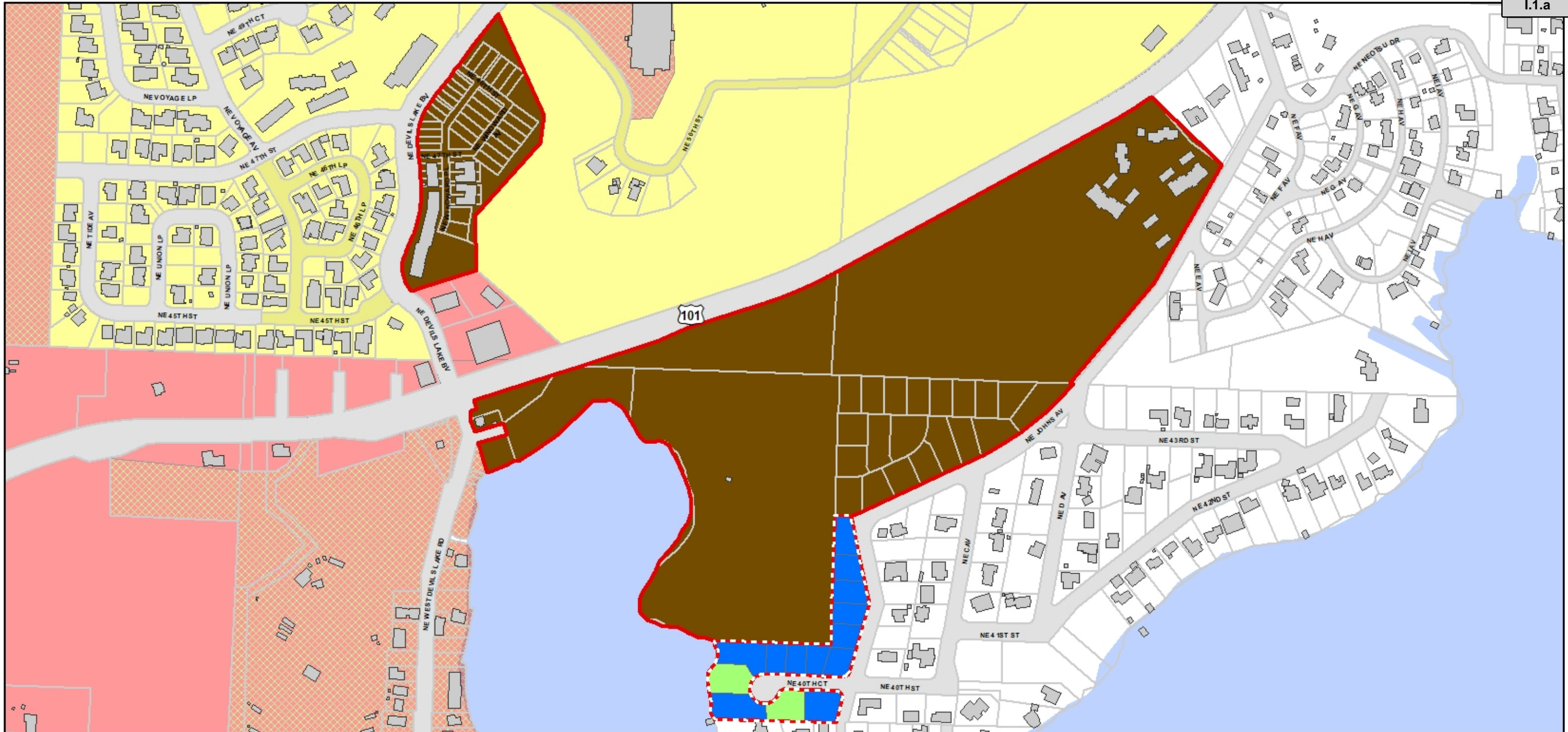
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Multi-Family Zones by use

October 2020

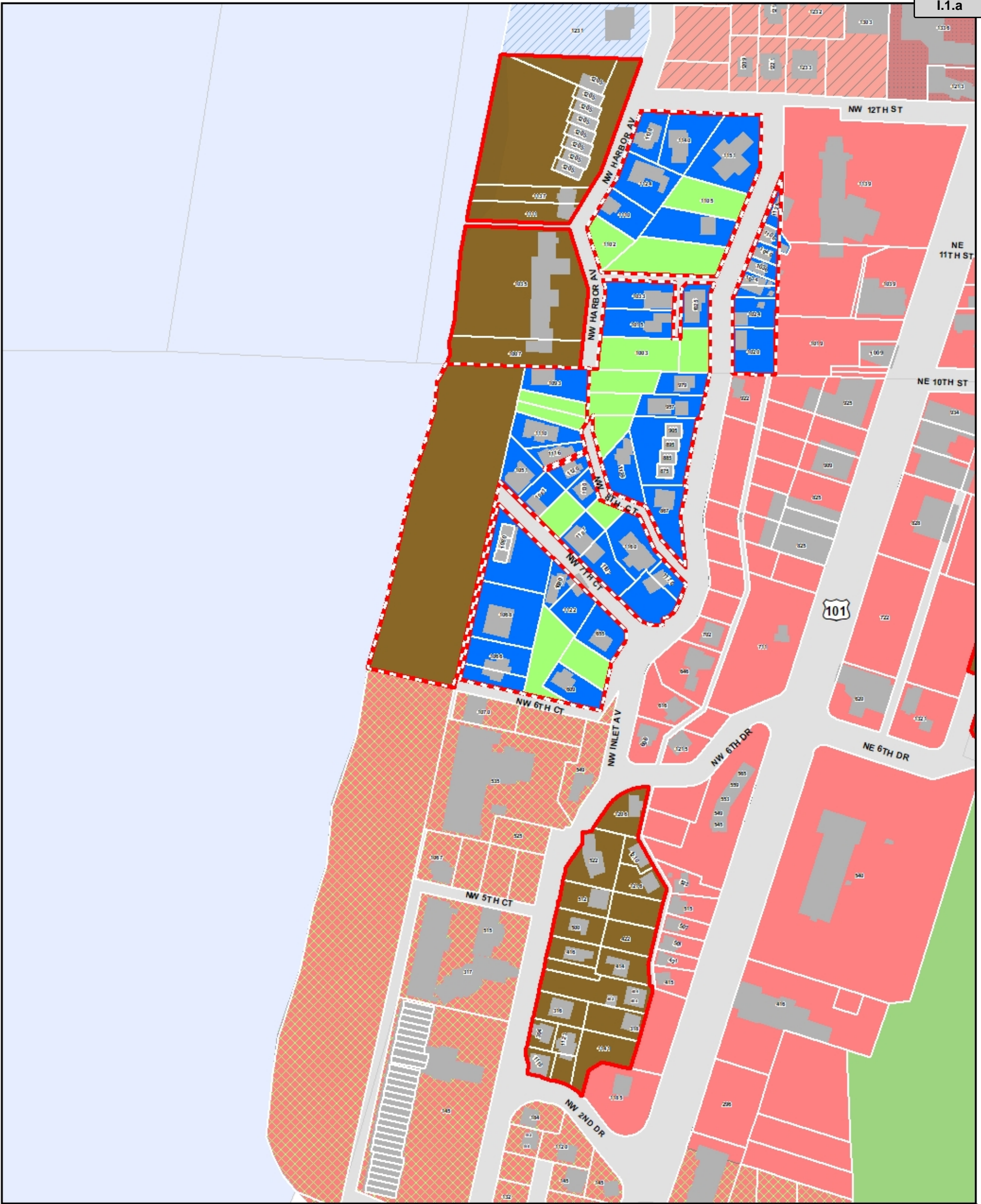
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530 Built Lots : 83 ac +/-	R-1-7.5	R-R	NP-NCR	P-C	County P-F
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Multi-Family Zones by use

October 2020

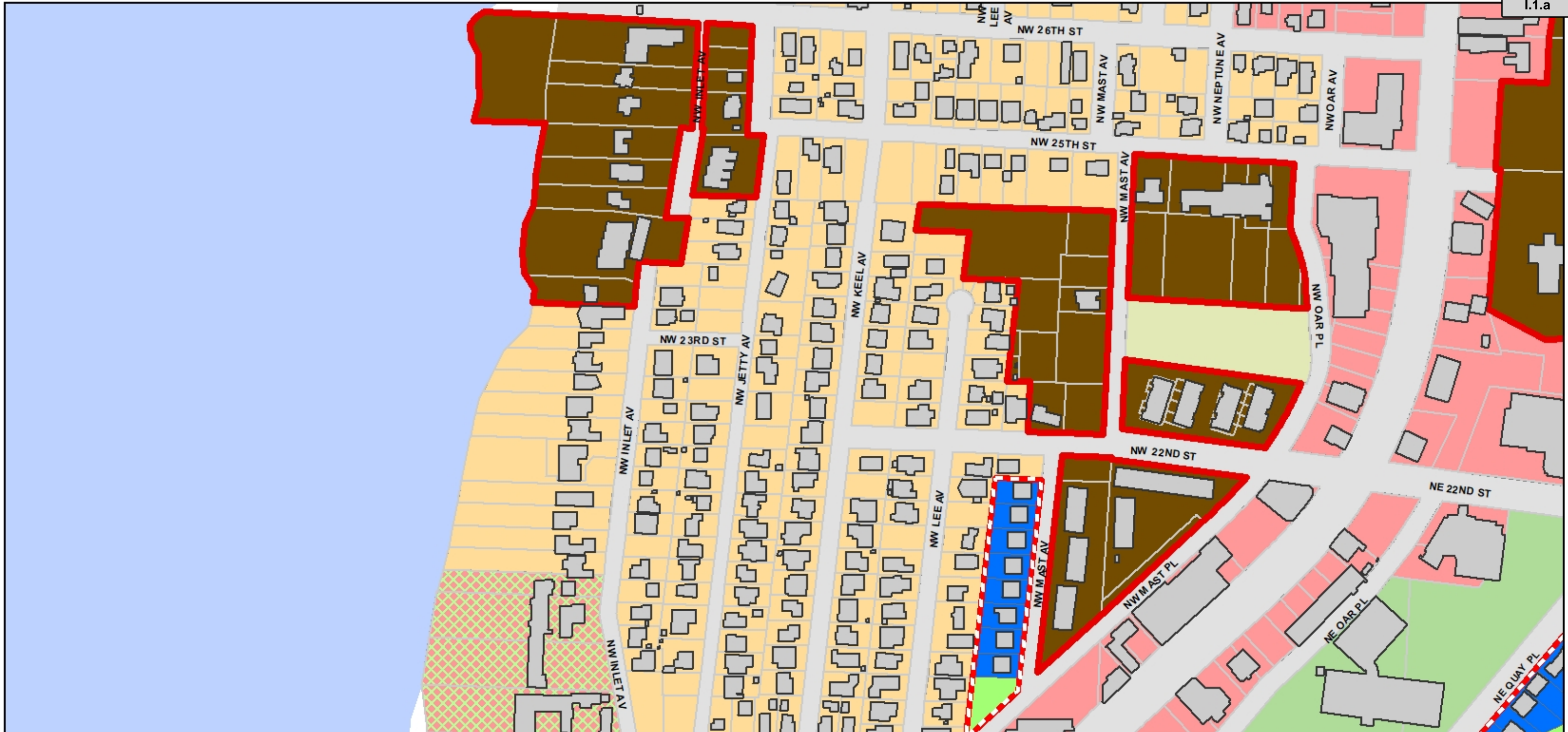
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530 Built Lots : 83 ac +/-	R-1-7.5	R-R	NP-NCR	P-C	County P-F
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Multi-Family Zones by use

October 2020

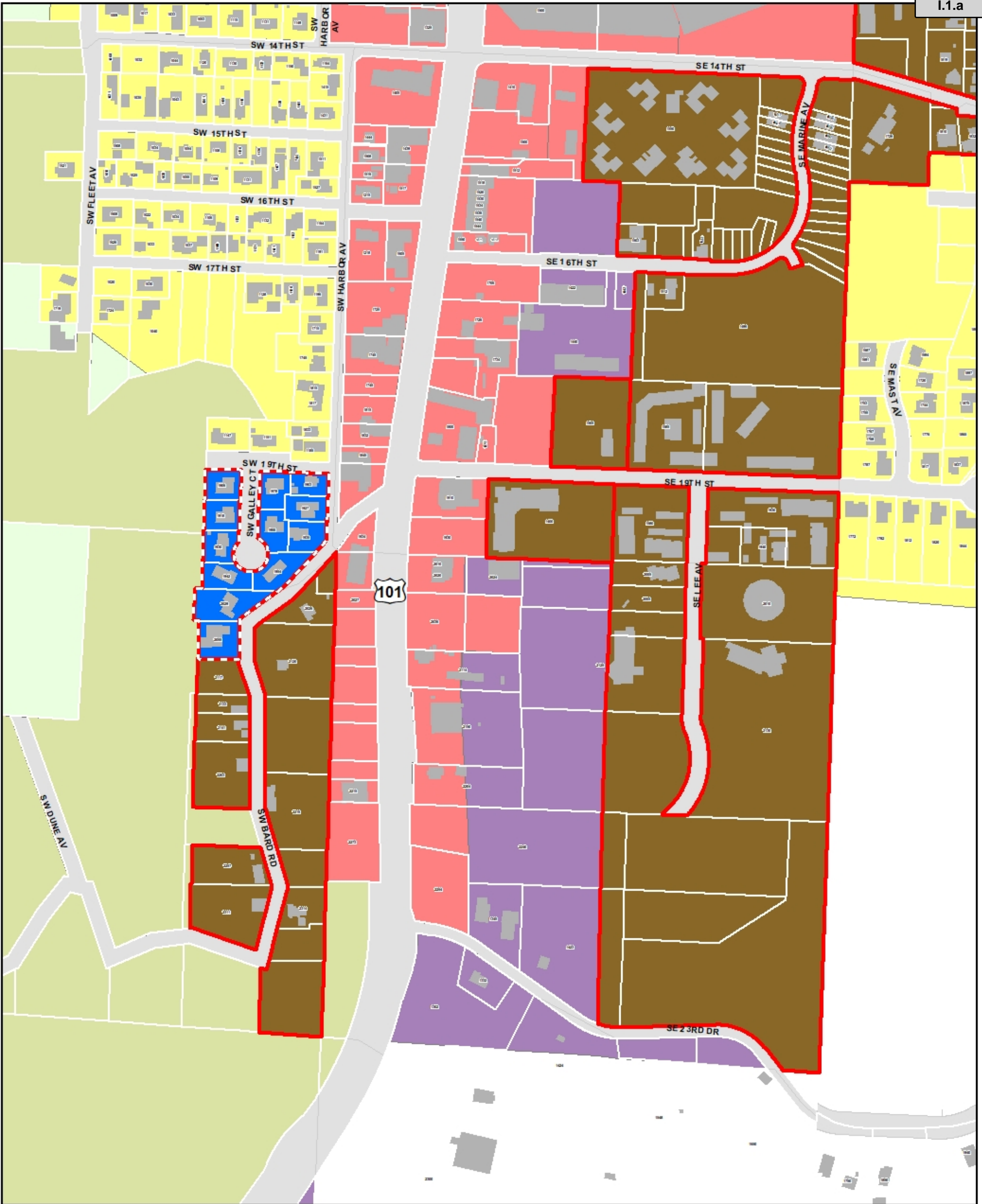
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	R-M	NP-NCR	P-I	



Multi-Family Zones by use

October 2020

Proposed Rezone: 104 ac	R-1-10	R-M	NP-NBD	OP-MSH	P
538 Built Lots : 84 ac +/-	R-1-7.5	R-R	NP-NCR	P-C	County P-F
112 Unbuilt Lots : 16.0 ac +/-	R-1-5	VR	OP-IM	P-I	M-W
4 Water : 2.0 ac +/-	R-1-RE	R-C	TVC	OP-OF	
	R-1	NP-NBMU	G-C	OS	

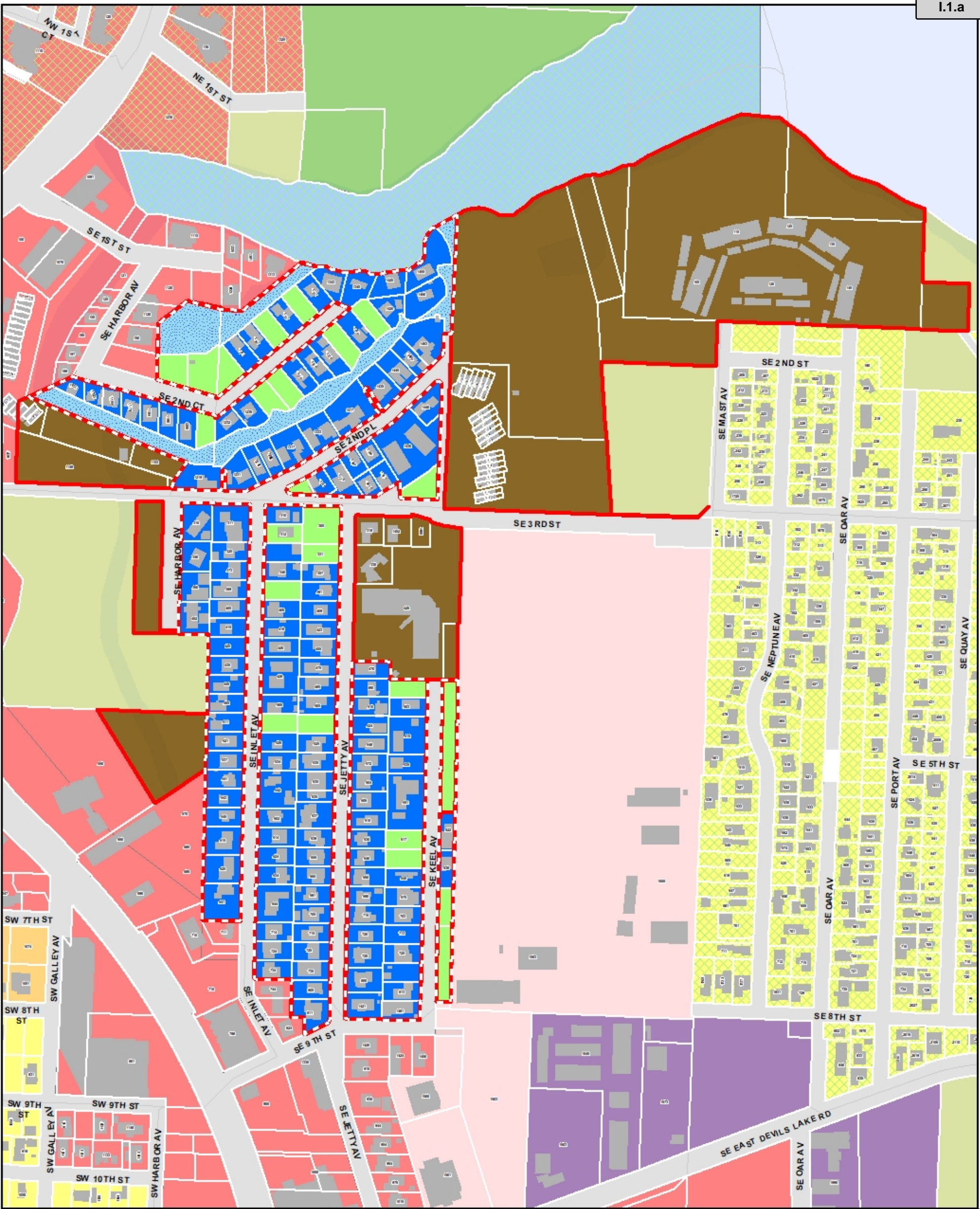


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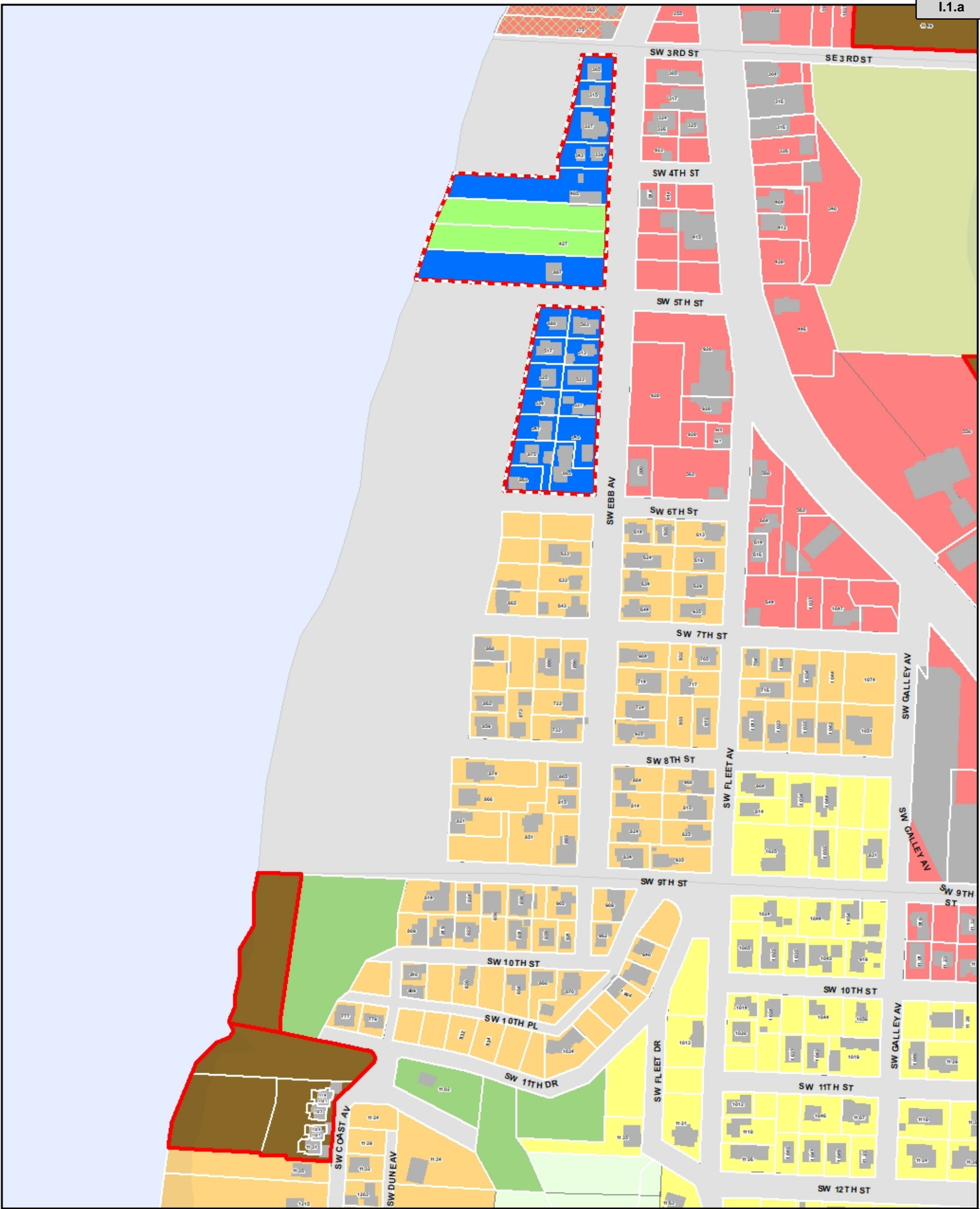
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Lincoln City Multi-Family Zones by use


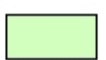








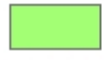








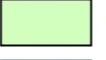

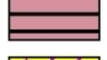





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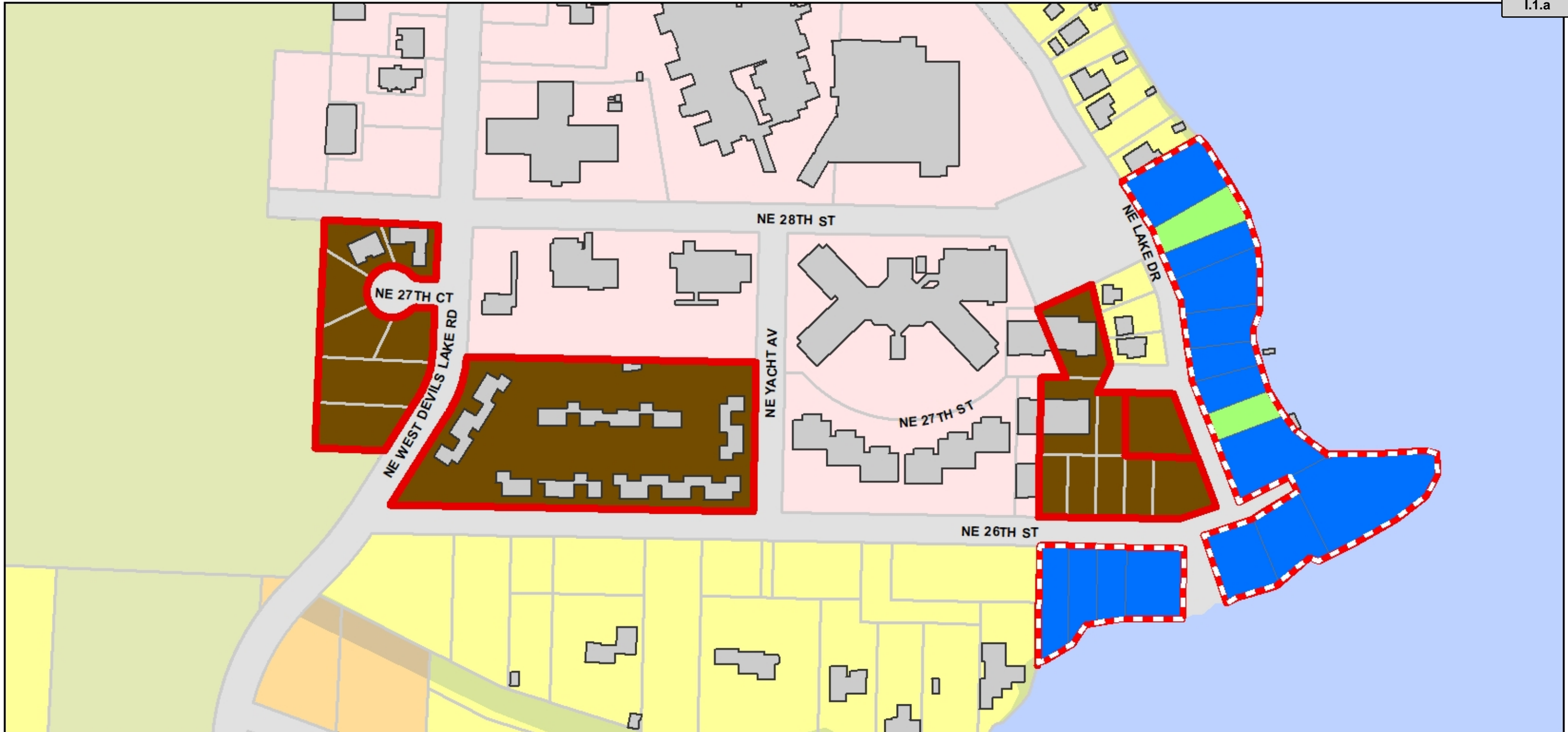


Lincoln City Multi-Family Zones by use

October 2020

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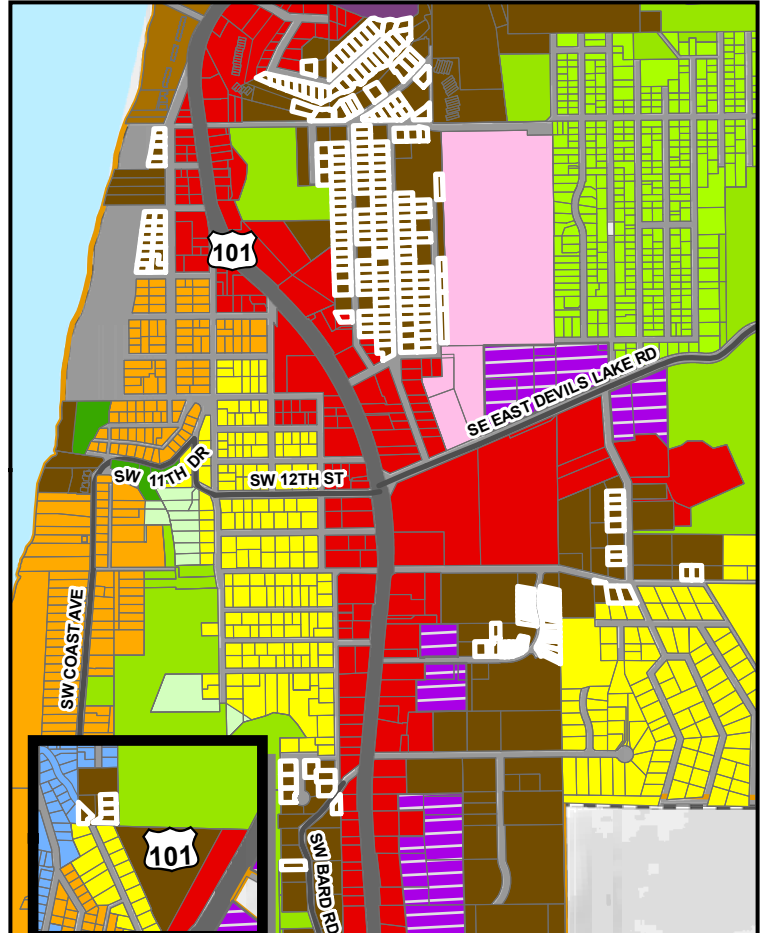
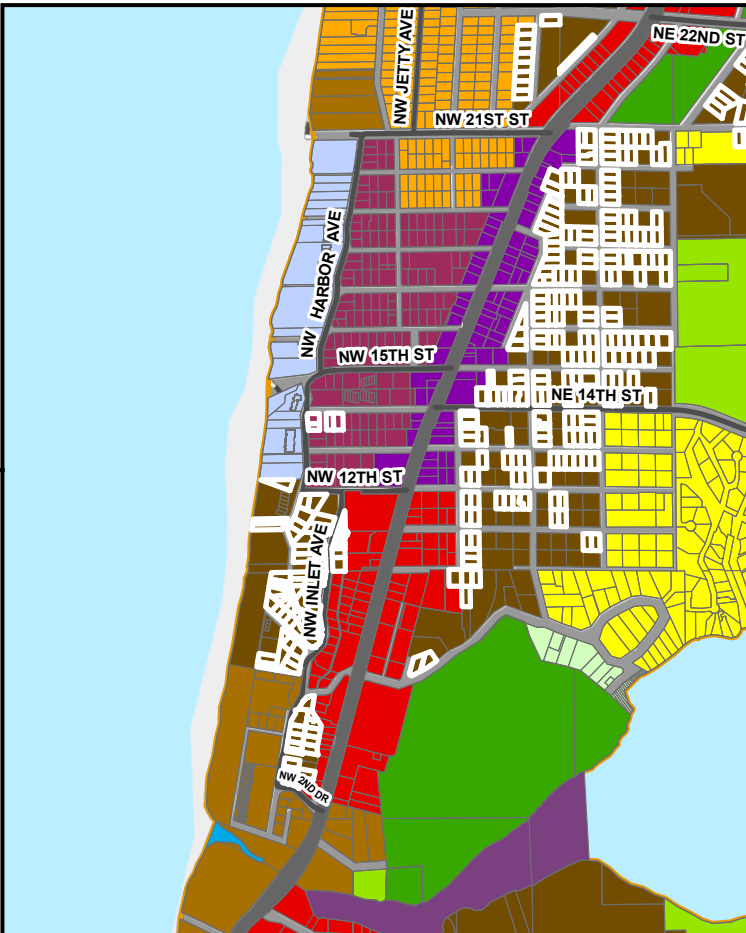
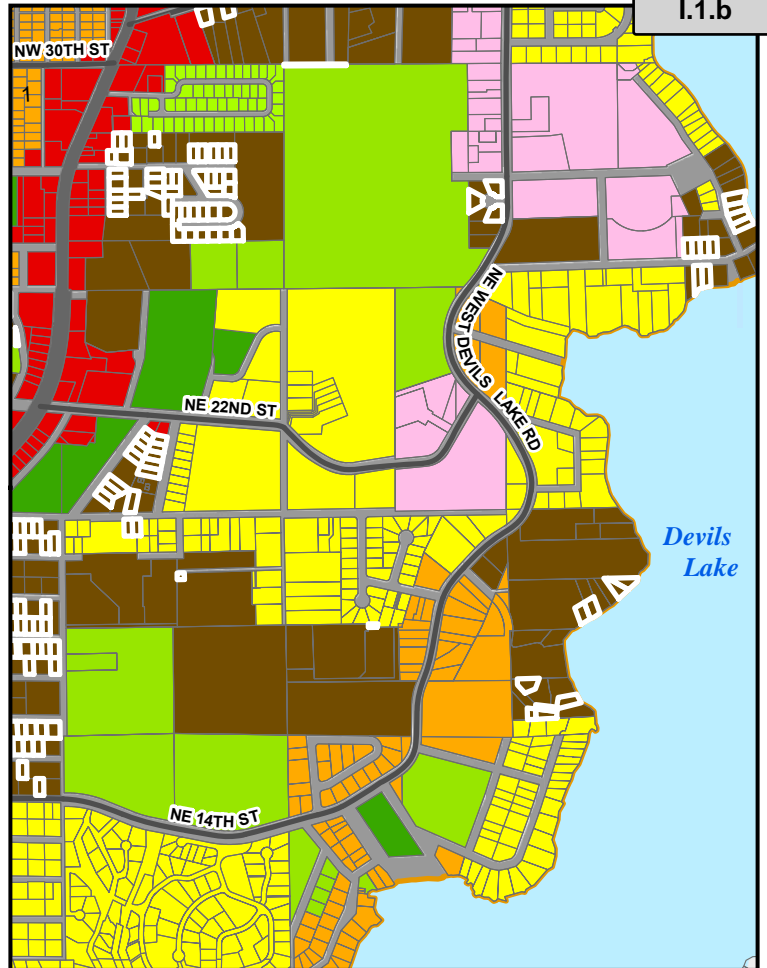
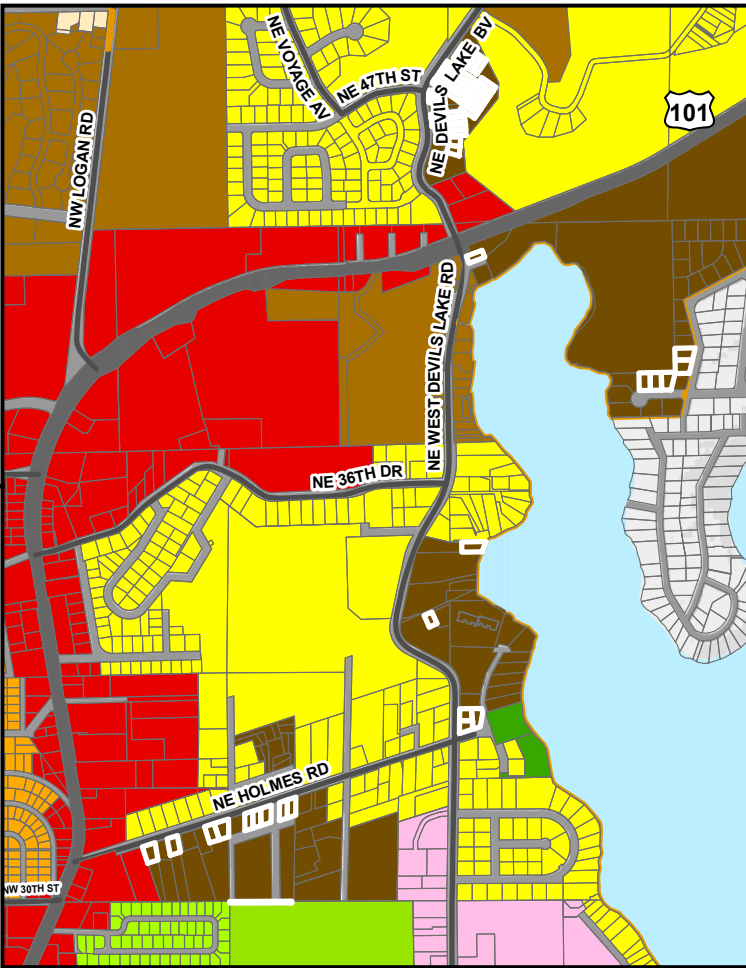
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Multi-Family Zones by use

October 2020

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	R-1	NP-NBMU	G-C	OS	



Lots Smaller Than 8,000 Square Feet (Highlighted in White)

0 0.5



Hello.

My name is Kevin Kenney & Kathleen Kenney.
We live at 445 S.E. Inlet Ave.

Since purchasing our home in 2014
we have proactively encouraged many
other fine, respectable, actively
engaged professionals to purchase on Inlet.
We are work force. Our family works for
the hospital, and we are involved in
our local Girl Scouts Troup 10143.

We do not want amendments ZOA 2021-03
made to an ordinance that
was designed to provide appropriate
standards for parking, build height,
setbacks, buildable lot usage,
required yard area, trash designation,
"parking," ect.

These standards provides the citizen's
with needed protections and safeguards
our founding father architected
into our city.

- 2 -

Speaking with my fellow citizens, neighbors I have discovered not one on our street actively seeking to provide accessory use buildings into "work force housing."

I believe that work force housing is being coined to benefit a specific person and lot that does not fit present criteria.

If we truly care for a affordable "work force housing" lets have vision to lift our citizens out of tent trap. We all know the only way to get ahead is to purchase land or home. That is the American Dream.

We, the citizens, purchased the Villages with much land, though in none of the designs, I have seen are inclusive to think of the residents. They benefit big builders threw executive session only meetings.

- 3 -

I am not trying to be a fly
in the ointment.

I want long term vision.

This is not what I have ever heard
spoken by Mr. Ron Chandler or Mr. Ward.

We invested heavily to bury electrical
cables, disrupting traffic at Drivet.

This is the center of our town.

Should be the most lucrative yet
it is hit by wildfire and corona.

Now I hear rumor of converting
the hotels at Drivet into workforce.

We should be considering footpaths and
a floating dock to connect as it
was once before in the Callin Boat
works days. This town is on the
verge of many great investments
please do not convert hotels/motels.

We want every tourist dollar from
occupancy tax!

We love the vision "Everything is better
at the beach! Stay with tourism vibe.

-4-

In closing I feel the change to 8000 sq ft. is unfairly benefiting only the interested parties of this new conversion without truly considering the impact to an established neighbors/Neighborhood.

Please truly think of the tax paying residents and future owners of Lincoln City. The bus barn put up a fair share of land in Holly Hills for the future they saw in Lincoln City, can we not put a few acres up for a work force housing. I also believe the people of Lincoln City should be allowed a shot to buy this new land in the former Villages area.

Thank you for listening.
I appreciate your time and help.

Sincerely,
Kevin Kenney

Enrolled House Bill 3261

Sponsored by Representative MARSH; Senator GOLDEN

CHAPTER

AN ACT

Relating to conversion of properties for living spaces; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS chapter 197.

SECTION 2. (1) Except as provided in this section and notwithstanding any statewide land use planning goals or land use regulations, a local government shall unconditionally allow the conversion of the lawful use of a property:

- (a) From use as a hotel or motel, to use as an emergency shelter.
- (b) From use as a hotel or motel, or a hotel or motel that was converted to an emergency shelter under paragraph (a) of this subsection, to use as affordable housing.
- (2) This section applies only to areas:
 - (a) Within an urban growth boundary;
 - (b) Not designated by the local government as specifically for heavy industrial uses;
 - (c) With adequate transportation access to commercial and medical services; and
 - (d) Not within an area designated for a statewide land use planning goal relating to natural disasters or hazards, including flood plains or mapped environmental health hazards, unless the converted use complies with regulations directly related to the disasters or hazards.
- (3) A local government may require a converted use under this section to comply with:
 - (a) Applicable building codes;
 - (b) Occupancy limits; or
 - (c) For uses under subsection (1)(b) of this section, reasonable standards relating to siting or design, if the standards do not, individually or cumulatively, prohibit the conversion through unreasonable costs or delay.
- (4) A conversion under this section is not a land use decision as defined in ORS 197.015.
- (5) A local government is not required to consider whether the conversion significantly affects an existing or planned transportation facility for the purposes of implementing a statewide land use planning goal relating to transportation.
- (6) As used in this section:
 - (a) "Affordable housing" means housing in which all units are affordable to households with incomes equal to or less than 60 percent of the area median income as defined in ORS 458.610 and whose affordability is enforceable by an affordable housing covenant, as described in ORS 456.270 to 456.295, for a duration of no less than 30 years.
 - (b) "Conversion" includes an alteration to a building that changes the number of units but does not expand the building footprint.

(c) "Emergency shelter" means a building that provides shelter on a temporary basis for individuals and families who lack permanent housing.

(d) "Lawful use" includes a nonconforming use as described in ORS 215.130 (6) or any other local land use regulation allowing for the continuation of a use that was lawful when first enacted.

SECTION 3. Section 2 of this 2021 Act applies to conversions or applications for conversions on or after January 1, 2021.

SECTION 4. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Passed by House March 31, 2021

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate April 26, 2021

.....
Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2021

Approved:

.....M,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2021

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Shemia Fagan, Secretary of State

Council Communication

Proposed Job Description

Meeting Date:	July 12, 2021	Primary Staff Contact:	Abigail Edwards
Department:	Human Resources	E-Mail:	ADonowho@lincolncity.org
Secondary Dept:		Secondary Contacts:	Abigail Edwards
Approval:	David Twigg	Estimated Time:	10 minutes

Background:

As part of the City Manager Recruitment Process, public comment is permitted on proposed hiring criteria.

Attachments:

City Manager Job Description - DRAFT UPDATES FOR PUBLIC COMMENT (PDF)



ORGANIZATION: City of Lincoln City
JOB TITLE: City Manager
FLSA STATUS: Exempt
UNION: Non-Represented/Contract Employee
UPDATED: June 2021

PURPOSE OF POSITION: The city manager is the administrative head of the city government. Responsible for the overall management of the City's organization and operations. Plan and direct the activities of all City departments and functions, through subordinate department directors and others. Provide information to City Council and acts as their policy adviser. Serve as the City's Chief Administrative Officer and Budget Officer.

ESSENTIAL JOB FUNCTIONS: The Lincoln City Charter, Chapter 5.2 describes the duties of the City Manager and is attached to this description as Appendix A. The following Essential Functions are described for additional detail and direction from the City Council.

Direct and supervise the city's organization, management, administrative and financial operations and ensure operations are conducted in accordance with best practices and established ethical standards both directly and through subordinate department heads. This includes supervising the operation of all city-owned public utilities and property.

With Council participation and direction, analyze and strategically develop, plan and implement short and long-term goals, objectives and priorities for the City and monitor progress and success.

Provide management and supervision over employees and their work. Organize employee duties, work methods and training/development, in consultation with department heads. Establish organizational philosophy and set the tone for workplace culture.

Develop, mentor, supervise and evaluate the work performance of department heads and other direct reports.

Appoint, supervise, control and/or dismiss all city personnel, except the City Attorney and Municipal Judge. Hear grievances and appeals. Guide and direct labor negotiator in labor contract negotiations.

Provide advice, reports, data and information to the City Council in regular and special meetings. Keep City Council advised as to the financial condition, operations, needs of and issues facing the City.

Serve as the City's Budget Officer. Prepare and transmit to the council an annual city budget in accordance with Oregon Budget Law.

Supervise all purchasing. Oversee and manage the financial affairs of the City in a sound manner, ensuring potential sources of revenue are identified and that the City's expenditures are consistent with objectives and aligned with the budget. Prepare or oversee the preparation of five-year financial forecasts of all major funds.

Analyze and evaluate the effectiveness of city operations, services and programs and direct improvement. This includes conferring with department heads and others on various

THIS DESCRIPTION COVERS THE MOST SIGNIFICANT ESSENTIAL AND AUXILIARY DUTIES PERFORMED BY THE POSITION, BUT DOES NOT INCLUDE OTHER OCCASIONAL WORK, WHICH MAY BE SIMILAR, RELATED TO, OR A LOGICAL ASSIGNMENT FOR THE POSITION.

operational and administrative issues, reviewing departmental plans, programs and procedures and giving guidance and direction.

Oversee the development and implementation of a plan to make the City's extensive land holdings available for private development to create jobs, taxable value, workforce housing and revenue. Oversee the City's aggressive infrastructure replacement program.

Actively participate in the update of the City's ADA Self Evaluation and Transition Plan. Work to ensure that the City's facilities, routes of travel, programs and services are ADA compliant and accessible on an ongoing basis.

Propose and recommend programs, services, policies and procedures and other activities based on analysis of need, available resources and economic and legislative influences to provide appropriate and effective service to the public. This includes planning for future development.

Recommend and oversee implementation of City policies, rules and regulations. Administer and enforce the City Charter. Enforces all ordinances and sees that all terms, franchise, leases, contracts, permits and privileges granted by the city are observed.

Organize and reorganize City structure as needed.

Respond to citizen inquiries and complaints. Resolve issues or refer to ensure resolution.

Represent the City in the community and at professional meetings.

Coordinate City activities with other governmental agencies and outside organizations. Appoint administrative committees for coordination of services and activities.

Maintain cooperative and harmonious working relationships with City elected and administrative officials, employees, representatives of business and governmental organizational and the general public.

Other related duties as assigned by the City Council.

AUXILIARY JOB FUNCTIONS: Maintain proficiency by attending training and meetings, reading materials and meeting with others in areas of responsibility.

JOB QUALIFICATION REQUIREMENTS:

MANDATORY REQUIREMENTS:

Education*: Bachelors Degree in Public Administration, Business Administration or a related field.

Experience*: A minimum of five (5) years of progressively responsible senior management or supervisory experience, preferably in the Oregon public sector for a municipality. Related Oregon experience must be within the last ten (10) years.

**Any satisfactory combination of education, continued on-the-job or sector-specific training certificates, and experience that demonstrates the knowledge, skills and abilities to perform the above duties may be substituted for the specific education and experience requirements.*

Skills: Must possess strong leadership skills and demonstrated ability to plan and direct organization and operations. Ability to appraise and report on the quality of varied municipal services using performance measurements is essential. Excellent verbal and written communication, diplomacy, time management and organization skills are required. Intermediate to advanced knowledge of Microsoft Office Suite and electronic communication methods. Basic to intermediate Social media navigation skills.

SPECIAL REQUIREMENTS/LICENSES: Valid driver's license and safe driving record. The ability to pass a background screening, including credit check.

DESIRABLE REQUIREMENTS: Masters Degree in Public Administration, Business or a related field. Skills and experience in managing an organization or large department with diverse services, preferably in the public sector. Strong knowledge of municipal public works and Oregon land use planning. Strong knowledge and experience with public budgeting, finance, reporting, personnel management and labor law.

PHYSICAL DEMANDS OF POSITION: While performing the duties of this position, the employee is frequently required to sit, bend, communicate, reach and manipulate objects. The position is primarily sedentary but mobility is required to travel to various City locations. Duties involve moving materials weighing up to 5 pounds on a regular basis and may infrequently require moving materials weighing up to 30 pounds. Requires the ability to use hearing and speech to make presentations and carry on conversations over the phone and in-person. Requires near visual acuity necessary to read printed materials and computer screens. Manual dexterity and coordination are required over 80% of the work period while operating office equipment such as computer keyboard, calculator, telephone and other standard office equipment.

WORKING CONDITIONS: Usual office working conditions. The noise level in the work area is typical of most office environments with telephones, personal interruptions and background noises.

SUPERVISORY RESPONSIBILITIES: Provide complete supervise to assigned employees, including oversight and final authority for approximately 140 FTEs.

SUPERVISION RECEIVED: Appointed by, serves at the pleasure of and is responsible to the City Council, as described in the City Charter.

**Appendix A—Excerpt from the Lincoln City Charter
Chapter 5: Powers and Duties of Officers**

5.2 City Manager.

- (1) The city manager is the administrative head of the city government.
- (2) The manager shall be appointed, solely on the basis of administrative qualifications, by an affirmative vote of four or more members of the council.
- (3) The manager need not reside in the city or the state when appointed.
- (4) The manager shall be appointed for an indefinite term and may be removed by the council at its pleasure in accordance with Section 3.6 of this Charter.
- (5) Within six consecutive months after a vacancy occurs in the office of city manager, the council shall fill the vacancy by appointment.
- (6) The manager shall:
 - (a) Attend all council meetings unless excused by the council or mayor;
 - (b) Keep the council advised of the affairs and needs of the city;
 - (c) See that the provisions of all ordinances are administered to the satisfaction of the council;
 - (d) See that all terms of franchises, leases, contracts, permits, and privileges granted by the city are fulfilled;
 - (e) Appoint, discipline and remove appointive personnel, except appointees of the mayor or council;
 - (f) Supervise and control the manager's appointees in their service to the city;
 - (g) Organize and reorganize the departmental structure of city government;
 - (h) Prepare and transmit to the council an annual city budget;
 - (i) Supervise city contracts;
 - (j) Supervise operation of all city-owned public utilities and property;
 - (k) Supervise all purchasing; and
 - (l) Perform other duties as the council prescribes consistently with this charter.
- (7) The manager shall not control:
 - (a) The council;
 - (b) The municipal judge in the judge's judicial functions, or the city attorney;
 - (c) Except as the council authorizes, appointive personnel of the city whom the manager does not appoint.
- (8) The manager and other personnel whom the council designates may sit with the council but may not vote on questions before it. The manager may take part in all council discussions.
- (9) When the manager is absent from the city or disabled from acting as manager, or when the office of manager becomes vacant, the council may appoint a manager pro tem, who has the powers and duties of manager, except that the manager pro tem may appoint or remove personnel only with approval of the council. No person may be manager pro tem for more than six consecutive months.

Council Communication

Ordinance 2021-09 COVID Time Extension

Meeting Date:	July 12, 2021	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:		Secondary Contacts:	Sungman Kim
Approval:	Lila Bradley	Estimated Time:	5 mins.

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

ORDINANCE NO. 2021-09

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

Staff Recommendation:

Staff recommends Council conduct and approve Second Reading and adopt Ordinance 2021-09.

Authority:

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

Background:

Chapter 17.76 (Administration Provisions) will be amended by adding a new section 17.76.155 to create a process to grant all eligible approvals an 18 month time extension due to the economic impact of Covid 19. The ordinance creates a ministerial process only. For a time extension, application is required.

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

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

Council approved First Reading on June 28, 2021.

Council Options:

1. Conduct and approve Second Reading. Read changes, if any. Conduct and Approve Second Reading and Adopt the Ordinance.
2. Do not proceed with proposed ordinance.

Potential Motions:

ORDINANCE NO. 2021-09

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

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

Council:

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

Attachments:

Ordinance 2021-09 (DOCX)

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

ORDINANCE NO. 2021-09

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

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

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

2.1 Powers of the City

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

2.2 Construction of Charter

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

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

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

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

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

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

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

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

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

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

19 **SECTION 17.76.155 COVID Timetable Extension**

20
21 **Notwithstanding any other provision of this Title, upon application and payment**
22 **of the \$50.00 application fee, the Director shall grant an eighteen (18) month**
23 **timetable extension for any eligible existing land use permit or planning action as**
24 **defined below. To meet the eligibility requirement for an extension, the following**
25 **must be demonstrated:**
26

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

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

1 **SECTION 2. Findings Adopted.**

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

7
8 **SECTION 3. Severability.**

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

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

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

18
19 **SECTION 5. Codification.**

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

29
30 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section
31 9.2 of the City of Lincoln City Charter on the 28th day of June 2021 (First Reading) and on the 12th
32 day of July, 2021 (Second Reading).
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PASSED AND ADOPTED by the City Council of the City of Lincoln City this 12th day of July, 2021.

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG CITY RECORDER

APPROVED AS TO FORM:

RICHARD APPICELLO, CITY ATTORNEY

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

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

ORDINANCE NO. 2021-09

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

The substance of the proposed amendment is as follows:

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

SECTION 17.76.155 COVID Timetable Extension

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

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

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

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

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

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

Analysis of Goals:

A. Statewide Planning Goals

(1) Goal 1: Citizen Involvement

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

All documents relating to this proposal were made available for public review and purchase, and were posted on the city's website. Staff was available to interpret and explain the technical information. The city advertised public hearings on the proposed zoning ordinance amendments in the local newspaper in accordance with notice requirements. Property owners with existing valid projects were notified of the proposed amendment under city code. The planning commission and the city council each held or will hold a public hearing at which citizens were invited to participate. Therefore, the amendments are consistent with Goal 1.

(2) Goal 2: Land Use Planning

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

The fact that the COVID 19 pandemic has caused an economic slow down from which the State of Oregon is now recovering is well established. While not fully recovered at present, the anticipated shut-down to full re-opening time period is about 18 months.

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

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

(3) Goal 3: Agricultural Lands

“To preserve and maintain agricultural lands.”

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

(4) Goal 4: Forest Lands

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

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

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

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

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

Goal 6: Air, Water and Land Resources Quality

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

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

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

"To protect people and property from natural hazards."

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

(8) Goal 8: Recreational Needs

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

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

Goal 9: Economic Development

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

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

(10) Goal 10: Housing

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

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

(11) Goal 11: Public Facilities and Services

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

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

(12) Goal 12: Transportation

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

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

(13) Goal 13: Energy Conservation

"To conserve energy."

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

(14) Goal 14: Urbanization

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

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

(15) Goal 15: Willamette River Greenway

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

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

(16) Goal 16: Estuarine Resources

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

The amendment does not by itself allow development in areas adjacent to the city's designated estuarine resource (i.e., Siletz Bay). To the extent the amendment may result in extending the timetable of a development approval located in areas adjacent to the bay, these areas are already processed / reviewed and protective measures imposed. The amendments, therefore, are consistent with Goal 16 or Goal 16 is not applicable.

(17) Goal 17: Coastal Shorelands

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

The city's coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000

feet of the shoreline mean high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. The amendment only concerns creating a process to extend existing valid timetables of development by 18 months. No additional lands over what has been previously reviewed and approved will be impacted. The amendments, therefore, are consistent with Goal 17, or Goal 17 does not apply.

(18) Goal 18: Beaches & Dunes

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

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

(19) Goal 19: Ocean Resources

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

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

B. Comprehensive Plan Goals

(1) Planning Goal

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

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

(2) Citizen Involvement Goal

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

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

(3) Public Services and Utilities Goal

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

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

(4) Urbanization Goal

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

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

(5) Natural Hazard Goal

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

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

(6) Housing Goal

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

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

(7) Economy Goal

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

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

(8) Aesthetic Goal

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

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

(9) Transportation Goal

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

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

(10) Energy Goal

"To conserve energy."

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

(11) Overall Environmental Goal

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

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

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

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

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

Council Communication

Ordinance 2021-14 (RM and GC Amendments)

Meeting Date:	July 12, 2021	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:		Secondary Contacts:	Sungman Kim
Approval:	Lila Bradley	Estimated Time:	10 mins.

Question: Following the public hearing, should the City Council conduct and approve First Reading and Second Reading of Ordinance 2021-14?

ORDINANCE NO. 2021-14

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.20 (MULTI-UNIT RESIDENTIAL (R-M) ZONE), TO RESTORE SINGLE FAMILY UNITS AS PERMITTED USES UNDER LIMITED CIRCUMSTANCES; AMENDING CHAPTER 17.32 (GENERAL COMMERCIAL (GC) ZONE) TO PERMIT CONVERSION OF EXISTING HOTELS/MOTELS/RESORT UNITS TO MULTI-UNIT RESIDENTIAL WITH A PERCENTAGE DEDICATED TO WORKFORCE HOUSING

Alternate Title for RM only:

ORDINANCE NO. 2021-14

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.20 (MULTI-UNIT RESIDENTIAL (R-M) ZONE), TO RESTORE SINGLE FAMILY UNITS AS PERMITTED USES UNDER LIMITED CIRCUMSTANCES

Staff Recommendation:

Staff recommends Council conduct and approve First Reading of Ordinance 2021-14 and, *if unanimous*, Conduct and approve Second Reading and adopt Ordinance 2021-14.

Authority:

City of Lincoln City Charter, Chapter IX. Section 9.2(1) provides that an ordinance may be enacted at a single meeting of the Council by unanimous vote of all Council members voting when a quorum is present upon being read by title only. Adoption of an ordinance after second reading requires the express concurrence of a majority of the members present. Ordinances

may be read by title only, after compliance with Charter procedures. A non-emergency ordinance takes effect on the thirtieth (30th) day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as it is adopted or on some other date specified in the ordinance.

Background:

See Public Hearing Staff Report on this Agenda.

Planning Commission action:

On July 6, 2021, the Planning Commission recommended approval of the Ordinance (Section 1) with the change from 8000 square foot lots to 10,000 square feet with appropriate reference to R-1 standards.

Given the adoption of 3261 (2021) [see PH item], Section 2 may need to be abandoned. Staff requests that the Ordinance be divided into RM and GC components and that the GC portion be continued to August 23, 2021. A revised version of the Ordinance containing only the Rm portion with the change recommended by the Planning Commission is also attached.

Council Options:

1. Conduct and approve First Reading. [RM, GC, or both.] Read changes, if any. Conduct and Approve Second Reading and Adopt the Ordinance.
2. Conduct and approve First Reading. Continue Second Reading to July 26, 2021.
3. Continue First Reading to July 26, 2021.
4. Do not proceed with proposed ordinance.

Potential Motions:

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

ORDINANCE NO. 2021-14

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.20 (MULTI-UNIT RESIDENTIAL (R-M) ZONE), TO RESTORE SINGLE FAMILY UNITS AS PERMITTED USES UNDER LIMITED CIRCUMSTANCES; AMENDING CHAPTER 17.32 (GENERAL COMMERCIAL (GC) ZONE) TO PERMIT CONVERSION OF EXISTING HOTELS/MOTELS/RESORT UNITS TO MULTI-UNIT RESIDENTIAL WITH A PERCENTAGE DEDICATED TO

WORKFORCE HOUSING

Alternate Title for RM only:

ORDINANCE NO. 2021-14

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.20 (MULTI-UNIT RESIDENTIAL (R-M) ZONE), TO RESTORE SINGLE FAMILY UNITS AS PERMITTED USES UNDER LIMITED CIRCUMSTANCES

Council:

1. Motion to approve First Reading of Ordinance 2021-14

If unanimous: conduct Second Reading

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

Council:

1. Motion to approve Second Reading and adopt Ordinance 2021-14.

Attachments:

Ordinance 2021-14 (RM and GC fix) (DOCX)

Exhibit A Findings for 2021-14ra (DOCX)

Ordinance 2021-14 RM only with changes (DOCX)

Exhibit A findings RM only with changes (DOCX)

1
2 **17.20.020 Permitted uses.**

3
4 A. Attached single-unit dwellings;

5 B. Attached single-unit dwellings developments;

6 **C. Detached single-family dwelling unit, including manufactured dwelling, if**
7 **located on a lawfully-created lot with an area of 8,000 square feet or less that**
8 **existed on September 9, 2020;**

9 **D. Detached single-family dwelling unit, including manufactured dwelling, if**
10 **existing on or if a building permit was applied for before September 9, 2020, and**
11 **remains valid, and if developed under the standards set forth for single-family**
12 **dwelling units within the R-1 zone.**

13 **E. ~~C.~~** Community or market gardens not larger than 12,500 square feet, subject to the
14 provisions of LCMC 17.80.080;

15 **F. ~~D.~~** Cottage housing developments, subject to the provisions of LCMC 17.80.120;

16 **G. ~~E.~~** Duplexes;

17 **H. ~~F.~~** Multi-unit dwellings;

18 **I. ~~G.~~** Residential facilities;

19 **J. ~~H.~~** Residential homes;

20 **K. ~~I.~~** Structures used temporarily on the site and only during construction of a permitted
21 or conditional use for which a building permit has been issued, but not exceeding six
22 months;

23 **L. ~~J.~~** Tiny house developments, subject to the provisions of LCMC 17.80.040.(C);

24 **M. ~~K.~~** Transportation uses.

25
26 **SECTION 2.** Chapter 17.32 (*General Commercial (GC) Zone*), Section 17.32.020 (*Uses Permitted*),
27 is amended to read as follows:

28
29 **17.32.020 Uses permitted.**

30 In a GC zone, the following are given as examples of those uses that meet the intent of
31 this zone:

32 A. Convenience service/retail use;

33 B. Eating and drinking establishments, excluding drive-in restaurants;

34 C. Carpet, rug, fabric and interior decorating shops including reupholstering, making of
35 draperies and other similar articles which are conducted as part of, and secondary to, a
36 retail sales operation;

37 D. Sporting goods stores;

38 E. Motels and resorts;

39 F. Building supply stores;

40 G. Public facilities;

41 H. Garden supplies and nursery;

42 I. Community meeting buildings, fraternal or social organizations;

43 J. Automotive parts and accessories;

44 K. Printing;

1 L. Carpenter, plumbing, cabinet, upholstering and sheet metal shops, if conducted wholly
2 within an enclosed building;

3 M. Appliance sales and service;

4 N. Single-family dwellings and duplexes, if developed under the standards in the R-1
5 zone;

6 O. Mini-warehouses, if existing on or if site plan approval was applied for before June 9,
7 2008. Mini-warehouses in existence on or applied for before June 9, 2008, may be
8 expanded within the boundaries of the lot or lots they occupied as of that date, subject
9 to the standards applicable as of the date of application for expansion;

10 P. Time-share units, when developed under the standards of LCMC 17.28.050;

11 Q. Bed and breakfast accommodations;

12 R. Professional and business offices;

13 S. Art gallery and studio;

14 T. Physical therapy;

15 U. Equipment rental establishments;

16 V. Physical fitness center;

17 W. Manufactured homes when developed in accordance with the standards specified in
18 LCMC 17.28.100 (C) and 17.52.250;

19 X. Veterinary clinics;

20 Y. Community gardens and market gardens not larger than 12,500 square feet, in
21 accordance with the standards of LCMC 17.80.080;

22 Z. Mixed-use development;

23 AA. Essential emergency communications, early warning and associated emergency
24 facilities;

25 BB. Retail marijuana facilities, subject to the provisions of LCMC 17.80.130;

26 CC. Indoor theaters;

27 DD. Transportation uses, defined in Chapter 17.08 LCMC;

28 EE. Tiny house developments, subject to the provisions of LCMC 17.80.040 (C);

29 FF. Four-flat dwellings, subject to the provisions of LCMC 17.80.140;

30 GG. Places of worship, and accessory uses set forth in LCMC 17.80.160 (B);

31 HH. Mobile food units and mobile food pods, subject to the provisions of LCMC
32 17.80.170.

33 **II. Conversion of Existing Hotel/Motel/Resort Units to Multi-Unit Residential**
34 **including 20% of the units as workforce housing. For purposes of this section only**
35 **“workforce housing” means not to exceed 125% of median family income / area**
36 **median income for Lincoln County.**

37
38 **SECTION 3. Findings Adopted.** The findings contained in the Whereas Clauses of this
39 ordinance, together with the Findings set forth in Exhibit A, as well as the competent substantial
40 evidence in the whole record of this legislative proceeding are incorporated into this section by
41 reference as if fully set forth herein, and are adopted in support of this legislative action.
42

1 **SECTION 4. Severability.** The sections, subsections, paragraphs and clauses of this ordinance
2 are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the
3 validity of the remaining sections, subsections, paragraphs and clauses.

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

10
11 **SECTION 6. Ordinance Effective Date.** Pursuant to Chapter IX, Section 9.3, this ordinance
12 takes effect 30 days after the date of its adoption.

13
14 **SECTION 7. Codification.** Provisions of this Ordinance shall be incorporated in the City of
15 Lincoln City Municipal Code and the word "ordinance" may be changed to "code", "article",
16 "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or
17 re-lettered, provided that any Whereas clauses and boilerplate provisions (i.e. Sections 3-7) need
18 not be codified and the City Recorder is authorized to correct any cross-references and any
19 typographical errors.

20
21 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section
22 9.2 of the City of Lincoln City Charter on the 12th day of July, 2021 (First Reading) and on the 12th
23 day of July, 2021 (Second Reading).

24
25
26 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 12th day of July,
27 2021.

28
29
30
31 _____
32 SUSAN WAHLKE, MAYOR

33 ATTEST:

34
35
36 _____
37 JAMIE YOUNG, CITY RECORDER

38
39 APPROVED AS TO FORM:

40
41
42
43 _____
44 RICHARD APPICELLO, CITY ATTORNEY

**EXHIBIT A - FINDINGS
ORDINANCE NO. 2021-14**

The Title of Proposed Ordinance 2021-14 (ZOA-2021-03) is as follows:

ORDINANCE NO. 2021-14

**AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17,
(ZONING), AMENDING CHAPTER 17.20 (MULTI-UNIT RESIDENTIAL (R-M) ZONE),
TO RESTORE SINGLE FAMILY UNITS AS PERMITTED USES UNDER LIMITED
CIRCUMSTANCES; AMENDING CHAPTER 17.32 (GENERAL COMMERCIAL (GC)
ZONE) TO PERMIT CONVERSION OF EXISTING HOTELS/MOTELS/RESORT UNITS TO
MULTI-UNIT RESIDENTIAL WITH A PERCENTAGE DEDICATED TO WORKFORCE
HOUSING**

The substance of the proposed amendment is as follows:

SECTION 1. Chapter 17.20 (*Multi-Unit Residential (R-M) Zone*), Section 17.20.020 (*Permitted Uses*), is amended to read as follows

17.20.020 Permitted uses.

- A. Attached single-unit dwellings;
- B. Attached single-unit dwellings developments;
- C. Detached single-family dwelling unit, including manufactured dwelling, if located on a lawfully-created lot with an area of 8,000 square feet or less that existed on September 9, 2020;**
- D. Detached single-family dwelling unit, including manufactured dwelling, if existing on or if a building permit was applied for before September 9, 2020, and remains valid, and if developed under the standards set forth for single-family dwelling units within the R-1 zone.**
- ~~E. C.~~ Community or market gardens not larger than 12,500 square feet, subject to the provisions of LCMC 17.80.080;
- ~~F. D.~~ Cottage housing developments, subject to the provisions of LCMC 17.80.120;
- ~~G. E.~~ Duplexes;
- ~~H. F.~~ Multi-unit dwellings;
- ~~I. G.~~ Residential facilities;
- ~~J. H.~~ Residential homes;
- ~~K. I.~~ Structures used temporarily on the site and only during construction of a permitted or conditional use for which a building permit has been issued, but not exceeding six months;

- ~~L. J.~~ Tiny house developments, subject to the provisions of LCMC 17.80.040.(C);
~~M. K.~~ Transportation uses.

SECTION 2. Chapter 17.32 (*General Commercial (GC) Zone*), Section 17.32.020 (*Permitted Uses*), is amended to read as follows:

17.32.020 Uses permitted.

In a GC zone, the following are given as examples of those uses that meet the intent of this zone:

- A. Convenience service/retail use;
- B. Eating and drinking establishments, excluding drive-in restaurants;
- C. Carpet, rug, fabric and interior decorating shops including reupholstering, making of draperies and other similar articles which are conducted as part of, and secondary to, a retail sales operation;
- D. Sporting goods stores;
- E. Motels and resorts;
- F. Building supply stores;
- G. Public facilities;
- H. Garden supplies and nursery;
- I. Community meeting buildings, fraternal or social organizations;
- J. Automotive parts and accessories;
- K. Printing;
- L. Carpenter, plumbing, cabinet, upholstery and sheet metal shops, if conducted wholly within an enclosed building;
- M. Appliance sales and service;
- N. Single-family dwellings and duplexes, if developed under the standards in the R-1 zone;
- O. Mini-warehouses, if existing on or if site plan approval was applied for before June 9, 2008. Mini-warehouses in existence on or applied for before June 9, 2008, may be expanded within the boundaries of the lot or lots they occupied as of that date, subject to the standards applicable as of the date of application for expansion;
- P. Time-share units, when developed under the standards of LCMC 17.28.050;
- Q. Bed and breakfast accommodations;
- R. Professional and business offices;
- S. Art gallery and studio;
- T. Physical therapy;
- U. Equipment rental establishments;
- V. Physical fitness center;
- W. Manufactured homes when developed in accordance with the standards specified in LCMC 17.28.100 (C) and 17.52.250;
- X. Veterinary clinics;
- Y. Community gardens and market gardens not larger than 12,500 square feet, in accordance with the standards of LCMC 17.80.080;
- Z. Mixed-use development;

- AA. Essential emergency communications, early warning and associated emergency facilities;
- BB. Retail marijuana facilities, subject to the provisions of LCMC 17.80.130;
- CC. Indoor theaters;
- DD. Transportation uses, defined in Chapter 17.08 LCMC;
- EE. Tiny house developments, subject to the provisions of LCMC 17.80.040 (C);
- FF. Four-flat dwellings, subject to the provisions of LCMC 17.80.140;
- GG. Places of worship, and accessory uses set forth in LCMC 17.80.160 (B);
- HH. Mobile food units and mobile food pods, subject to the provisions of LCMC 17.80.170.

II. Conversion of Existing Hotel/Motel/Resort Units to Multi-Unit Residential including 20% of the units as workforce housing. For purposes of this section only "workforce housing" means not to exceed 125% of median family income / area median income for Lincoln County.

The Staff Reports (with Exhibits) for the July 6, 2021 Planning Commission meeting and the July 12, 2021 City Council meeting are specifically incorporated herein as findings in support of the proposed amendments.

The proposed amendment has two distinct parts: (1) Amendments to LCMC 17.20.020; and (2) Amendments to LCMC 17.32.020. The amendments to some degree offset each other in terms of impacts on the City's land use program. In brief, the amendments to RM restore allowance for single family use by allowing as permitted existing single family and allowing single family on small lots (less than 8000 square feet). The Amendments to GC allow conversion of hotel/motel type units to multi-family provided there is a percentage of workforce housing.

Except for policies on housing and the economy, the state-wide planning goals and City comprehensive plan policies are not applicable to, or are not adversely impacted by the restoration of some single family to RM (existing lots and homes) or by the allowance for conversion of hotel/motel use to multi-family.

Analysis of Goals:

Findings in support of the proposed amendments to LCMC Chapter 17.20.020 and 17.32.020

Statewide Planning Goals

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 proposal is consistent with Statewide Planning Goal 1, because the process the City of Lincoln City used to develop and adopt this amendment will provide the opportunity for citizens to be involved in all phases of the planning process, as follows.

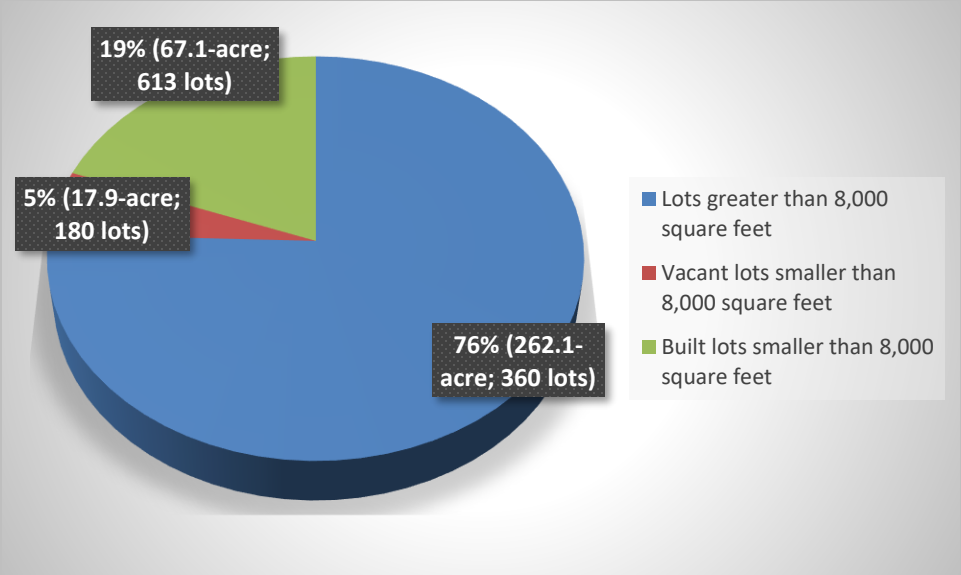
- The City Council by unanimous consent directed staff to present some options to allow single family residential developments in the Multiple-Unit Residential (R-M) Zone at their regular meeting on April 26, 2021.
- After reviewing options presented by the staff, the City Council unanimously determined to initiate the amendment at their regular meeting on May 10, 2021.
- The City is planning to notify the Oregon Department of Land Conservation and Development pursuant to ORS 197.610 of its consideration of the proposed amendment(s) on May 21, 2021.
- A written individual notice of the amendment was mailed on June 15, 2021 to the owner of each lot or parcel of property that this ordinance proposed to change under ORS 227.186(4).
- The amendment was discussed at the planning commission public hearing on July 6, 2021.
- The City Council conducted a public hearing and first read the Ordinance on July 12, 2021.
- The second reading of the Ordinance was at the City Council meeting on July 12, 2021.
- The Ordinance will be effective on August 11, 2021.

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 Land Conservation and Development Commission (LCDC) acknowledged the City's Comprehensive Plan and the subsequent Zoning Ordinances as complying with state planning goals.

Currently Single-Family Residential (R-1) zone allows duplex or two-family home if the property is larger than 8,000 square feet. It means that a property smaller than 8,000 square feet would not be appropriate for duplex or two-family homes.

The (R-M) zone occupies total 1,153 lots on 347.1 acres. Among the lots, there are 793 lots (69%) smaller than 8,000 square feet on 85 acres (24%). Further, 104 lots are smaller than 2,500 square feet, and it only occupies 3.5 acres. There are only 180 vacant lots on 17.90 acres. If so, allowing single-family residential developments on a property smaller than 8,000 square feet would be consistent with the requirements of R-1 zone, and it would be reasonable to focus on multiple-unit residential developments at the properties larger than 8,000 square feet or 76% of the entire R-M zone.



	Acres	# of Lots
Lots greater than 8,000 square feet	262.1	360
Vacant lots smaller than 8,000 square feet	17.9	180
Built lots smaller than 8,000 square feet	67.1	613
Total Lots	347.1	1,153

Meanwhile, encouraged by the American Rescue Plan Act of 2021, there are efforts to convert existing buildings to affordable/workforce housing. It is estimated that good numbers of workforce housing would be created instantly by allowing this at a General Commercial (G-C) zone. This will offset loss at the R-M zone. Examples include Ocean Breeze Hotel, Coastal Lincoln City Motel, and Motel 6 that expressed, by far, their willingness to participate the conversion efforts and would generate approximately 130 affordable units immediately.

These findings provide an adequate factual basis for action. The amendment, therefore, conforms to the established land use planning process and framework consistent with Goal 2.

Goal 3 – “Agricultural Lands” *To preserve and maintain agricultural lands.*

This State Goal is not applicable to Lincoln City.

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 covered by this amendment is completely within the city's urban growth boundary (UGB), and does not include forest lands. This amendment pertains only to both R-M and G-C zones.

Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources: *To conserve open space and protect natural and scenic resources.*

This amendment does not change any status of open spaces, scenic and historic areas, and natural resources. This ordinance is consistent with Goal 5.

Goal 6 - Air, Water and Land Resources Quality: *To maintain and improve the quality of the air, water, and land resources of the state.*

Allowing single-family residential units on small lots in R-M zone and converting existing hotel/motel/inn buildings to multi-family residential units in G-C zone will not impact on air, water, and land resources quality. The city council finds the ordinance is consistent with Goal 6.

Goal 7 – Areas Subject to Natural Disasters and Hazards: *To protect people and property from natural hazards.*

This amendment does not relate directly to areas subject to natural disasters and hazards, and do not affect the way the city regulates them. The city council finds the ordinance is consistent with Goal 7.

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.*

This amendment does change neither the residential pattern nor the traffic circulation that requires additional recreational needs in the City. The city council finds the ordinance is consistent with Goal 8.

Goal 9 – Economic Development: *Requires the provision of adequate opportunities for a variety of economic activities vital to public health, welfare and prosperity.*

There will be a temporary reduction in collection of Transient Room Tax (TRT) if existing hotels/motels/inns will be converted to workforce housing units. However, this is a market function that is leveraged by the American Rescue Plan Act and eventually the market will drive additional hotel/motel/inn construction to balance the demand and supply.

The city council finds this ordinance supports Goal 9.

Goal 10- Housing: *To provide for the housing needs of citizens of the state.*

This amendment provides reasonable adjustments to the R-M zone while accommodating workforce housing units immediately in the G-C zone. The City has been looking for an opportunity to support low-income workforce population and the American Rescue Plan Act provides such opportunity. The city council finds this ordinance is consistent with Goal 10.

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.*

This amendment does change neither the residential pattern nor the traffic circulation that requires additional public facilities and services. The city council finds this ordinance serves Goal 11.

Goal 12 - Transportation: *To provide and encourage a safe, convenient and economic transportation system.*

This amendment does change neither the residential pattern nor the traffic circulation. The city council finds the ordinance supports Goal 12.

Goal 13 - Energy: *To conserve energy.*

This amendment supports conversion of existing hotels/motels/inns to workforce housing and provide compact residential housing units. Therefore, this amendment supports economic operation of energy supply to compact residential units. The city council finds the ordinance supports Goal 13.

Goal 14 - Urbanization: *To provide for an orderly and efficient transition from rural to urban land use.*

This amendment does not promote conversion of rural lands to urban uses. The city council finds the ordinance supports this goal.

Goal 15 – Willamette 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.”*

These amendments do not impact any areas within the Willamette River Greenway; therefore, the city council finds Goal 15 does not apply.

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.*

There will be no impact on Estuarine Resources. The city council finds the ordinance is consistent with Goal 16.

Goal 17 – Coastal Shore Lands: *To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shore lands, 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 shore land 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 shore lands.*

There will be no impact on Coastal Shore Lands. The city council finds the ordinance is compatible with Goal 17.

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.*

This amendment will have no impacts on beaches and dunes. The city council finds the ordinance is compatible with Goal 18.

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 city council finds this amendment is consistent with this goal, since the requirements would not impact the ocean resources.

Lincoln City 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 to take into account changing public policies and circumstances. The city provided opportunities for review and comment by citizens and affected governmental jurisdictions during their preparation, review, and revision. This amendment does not propose to change use of land. The findings for this comprehensive goal incorporate by reference the Statewide Planning Goal 2, Land Use Planning.

(2) Citizen Involvement Goal

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

The City has developed a citizen involvement program, which it consistently follows. The process for considering these amendments will be very open and inclusive. The public hearing process, with notice to the public and property owners and review of the amendments by the Planning Commission (a citizen board) and the City Council (comprised of elected citizen representatives,) establish conformance with this goal. The findings for this comprehensive goal incorporate by reference the Statewide Planning Goal 1, Citizen Involvement.

(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 require any additional public services and utilities other than what has been provided to the area. Findings for this goal incorporate findings for Statewide Planning Goal 11 by reference. The city council finds the amendments are consistent with this goal.

(4) Urbanization Goal

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

The city council finds this amendment is consistent with this goal, because the amendments support compact urban residential development while preserving the existing residential pattern. Findings for this goal incorporate findings for Statewide Planning Goal 14 by reference.

(5) Natural Hazard Goal

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

This amendment does not allow development in hazardous areas. The amendments incorporate the findings for Statewide Planning Goal 7. The city council finds these amendments are consistent with this goal.

(6) Housing Goal

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

This amendment protects existing ownership, allows better utilization of small lots, and adds more workforce housing units. The amendments incorporate the findings for Statewide Planning Goal 10. The city council finds these amendments are consistent with this goal.

(7) Economy Goal

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

By providing more workforce housing units, this amendment will allow long-term residents living in a compact environment. It will then achieve a degree of diversity and allow a balanced economy. The findings for this comprehensive goal incorporate by reference the findings for Statewide Planning Goal 9, Economic Development. The city council finds these amendments are consistent with the economy goal.

(8) Aesthetic Goal

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

Conversion and renovation as well as allowing small lot development will enhance the community's appearance and livability. The city council finds the ordinance is consistent with this goal.

(9) Transportation Goal

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

This amendment does not change existing traffic patterns. The findings for this comprehensive goal incorporate by reference the findings for Statewide Planning Goal 12.

(10) Energy Goal

"To conserve energy."

There will be neither major changes in land use nor traffic pattern. The compact form of converted workforce housing for long-term residents would rather encourage energy savings. The findings for this comprehensive goal incorporate by reference the findings for Statewide Planning Goal 13. The city council finds these amendments are consistent with this goal.

(11) Overall Environmental Goal

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

The amendments, by themselves, do not allow development in sensitive natural resource areas. The existing ordinance and plan requirement relating to protecting the natural environment will continue to apply to all properties that these requirements might affect. The findings for this goal incorporate by reference the findings for Goals 6 and 7 by reference. The city council finds these amendments are consistent with this goal.

(12) Shore land, Beaches, Dunes, Estuary and Ocean Resources Goal

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

The amendments by themselves do not allow development in areas adjacent to the city's designated estuarine resource (i.e., Siletz Bay), in the city's coastal shore lands, beach and dune areas, or in ocean resource areas. The findings for this goal incorporate the findings for Goals 16, 17, and 18 by reference. The city council finds these amendments are consistent with this goal.

1 **SECTION 1.** Chapter 17.20 (*Multi-Unit Residential (R-M) Zone*), Section 17.20.020 (*Permitted*
2 *Uses*), is amended to read as follows

3
4 **17.20.020 Permitted uses.**

5
6 A. Attached single-unit dwellings;

7 B. Attached single-unit dwellings developments;

8 **C. Detached single-family dwelling unit, including manufactured dwelling, if**
9 **located on a lawfully-created lot with an area of 10,000 square feet or less that**
10 **existed on September 9, 2020, and if developed under the standards set forth for**
11 **single-family dwelling units within the R-1 zone;**

12 **D. Detached single-family dwelling unit, including manufactured dwelling, if**
13 **existing on or if a building permit was applied for before September 9, 2020, and**
14 **remains valid, and if developed under the standards set forth for single-family**
15 **dwelling units within the R-1 zone.**

16 **E. ~~C.~~** Community or market gardens not larger than 12,500 square feet, subject to the
17 provisions of LCMC 17.80.080;

18 **F. ~~D.~~** Cottage housing developments, subject to the provisions of LCMC 17.80.120;

19 **G. ~~E.~~** Duplexes;

20 **H. ~~F.~~** Multi-unit dwellings;

21 **I. ~~G.~~** Residential facilities;

22 **J. ~~H.~~** Residential homes;

23 **K. ~~I.~~** Structures used temporarily on the site and only during construction of a permitted
24 or conditional use for which a building permit has been issued, but not exceeding six
25 months;

26 **L. ~~J.~~** Tiny house developments, subject to the provisions of LCMC 17.80.040.(C);

27 **M. ~~K.~~** Transportation uses.

28
29 **SECTION 2. Findings Adopted.** The findings contained in the Whereas Clauses of this
30 ordinance, together with the Findings set forth in Exhibit A, as well as the competent substantial
31 evidence in the whole record of this legislative proceeding are incorporated into this section by
32 reference as if fully set forth herein, and are adopted in support of this legislative action.

33
34 **SECTION 3. Severability.** The sections, subsections, paragraphs and clauses of this ordinance
35 are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the
36 validity of the remaining sections, subsections, paragraphs and clauses.

37
38 **SECTION 4. Savings.** Notwithstanding the amendment to this Title, the existing Title remains
39 valid and in full force and effect for purposes of all criminal, civil or administrative code
40 enforcement cases or land use actions or applications filed or commenced during the time said
41 ordinances were operative. Nothing in this Ordinance affects the validity of prosecutions
42 commenced and continued under the laws in effect at the time the matters were originally filed.

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

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

10
11 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section
12 9.2 of the City of Lincoln City Charter on the 12th day of July, 2021 (First Reading) and on the 12th
13 day of July, 2021 (Second Reading).

14
15
16 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 12th day of July,
17 2021.

18
19
20
21 _____
22 SUSAN WAHLKE, MAYOR

23 ATTEST:
24
25
26 _____
27 JAMIE YOUNG, CITY RECORDER

28
29
30 APPROVED AS TO FORM:
31
32
33 _____
34 RICHARD APPICELLO, CITY ATTORNEY

**EXHIBIT A - FINDINGS
ORDINANCE NO. 2021-14**

The Title of Proposed Ordinance 2021-14 (ZOA-2021-03) is as follows:

ORDINANCE NO. 2021-14

**AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17,
(ZONING), AMENDING CHAPTER 17.20 (MULTI-UNIT RESIDENTIAL (R-M) ZONE),
TO RESTORE SINGLE FAMILY UNITS AS PERMITTED USES UNDER LIMITED
CIRCUMSTANCES**

The substance of the proposed amendment is as follows:

SECTION 1. Chapter 17.20 (*Multi-Unit Residential (R-M) Zone*), Section 17.20.020 (*Permitted Uses*), is amended to read as follows

17.20.020 Permitted uses.

- A. Attached single-unit dwellings;
- B. Attached single-unit dwellings developments;
- C. Detached single-family dwelling unit, including manufactured dwelling, if located on a lawfully-created lot with an area of 10,000 square feet or less that existed on September 9, 2020, and if developed under the standards set forth for single-family dwelling units within the R-1 zone;**
- D. Detached single-family dwelling unit, including manufactured dwelling, if existing on or if a building permit was applied for before September 9, 2020, and remains valid, and if developed under the standards set forth for single-family dwelling units within the R-1 zone;**
- ~~E. G.~~ Community or market gardens not larger than 12,500 square feet, subject to the provisions of LCMC 17.80.080;
- ~~F. D.~~ Cottage housing developments, subject to the provisions of LCMC 17.80.120;
- ~~G. E.~~ Duplexes;
- ~~H. F.~~ Multi-unit dwellings;
- ~~I. G.~~ Residential facilities;
- ~~J. H.~~ Residential homes;
- ~~K. I.~~ Structures used temporarily on the site and only during construction of a permitted or conditional use for which a building permit has been issued, but not exceeding six months;
- ~~L. J.~~ Tiny house developments, subject to the provisions of LCMC 17.80.040.(C);
- ~~M. K.~~ Transportation uses.

The Staff Reports (with Exhibits) for the July 6, 2021 Planning Commission meeting and the July 12, 2021 City Council meeting are specifically incorporated herein as findings in support of the proposed amendments.

The proposed amendment had two distinct parts: (1) Amendments to LCMC 17.20.020; and (2) Amendments to LCMC 17.32.020. The amendments to some degree offset each other in terms of impacts on the City's land use program. In brief, the amendments to RM restore allowance for single family use by allowing as permitted existing single family and allowing single family on small lots (less than 10000 square feet). The Amendments to GC allow conversion of hotel/motel type units to multi-family provided there is a percentage of workforce housing. Council directed the amendments to 17.32.020 be postponed to August to make adjustments based on new legislation. This ordinance concerns only the RM changes.

Except for policies on housing and the economy, the state-wide planning goals and City comprehensive plan policies are not applicable to, or are not adversely impacted by the restoration of some single family to RM (existing lots and homes).

Analysis of Goals:

Findings in support of the proposed amendments to LCMC Chapter 17.20.020 and 17.32.020

Statewide Planning Goals

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 proposal is consistent with Statewide Planning Goal 1, because the process the City of Lincoln City used to develop and adopt this amendment will provide the opportunity for citizens to be involved in all phases of the planning process, as follows.

- The City Council by unanimous consent directed staff to present some options to allow single family residential developments in the Multiple-Unit Residential (R-M) Zone at their regular meeting on April 26, 2021.
- After reviewing options presented by the staff, the City Council unanimously determined to initiate the amendment at their regular meeting on May 10, 2021.
- The City is planning to notify the Oregon Department of Land Conservation and Development pursuant to ORS 197.610 of its consideration of the proposed amendment(s) on May 21, 2021.
- A written individual notice of the amendment was mailed on June 15, 2021 to the owner of each lot or parcel of property that this ordinance proposed to change under ORS 227.186(4).
- The amendment was discussed at the planning commission public hearing on July 6, 2021.

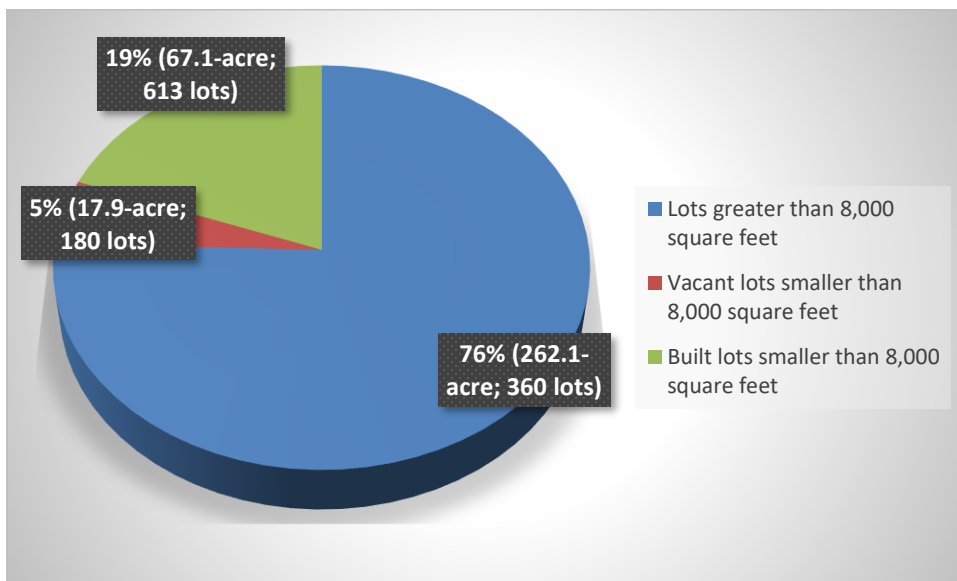
- The City Council conducted a public hearing and first read the Ordinance on July 12, 2021.
- The second reading of the Ordinance was at the City Council meeting on July 12, 2021.
- The Ordinance will be effective on August 11, 2021.

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 Land Conservation and Development Commission (LCDC) acknowledged the City's Comprehensive Plan and the subsequent Zoning Ordinances as complying with state planning goals.

Currently Single-Family Residential (R-1) zone allows duplex or two-family home if the property is larger than 8,000 square feet. It means that a property smaller than 8,000 square feet would not be appropriate for duplex or two-family homes. *(Planning commission recommended a change to 10,000 square feet).*

The (R-M) zone occupies total 1,153 lots on 347.1 acres. Among the lots, there are 793 lots (69%) smaller than 8,000 square feet on 85 acres (24%). Further, 104 lots are smaller than 2,500 square feet, and it only occupies 3.5 acres. There are only 180 vacant lots on 17.90 acres. If so, allowing single-family residential developments on a property smaller than 8,000 square feet would be consistent with the requirements of R-1 zone, and it would be reasonable to focus on multiple-unit residential developments at the properties larger than 8,000 square feet or 76% of the entire R-M zone.



	Acres	# of Lots
Lots greater than 8,000 square feet	262.1	360
Vacant lots smaller than 8,000 square feet	17.9	180
Built lots smaller than 8,000 square feet	67.1	613
Total Lots	347.1	1,153

These findings provide an adequate factual basis for action. The amendment, therefore, conforms to the established land use planning process and framework consistent with Goal 2.

Goal 3 – “Agricultural Lands” *To preserve and maintain agricultural lands.*

This State Goal is not applicable to Lincoln City.

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 covered by this amendment is completely within the city’s urban growth boundary (UGB), and does not include forest lands. This amendment pertains only to R-M zones.

Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources: *To conserve open space and protect natural and scenic resources.*

This amendment does not change any status of open spaces, scenic and historic areas, and natural resources. This ordinance is consistent with Goal 5.

Goal 6 - Air, Water and Land Resources Quality: *To maintain and improve the quality of the air, water, and land resources of the state.*

Allowing single-family residential units on small lots in R-M zone will not impact on air, water, and land resources quality. The city council finds the ordinance is consistent with Goal 6.

Goal 7 – Areas Subject to Natural Disasters and Hazards: *To protect people and property from natural hazards.*

This amendment does not relate directly to areas subject to natural disasters and hazards, and do not affect the way the city regulates them. The city council finds the ordinance is consistent with Goal 7.

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.*

This amendment does change neither the residential pattern nor the traffic circulation that requires additional recreational needs in the City. The city council finds the ordinance is consistent with Goal 8.

Goal 9 – Economic Development: *Requires the provision of adequate opportunities for a variety of economic activities vital to public health, welfare and prosperity.*

The R-M amendment will not adversely impact economic goals, but will eliminate nonconformities created by prior amendments. The city council finds this ordinance supports Goal 9.

Goal 10- Housing: *To provide for the housing needs of citizens of the state.*

This amendment provides reasonable adjustments to the R-M zone. The city council finds this ordinance is consistent with Goal 10.

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.*

This amendment does change neither the residential pattern nor the traffic circulation that requires additional public facilities and services. The city council finds this ordinance serves Goal 11.

Goal 12 - Transportation: *To provide and encourage a safe, convenient and economic transportation system.*

This amendment does change neither the residential pattern nor the traffic circulation. The city council finds the ordinance supports Goal 12.

Goal 13 - Energy: *To conserve energy.*

This amendment supports economic operation of energy supply to compact residential units. The city council finds the ordinance supports Goal 13.

Goal 14 - Urbanization: *To provide for an orderly and efficient transition from rural to urban land use.*

This amendment does not promote conversion of rural lands to urban uses. The city council finds the ordinance supports this goal.

Goal 15 – Willamette 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.”*

These amendments do not impact any areas within the Willamette River Greenway; therefore, the city council finds Goal 15 does not apply.

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.*

There will be no impact on Estuarine Resources. The city council finds the ordinance is consistent with Goal 16.

Goal 17 – Coastal Shore Lands: *To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shore lands, 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 shore land 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 shore lands.*

There will be no impact on Coastal Shore Lands. The city council finds the ordinance is compatible with Goal 17.

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.*

This amendment will have no impacts on beaches and dunes. The city council finds the ordinance is compatible with Goal 18.

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 city council finds this amendment is consistent with this goal, since the requirements would not impact the ocean resources.

Lincoln City 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 to take into account changing public policies and circumstances. The city provided opportunities for review and comment by citizens and affected governmental jurisdictions during their preparation, review, and revision. This amendment does not propose to change use of land. The findings for this comprehensive goal incorporate by reference the Statewide Planning Goal 2, Land Use Planning.

(2) Citizen Involvement Goal

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

The City has developed a citizen involvement program, which it consistently follows. The process for considering these amendments will be very open and inclusive. The public hearing process, with notice to the public and property owners and review of the amendments by the Planning Commission (a citizen board) and the City Council (comprised of elected citizen representatives,) establish conformance with this goal. The findings for this comprehensive goal incorporate by reference the Statewide Planning Goal 1, Citizen Involvement.

(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 require any additional public services and utilities other than what has been provided to the area. Findings for this goal incorporate findings for Statewide Planning Goal 11 by reference. The city council finds the amendments are consistent with this goal.

(4) Urbanization Goal

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

The city council finds this amendment is consistent with this goal, because the amendments support compact urban residential development while preserving the existing residential pattern. Findings for this goal incorporate findings for Statewide Planning Goal 14 by reference.

(5) Natural Hazard Goal

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

This amendment does not allow development in hazardous areas. The amendments incorporate the findings for Statewide Planning Goal 7. The city council finds these amendments are consistent with this goal.

(6) Housing Goal

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

This amendment protects existing ownership, allows better utilization of small lots, and adds more workforce housing units. The amendments incorporate the findings for Statewide Planning Goal 10. The city council finds these amendments are consistent with this goal.

(7) Economy Goal

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

This amendment will allow long-term residents living in a compact environment. It will then achieve a degree of diversity and allow a balanced economy. The findings for this comprehensive goal incorporate by reference the findings for Statewide Planning Goal 9, Economic Development. The city council finds these amendments are consistent with the economy goal.

(8) Aesthetic Goal

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

Conversion and renovation as well as allowing small lot development will enhance the community's appearance and livability. The city council finds the ordinance is consistent with this goal.

9) Transportation Goal

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

This amendment does not change existing traffic patterns. The findings for this comprehensive goal incorporate by reference the findings for Statewide Planning Goal 12.

(10) Energy Goal

"To conserve energy."

There will be neither major changes in land use nor traffic pattern. The findings for this comprehensive goal incorporate by reference the findings for Statewide Planning Goal 13. The city council finds these amendments are consistent with this goal.

(11) Overall Environmental Goal

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

The amendments, by themselves, do not allow development in sensitive natural resource areas. The existing ordinance and plan requirement relating to protecting the natural environment will continue to apply to all properties that these requirements might affect. The findings for this goal incorporate by reference the findings for Goals 6 and 7 by reference. The city council finds these amendments are consistent with this goal.

(12) Shore land, Beaches, Dunes, Estuary and Ocean Resources Goal

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

The amendments by themselves do not allow development in areas adjacent to the city's designated estuarine resource (i.e., Siletz Bay), in the city's coastal shore lands, beach and dune areas, or in ocean resource areas. The findings for this goal incorporate the findings for Goals 16, 17, and 18 by reference. The city council finds these amendments are consistent with this goal.

Council Communication

Ordinance 2021-13 Amending LCMC Chapters 2.68, 3.04 and 2.24

Meeting Date:	July 12, 2021	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:		Secondary Contacts:	Edward Dreistadt, Debbie Bridges
Approval:	Lila Bradley	Estimated Time:	5 minutes

Question(s):

Should the City Council conduct and approve First and Second Reading of Ordinance 2021-13 entitled:

ORDINANCE NO. 2021-13

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.68 (TRANSIENT LODGINGS TAX REVIEW COMMITTEE), AMENDING CHAPTER 3.04 (TRANSIENT ROOM TAX) TO REPLACE TRT REVIEW COMMITTEE WITH TAX HEARING OFFICER, AMENDING CHAPTER 2.24 (VISITOR AND CONVENTION COMMITTEE); REMOVING COMMITTEE PROVISIONS FROM THE MUNICIPAL CODE

Staff Recommendation:

Staff recommends Council conduct First Reading of Ordinance 2021-13 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:

This ordinance simply removes unnecessary and obsolete committees from the municipal code.

TRT Tax Review Committee

There has been only one TRT tax appeal in the last 14 years. All positions on the committee are currently vacant. If an appeal was filed, we would use the hearing office provisions in Chapter 2.06 to hear the appeal. The Committee is obsolete.

Visitor and Convention Committee

Membership on this committee includes hotel operators and business owners. This membership composition often creates financial conflict of interest situations under ORS Chapter 244. In lieu of a committee approach, Explore Lincoln City would benefit from direct input from interested stakeholders in an advertised public hearing. The Committee is unnecessary if direct input is received from stakeholders.

Financial Impact:

The City will realize a cost savings not having to staff the above referenced committees.

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 July 26, 2021 [or]
3. Continue First Reading to July 26, 2021.

Potential Motions:

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

ORDINANCE NO. 2021-13

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.68 (TRANSIENT LODGINGS TAX REVIEW COMMITTEE), AMENDING CHAPTER 3.04 (TRANSIENT ROOM TAX) TO REPLACE TRT REVIEW COMMITTEE WITH TAX HEARING OFFICER, AMENDING CHAPTER 2.24 (VISITOR AND CONVENTION COMMITTEE); REMOVING COMMITTEE PROVISIONS FROM THE MUNICIPAL CODE

Motion to approve First Reading of Ordinance 2021-13.

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 2021-13.

[or]

2. Motion to set Second Reading for July 26, 2021.

Attachments:

Ordinance 2021-13 removing committees 7-6-21 (DOCX)

ORDINANCE NO. 2021-13

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.68 (TRANSIENT LODGINGS TAX REVIEW COMMITTEE), AMENDING CHAPTER 3.04 (TRANSIENT ROOM TAX) TO REPLACE TRT REVIEW COMMITTEE WITH TAX HEARING OFFICER, AMENDING CHAPTER 2.24 (VISITOR AND CONVENTION COMMITTEE); REMOVING COMMITTEE PROVISIONS FROM THE MUNICIPAL CODE

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

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

2.1 Powers of the City

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

2.2 Construction of Charter

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

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

WHEREAS, a tax hearing officer is a more appropriate entity to review appeals from decisions of the City of Lincoln City Tax Administrator; and

WHEREAS, in lieu of an advisory committee with conflicts of interest under ORS Chapter 244, Explore Lincoln City would benefit from public hearings which solicit stakeholder input on Explore Lincoln City operations; and

WHEREAS, Lincoln City Municipal Code Title 2 (Administration and Personnel), Committees created by Chapters 2.68 (TRT Tax Review Committee) and Chapter 2.24 (Visitor and Convention Committee) are no longer needed; and

1
2 **WHEREAS**, the Lincoln City City Council desires to remove unnecessary committees from the
3 code; and
4

5 **THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:**
6

7 **SECTION 1.** Lincoln City Municipal Code Title 2. (*Administration and Personnel*), Chapter 2.68
8 (*Transient Lodging Tax Review Committee*), is hereby amended to read as follows:
9

10 **Chapter 2.68**

11 **TRANSIENT LODGINGS TAX REVIEW COMMITTEE**

12 **Sections:**

13 ~~2.68.010 Established — Membership.~~

14 ~~2.68.020 Powers and duties.~~
15

16 ~~2.68.010 Established — Membership.~~

17 ~~A transient lodgings tax review committee is created to be composed of a business person~~
18 ~~with financial, bookkeeping or accounting experience, an operator, as defined in LCMC~~
19 ~~3.04.010, and three lay members who are city residents. The business person need not be~~
20 ~~a city resident if his or her offices are located within the city limits and he or she resides~~
21 ~~within 12 miles of the city limits. The operator position need not be a city resident if the~~
22 ~~operator is a proprietor of a hotel located within the city and the position has remained~~
23 ~~vacant for 60 days after the position became open. Preference for appointment to the~~
24 ~~committee shall be given to city residents.~~
25

26 ~~2.68.020 Powers and duties.~~

27 ~~The transient lodgings tax review committee shall have power and it shall be its duty:~~

28 ~~A. To hear and determine appeals of orders or decisions of the tax administrator (finance~~
29 ~~director or other persons designated in Chapter 3.04 LCMC) made upon petitions for~~
30 ~~redetermination of tax. The committee may affirm, modify, or reverse such orders or~~
31 ~~decisions or dismiss the appeals therefrom, as may be just, and shall prescribe such forms,~~
32 ~~rules and regulations relating to appeals as it may deem necessary. In the review of the~~
33 ~~tax administrator decision or order, the committee may take such evidence and make such~~
34 ~~investigation as it may deem necessary. It shall give notice of its determinations in the~~
35 ~~manner prescribed for service of notice of a tax administrator's decision and shall file a~~
36 ~~copy of each such determination with the tax administrator with certification thereon of~~
37 ~~the date of service thereof. Such determination shall become final 20 days thereafter and~~
38 ~~shall thereupon become due and payable, subject to interest and penalties, and~~
39 ~~enforceable by the tax administrator in like manner as an order or decision of the tax~~
40 ~~administrator;~~

41 ~~B. To make recommendations to the tax administrator on all forms, rules and regulations~~
42 ~~in the administration and enforcement of the TRT tax and Chapter 3.04 LCMC;~~

- 1 ~~C. To hear and determine, in such manner as shall be just, any protest which may be made~~
- 2 ~~by any person who may be interested to any form, rule, or regulation approved or~~
- 3 ~~prescribed by the committee;~~
- 4 ~~D. To grant, for good cause, applications for extensions of time in excess of one month for~~
- 5 ~~making any return or payment of tax, and to prescribe rules therefor;~~
- 6 ~~E. To make such investigations as it deems advisable regarding the imposition and~~
- 7 ~~administration of the transient lodgings tax and report its findings to the city council; to~~
- 8 ~~act in an advisory capacity to the legislative body on matters pertaining to the transient~~
- 9 ~~lodgings tax and enforcement problems; and to recommend to the council the adoption,~~
- 10 ~~amendment, or repeal of legislation pertaining thereto;~~
- 11 ~~F. The committee shall keep its files in the office of the tax administrator and shall meet at~~
- 12 ~~a location to be specified by the tax administrator.~~

14 **SECTION 2.** Lincoln City Municipal Code Title 3. (*Revenue and Finance*), Chapter 3.04
 15 (*Transient Room Tax*), Section 3.04.010 (*Definitions*) is hereby amended to read as follows:

16
 17 **3.04.010 Definitions.**

18 Except where the context otherwise requires, the definitions given in this section govern
 19 the construction of this chapter.

20 "Accrual accounting" means the operator enters the rent due from a transient on his
 21 records when the rent is earned, whether or not it is paid.

22 "Cash accounting" means the operator does not enter the rent due from a transient on
 23 his records until rent is paid.

24 "City council" means the city council of the city of Lincoln City, Oregon.

25 "Furnishings of rooms" means articles of furniture for the interior of the building and
 26 moveable articles used in preparing an area for occupancy or use, including cribs and
 27 rollaway beds, but excluding items such as VCRs, video tape players or movie rentals.

28 "Hotel" means any structure or any portion of any structure which is occupied or
 29 intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or
 30 sleeping purposes, and includes any hotel, motel, inn, condominium, tourist home or
 31 house, vacation rental dwelling, studio hotel, bachelor hotel, lodging house, rooming
 32 house, apartment house, public or private dormitory, fraternity, sorority, public or private
 33 club, and also means space in a mobile home, manufactured home, trailer or recreational
 34 vehicle park or similar structure or space or portions thereof so occupied, provided such
 35 occupancy is for less than a 30-day period.

36 "Occupancy" means the use or possession, or the right to the use or possession, for
 37 lodging or sleeping purposes of any room or rooms in a hotel, or space in a campground
 38 or trailer or recreational vehicle park or portion thereof.

39 "Operator" means the person who is the proprietor of the hotel in any capacity. Where
 40 the operator performs his functions through a managing agent of any type or character
 41 other than an employee, the managing agent shall also be deemed an operator for the
 42 purposes of this chapter and shall have the same duties and liabilities as his principal.

1 Compliance with the provisions of this chapter by either the principal or the managing
2 agent shall be considered to be compliance by both.

3 "Person" means any individual, firm, partnership, joint venture, association, social club,
4 fraternal organization, fraternity, sorority, public or private dormitory, joint stock
5 company, corporation, estate, trust, business trust, receiver, trustee, syndicate,
6 governmental body, or any other group or combination acting as a unit.

7 "Rent" means the consideration charged, whether or not received by the operator, for
8 the occupancy of space in a hotel, valued in money, goods, labor, credits, property or
9 other consideration valued in money, without any deduction. Extra person charges,
10 cleaning fees, charges for pets and charges for additional items of room furnishings shall
11 be considered rent. The acceptance of donations by the operators where no fixed rental
12 fee is charged shall be deemed "consideration

13 charged." The portion of any advance deposit that is returned due to nonoccupancy of
14 space shall not be deemed rent, but the amount of any advance deposit that is forfeited
15 or applied against rent shall be deemed rent at the time of forfeiture or at the time of
16 crediting against rent. As regards transient lodging intermediaries, such as online travel
17 companies, rent shall be the retail sale price of the rooms to the purchaser and not the
18 discounted price which the company has paid for the room. The effect of this definition
19 is that the tax must be computed on the total retail price, including all charges other
20 than taxes, paid by a person for occupancy of the transient lodging.

21 "Rent package plan" means a rent plan under which the space may be rented separately
22 and not included in a package plan, but the transient has elected to pay a single rate
23 under a plan in which the consideration charged is for both space and other items such
24 as, but not limited to, food. For a rent package plan, the amount applicable to rent for
25 determination of transient room tax under this chapter shall be the charge for rent when
26 the space is rented separately and not included in a rent package plan.

27 "Tax" means either the tax payable by the transient or the aggregate amount of taxes
28 due from an operator during the period for which he is required to report his collections.

29 "Tax administrator" means the finance director of the city of Lincoln City, Oregon.

30 "Transient" means any individual who exercises occupancy or is entitled to occupancy in
31 a hotel for a period of 30 consecutive calendar days or less, counting portions of
32 calendar days as full days. The day a transient checks out of the hotel shall not be
33 included in determining the 30-day period if the transient is not charged rent for that
34 day by the operator. Any such individual so occupying space in a hotel shall be deemed
35 to be a transient until the period of 30 days has expired unless there is an agreement in
36 writing between the operator and the occupant providing for a longer period of
37 occupancy, or the tenancy actually extends more than 30 consecutive days. In
38 determining whether a person is a transient, uninterrupted periods of time extending
39 both prior and subsequent to the effective date of the ordinance codified in this chapter
40 may be considered. A person who pays for lodging on a monthly basis, irrespective of
41 the number of days in such month, shall not be deemed a transient; but an individual
42 who exercises occupancy or is entitled to occupancy for a period of 30 calendar days or
43 less shall be deemed a transient notwithstanding that another person not exercising or

1 entitled to exercise occupancy pays or is responsible for paying rent monthly or for a
2 period of more than 30 days.

3 "Transient lodgings tax ~~review committee~~ **hearing officer**" means a **tax or finance**
4 **professional (e.g. auditor) committee** ~~composed of a business person, an~~
5 ~~operator and three lay members~~ appointed by the **city** council. ~~of the city.~~

6 "Vacation rental dwelling" means a dwelling which is rented, or is available for rent, on a
7 daily or weekly basis or is advertised or is listed with an agent as a vacation rental.

8
9 **SECTION 3.** Lincoln City Municipal Code Title 3. (*Revenue and Finance*), Chapter 3.04
10 (*Transient Room Tax*), Section 3.04.070 (*Payment of Tax*), Paragraph E. is hereby amended
11 to read as follows:

12
13 E. For good cause, the tax administrator may extend, for not to exceed one month, the
14 time for making any return or payment of tax. No further extension shall be granted, ~~;~~
15 ~~except by the transient lodging tax committee.~~ Any operator to whom an extension is
16 granted shall pay interest at the rate of one and one-half percent per month on the
17 amount of tax due without proration for a fraction of a month. If a return is not filed, and
18 the tax and interest due is not paid by the end of the extension granted, then the interest
19 shall become a part of the tax for computation of penalties described elsewhere in this
20 chapter.

21
22 **SECTION 4.** Lincoln City Municipal Code Title 3. (*Revenue and Finance*), Chapter 3.04
23 (*Transient Room Tax*), Section 3.04.080 (*Delinquency*), Paragraph F. is hereby amended to
24 read as follows:

25
26 F. Petition for Waiver. Any operator who fails to remit the tax herein levied within the
27 time herein stated shall pay the penalties herein stated, provided, however, the operator
28 may petition the transient lodgings tax **hearing officer** ~~review committee~~ for waiver
29 and refund of the penalty or any portion thereof and the transient lodgings tax review
30 committee may, if a good and sufficient reason is shown, waive and direct a refund of
31 the penalty or any portion thereof.

32
33 **SECTION 5.** Lincoln City Municipal Code Title 3. (*Revenue and Finance*), Chapter 3.04
34 (*Transient Room Tax*), Section 3.04.120 (*Redeterminations*), Paragraph D. is hereby
35 amended to read as follows:

36
37 D. The order or decision of the tax administrator upon a petition for redetermination and
38 redemption and refund becomes final 20 days after service upon the petitioner of notice
39 thereof, unless appeal of such order or decision is filed with the transient lodgings tax
40 **review committee** **hearing officer** within the 20 days after the service of such notice.

41

1 **SECTION 6.** Lincoln City Municipal Code Title 3. (*Revenue and Finance*), Chapter 3.04
2 (*Transient Room Tax*), Section 3.04.130 (*Security for collection of tax*), Paragraph A. is
3 hereby amended to read as follows:
4

5 A. The tax administrator, whenever he deems it necessary to ensure compliance with this
6 chapter, may require the operator subject thereto to deposit with him such security in
7 the form of cash, bond or other security as the tax administrator may determine. The
8 amount of the security shall be fixed by the tax administrator but shall not be greater
9 than twice the operator’s estimated average quarterly liability for the period for which he
10 files returns, determined in such a manner as the tax administrator deems proper, or
11 \$5,000, whichever amount is lesser. The amount of security may be increased or
12 decreased by the tax administrator subject to limitations herein provided. The operator
13 has a right to appeal to the transient lodging tax ~~review committee~~ **hearing officer**
14 any decision of the tax administrator made pursuant to this section. The operator’s right
15 to appeal is pursuant to LCMC 3.04.220.
16

17 **SECTION 7.** Lincoln City Municipal Code Title 3. (*Revenue and Finance*), Chapter 3.04
18 (*Transient Room Tax*), Section 3.04.170 (Administration), is hereby amended to read as
19 follows:
20

21 **3.04.170 Administration.**
22

23 A. Special Fund. The tax administrator shall deposit all money collected pursuant to this
24 chapter to the credit of the transient room tax fund.
25

26 B. Records Required from Operators. Every operator shall keep an adequate system of
27 accounting records of room sales sufficient to allow performance of a compliance review
28 to verify accuracy. All records shall be retained by the operator for a period of five years
29 and six months after they come into being. An adequate system of accounting records of
30 room sales should typically include:

- 31 1. Registration cards;
- 32 2. Daily and/or monthly deposit and room rental summaries;
- 33 3. Adjustment to summaries, including, but not limited to, refunds, exempt rent and
34 monthly rent;
- 35 4. Worksheets, showing computations for quarterly reports; and
- 36 5. General ledger records relating to gross and net rental receipts.
37

38 C. Failure to Maintain Records. Any operator who fails to maintain records adequate to
39 allow performance of a compliance review to verify accuracy shall pay a penalty in the
40 amount of up to \$1.00 per room per day for each day the records of the hotel are found
41 to be inadequate by the tax administrator. The penalty imposed by the tax administrator
42 may be appealed to the transient lodgings tax ~~review committee~~ **hearing officer** by

1 filing notice of appeal within 20 days after the serving or the mailing of the notice of the
 2 imposition of penalty.

3
 4 D. Examination of Records – Investigations. The tax administrator, or any person
 5 authorized in writing by him, may examine during normal business hours the books,
 6 papers and accounting records relating to room sales of any operator, after notification
 7 to the operator liable for the tax, and may investigate the business of the operator in
 8 order to verify the accuracy of any return made, or, if no return is made by the operator,
 9 to ascertain and determine the amount required to be paid.

10
 11 E. Disclosure of Confidential Information Prohibited.

12 1. Disclosure by Administrative Staff. It is unlawful for the tax administrator or any
 13 person having an administrative or clerical duty under the provisions of this
 14 chapter to make known in any manner whatever the business affairs, operations or
 15 information obtained by an investigation of records and equipment of any person
 16 required to obtain a transient occupancy registration certificate, or pay a transient
 17 occupancy tax, or any other person visited or examined in the discharge of official
 18 duty, or the amount or source of income, profits, losses, expenditures, or any
 19 particular thereof, set forth in any statement or application, or to permit any
 20 statement or application, or copy of either, or any book containing any abstract or
 21 particulars thereof to be seen or examined by any person; provided, that nothing in
 22 this subsection shall be construed to prevent:

23 a. The disclosure to, or the examination of records and equipment by, a
 24 federal, state or local official, employee or agent, or to, or by, an
 25 administrative body or a court of competent jurisdiction, for tax collection
 26 purposes, or for any other regulatory purpose or use in any enforcement
 27 proceeding, including but not limited to administering or enforcing any
 28 provisions of this chapter, or collecting taxes imposed hereunder, or collecting
 29 city business license fees;

30 b. The disclosure, after the filing of a written request to that effect, to the
 31 taxpayer or to receivers, trustees, executors, administrators, assignees and
 32 guarantors of the taxpayer, if directly interested, of information as to any paid
 33 tax, any unpaid tax or amount of tax required to be collected, or interest and
 34 penalties; further provided, however, that the city attorney approves each such
 35 disclosure and that the tax administrator may refuse to make any disclosure
 36 referred to in this subsection (E)(1)(b) when in his opinion the public interest
 37 would suffer thereby;

38 c. The disclosure of the names and addresses of any persons to whom
 39 transient occupancy registration certificates have been issued;

40 d. The disclosure of general statistics regarding taxes collected or business
 41 done in the city;

42 e. In relation to any hotel on land as to which the city has been informed that
 43 a federally recognized Indian tribe is seeking to acquire the land, the

1 disclosure of such information as the city, in its discretion, believes is
2 necessary or appropriate in order to evaluate and provide information about
3 potential losses of transient room tax revenues in the event of the tribe's
4 acquisition of the land and subsequent transfer of the land in trust to the
5 federal government.

6 2. Disclosure by Transient Lodgings Tax **Hearing Officer. Review Committee.** It
7 is unlawful for the ~~transient lodgings tax review committee~~ **Hearing Officer** to
8 make known in any manner whatever the content of exempt records or matters or
9 information considered during an executive session pursuant to LCMC 3.04.220, or
10 to make known any confidential information involving trade secrets or business
11 records where the transient lodgings tax review committee has issued a protective
12 order to protect the confidentiality of such records.

13
14 F. Use of Transient Room Tax Funds Collected. After payment of the cost associated with
15 administering the transient room tax fund, including but not limited to audit fees, legal
16 services, materials and services, and less a five percent fee to reimburse the general fund
17 of the city for the administrative personnel services applicable to collection and
18 enforcement of the collection of transient room tax funds, the net transient room tax
19 funds collected shall be distributed by the tax administrator quarterly as provided in the
20 Lincoln City Charter.

21
22 **SECTION 8.** Lincoln City Municipal Code Title 3. (*Revenue and Finance*), Chapter 3.04
23 (*Transient Room Tax*), Section 3.04.180 through Section 3.04.210 are hereby amended to
24 read as follows:

25
26 ~~**3.04.180 Transient lodgings tax review committee – Procedure.**~~
27 ~~**Recodified as LCMC 2.68.010. (Ord. 2002-13 § 1; Ord. 92-11 § 1; Ord. 91-16 § 7;**~~
28 ~~**Ord. 89-8 § 16)**~~

29
30 ~~**3.04.190 Transient lodgings tax review committee – Powers and duties.**~~
31 ~~**Recodified as LCMC 2.68.020. (Ord. 91-16 § 8; Ord. 89-8 § 16(a))**~~

32
33 ~~**3.04.200 Transient lodgings tax review committee – Vacancies.**~~
34 ~~**Repealed by Ord. 2017-05. (Ord. 89-8 § 16(b))**~~

35
36 ~~**3.04.210 Transient lodgings tax review committee – Frequency of meetings.**~~
37 ~~**Repealed by Ord. 2017-05. (Ord. 89-8 § 16(c))**~~

38
39 **SECTION 9.** Lincoln City Municipal Code Title 3. (*Revenue and Finance*), Chapter 3.04
40 (*Transient Room Tax*), Section 3.04.220 (*Appeals*) is hereby amended to read as follows:

41

1 **3.04.220 Appeals.**

2
3 A. Notice of Appeal. Any person aggrieved by any decision of the tax administrator may
4 appeal to the transient lodgings tax **hearing officer review committee** by filing notice
5 of appeal with the tax administrator within 20 days of the serving or mailing of the notice
6 of a decision given by the tax administrator. The notice of appeal shall state facts relied
7 upon for relief, a statement or proposition of law or ordinance relied upon, the relief
8 requested and shall bear the signature of the appellant or authorized representative of
9 the appellant.

10
11 B. Appeals to Be De Novo. All proceedings before the transient lodgings tax **hearing**
12 **officer review committee** shall be original and independent proceedings and shall be
13 heard without a jury and de novo. The tax administrator shall fix a time and place for
14 hearing such appeal as prescribed by the transient lodgings tax **hearing officer review**
15 **committee** and shall give the appellant 20 days' written notice of the time and place of
16 hearing.

17
18 C. Burden of Proof. In appeals to the transient lodgings **tax hearing officer review**
19 **committee**, a preponderance of the evidence shall be required to sustain the burden of
20 proof. The burden of proof shall fall upon the appellant seeking relief from a
21 determination of the tax administrator.

22
23 D. Hearings Open to the Public. An appeal hearing before the transient lodgings tax
24 **hearing officer review committee** shall be open to the public and minutes shall be
25 kept regarding such proceeding. In any case regarding confidential information involving
26 trade secrets or other confidential business records, upon motion of the appellant, the
27 transient lodgings tax **hearing officer review committee** may make such protective
28 orders as may be necessary to protect the confidentiality of such records. In determining
29 whether such protective order should be issued, the transient lodgings tax **hearing**
30 **officer review committee** shall weigh the harm that might be suffered by the appellant
31 against any benefit received by the public as the result of disclosure.

1 ~~E. Executive Session. After closing the appeal hearing, the transient lodgings tax~~
 2 ~~review committee may continue its meeting in executive session to consider~~
 3 ~~records that are exempt by law from public inspection or to consult with counsel~~
 4 ~~regarding current litigation or litigation likely to be filed in the matter on appeal.~~
 5 Frivolous Appeals. If the appellant loses on appeal, and the hearing officer in a
 6 written finding determines that the appeal was entirely without merit, the
 7 appellant will be held financially responsible for the full cost to the city of Lincoln
 8 City for the appeal proceeding, including, but not limited to, the cost of hiring an
 9 independent hearing officer.

10 F. Decision of the Transient Lodgings Tax Hearing Officer Review Committee. The
 11 transient lodgings tax hearing officer review committee shall render its decision ~~at an~~
 12 ~~open meeting~~ in writing, including therein a concise statement of the facts found by the
 13 ~~transient lodgings tax review committee hearing officer~~ and the conclusions and
 14 findings, ~~reached by the committee~~. The hearing officer committee may affirm,
 15 reverse, modify or remand any order or determination of the tax administrator and shall
 16 grant such other relief as shall be appropriate. ~~The written decision shall be~~
 17 ~~incorporated in the minutes of the committee.~~

18
 19 **SECTION 10.** Lincoln City Municipal Code Title 3. (*Revenue and Finance*), Chapter 3.04
 20 (*Transient Room Tax*), Section 3.04.230 (*Appeals to city council*) is hereby amended to read
 21 as follows:

22
 23 **3.04.230 Appeals to city council.**

24 Any person aggrieved by any decision of the transient lodgings tax hearing officer
 25 review committee may appeal to the city council by filing notice of appeal with the tax
 26 administrator within 20 days of the serving or the mailing of the notice of the decision
 27 given by the transient lodgings tax hearing officer review committee. The tax
 28 administrator shall transmit said notice of appeal together with the file of said appealed
 29 matter to the council, who shall fix a time and place for hearing such appeal from the
 30 decision of the transient lodging tax hearing officer review committee. The council
 31 shall give the appellant not less than 20 days' written notice of the time and place of
 32 hearing of said appealed matter. The appeal proceedings before the council shall be
 33 conducted in accordance with LCMC Chapter 1.26 and the procedures utilized in an
 34 appeal to the transient lodgings tax hearing officer, except that any appeal to the
 35 City Council shall be on the record, and not a denovo review. committee as
 36 specified in LCMC 3.04.220.

37
 38 **SECTION 11.** Lincoln City Municipal Code Title 2 (*Administration and Personnel*), Chapter 2.24
 39 (*Visitor and Convention Committee*), is hereby amended to read as follows:
 40

Chapter 2.24
VISITOR AND CONVENTION COMMITTEE

Sections:

~~2.24.010 Established~~

~~2.24.020 Membership—Qualifications.~~

~~2.24.030—~~

~~2.24.050 Repealed.~~

~~2.24.060 Powers and duties.~~

~~2.24.070 Repealed.~~

~~2.24.080 Grant review procedures and appeals process.~~

~~2.24.010 Established.~~

~~A visitor and convention committee (VCC) of the city is created for the purpose of improving the marketing of the tourist industry in the city. The committee is advisory to the visitor and convention bureau (VCB) and the city council. The visitor and convention bureau (VCB) uses an assumed business name of “Explore Lincoln City.” The visitor and convention committee (VCC) may alternatively be referred to as the “Explore Lincoln City Committee” or “ELCC.”~~

~~2.24.020 Membership—Qualifications.~~

~~A. Qualifications. The committee shall consist of seven members. The council shall appoint persons who meet the qualifications of this subsection. Lincoln County voter registration records may be used to determine residency.~~

~~1. Two members of the committee shall be hotel operators as defined in LCMC 3.04.010. At least one of the members must be a city resident and one may reside within the boundaries of the Lincoln County School District—North Area.~~

~~2. Two members of the committee shall own or manage a business located within the city not related to the lodging industry. At least one member shall be a city resident and one may reside within the boundaries of the Lincoln County School District—North Area.~~

~~3. Three members shall represent the public. These members shall have relevant experience or expertise, including but not limited to the business or lodging industry, and may or may not own or operate a hotel or other business. At least one member shall be a city resident and two may reside within the boundaries of the Lincoln County School District—North Area.~~

~~4. Notwithstanding the qualifications described in this section, a committee member may change residency during the appointed term provided the member resides within the boundaries of the Lincoln County School District—North Area.~~

~~B. The council shall seek recommendations for appointment to the lodging industry positions from Lincoln City hotel owners or operators, and recommendations for appointments to the business positions from the city Chamber of Commerce, prior to appointment.~~

~~2.24.030 Terms of office.~~**~~Repealed by Ord. 2017-05.~~****~~2.24.040 Vacancies.~~****~~Repealed by Ord. 2017-05.~~****~~2.24.050 Voting—Rules of procedure.~~****~~Repealed by Ord. 2017-05.~~****~~2.24.060 Powers and duties.~~****~~The committee shall perform the following duties:~~****~~A. Advise the city council on programs relating to tourism, conventions, and visitor information;~~****~~B. After conducting a review, advise and make recommendations as desired to the city council on the visitor and convention bureau marketing plan prepared by the visitor and convention bureau director;~~****~~C. Review applications for grant funds for nonprofits in accordance with approved guidelines and make recommendations to the VCB director with regard to denial or award of funds;~~****~~D. Review applications for marketing partnership funds in accordance with approved guidelines and make recommendations to the VCB director with regard to denial or award of funds;~~****~~E. The review of grant applications and recommendations by the committee to the director shall be in accordance with LCMC 2.24.080 and such forms, policies and procedures as are adopted by resolution of the city council. (Ord. 2019-17 § 2; Ord. 2017-05 § 8; Ord. 2012-13 § 2)~~****~~2.24.070 Reports to city council.~~****~~Repealed by Ord. 2017-05.~~****~~2.24.080 Grant review procedures and appeals process.~~****~~A. Application and Completeness. Grant applications shall be submitted in strict compliance with the grant policies, procedures, guidelines and forms as adopted by resolution or motion of the city council (hereinafter "grant requirements"). Failure to submit a complete or appropriate application in accordance with grant requirements is a jurisdictional defect and will result in the application not being processed or presented to the committee. Staff will review any application submitted at least 72 hours before the deadline for completion and notify the applicant by email if the application is insufficient for processing. Any application submitted within 72 hours of the deadline will not be afforded this completeness review.~~**

1 ~~B. Policies and Procedures. The committee is charged with the review of grant~~
2 ~~applications. The committee will follow the adopted grant requirements and conduct the~~
3 ~~review in a professional manner, ranking the applications and recommending the top~~
4 ~~ranked applications with funding levels indicated to the director. The recommendations~~
5 ~~must be substantiated with reference to the criteria in the grant requirements. The VCB~~
6 ~~director is the decision maker on all grant award applications, unless recused, in which~~
7 ~~case the city manager shall designate an alternate decision maker for such applications.~~
8 ~~The VCB director's decision is final, unless appealed as provided herein.~~

9 ~~C. Appeal. A person, firm, corporation or other entity, however organized, and aggrieved~~
10 ~~by a grant funding decision of the director taken pursuant to this section may, within 15~~
11 ~~calendar days after the date of notice of decision is mailed, appeal in writing to the city~~
12 ~~manager. The written appeal shall be accompanied by the following:~~

- 13 ~~1. The name and address of the appellant;~~
- 14 ~~2. An identification of the decision sought to be reviewed, including the date of the~~
15 ~~decision;~~
- 16 ~~3. The reason the determination is incorrect, including the specific grounds relied~~
17 ~~upon for the alleged error (citing the applicable provision of the grant~~
18 ~~requirements);~~
- 19 ~~4. An appeal fee as established by resolution of the city council.~~
- 20 ~~5. Please note: Strict compliance with the above appeal requirements is required.~~
21 ~~Failure to strictly observe the requirements is a jurisdictional defect and results in~~
22 ~~summary dismissal of the appeal. The opportunity to appeal the decision of the~~
23 ~~director is only to correct an identified error in the processing of the subject grant~~
24 ~~application. Such appeal is not a de novo appeal where the applicant can reargue~~
25 ~~their case to a different decision maker.~~
- 26 ~~6. The decision of the city manager is the final decision of the city of Lincoln City.~~

27 ~~D. Reservation. The city of Lincoln City reserves the right to approve all, or a portion, of~~
28 ~~any grant request, or deny a request altogether, or deny all grant requests, regardless of~~
29 ~~availability of funds.~~

30
31 **SECTION 12. Findings Adopted.**

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

37
38 **SECTION 13. Severability.**

39
40 The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity
41 of one section, subsection, paragraph, or clause shall not affect the validity of the remaining
42 sections, subsections, paragraphs and clauses.

43

1 **SECTION 14. Ordinance Effective Date.**

2
3 Pursuant to Chapter IX, Section 9.3, this ordinance takes effect 30 days after the date of its
4 adoption.

5
6 **SECTION 15. Codification.**

7
8 Provisions of this ordinance shall be incorporated in the City of Lincoln City Municipal Code and
9 the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word,
10 and the sections of this ordinance may be renumbered, or re-lettered, provided that any
11 whereas clauses and boilerplate provisions (i.e. Sections 12-15) need not be codified and the
12 City Recorder is authorized to correct any cross-references and any typographical errors.

13
14 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section
15 9.2 of the City of Lincoln City Charter on the 12th day of July, 2021 (First Reading) and on the 12th
16 day of July, 2021 (Second Reading).

17
18 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 12th day of July, 2021.

19
20
21
22
23
24
25
26
27
28
29
30

SUSAN WAHLKE, MAYOR

ATTEST:

APPROVED AS TO FORM:

JAMIE YOUNG, CITY RECORDER

RICHARD APPICELLO, CITY ATTORNEY

Council Communication

Resolution 2021-34- Traffic Control 15th Street and 34th Court

Meeting Date:	July 12, 2021	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	5 minutes

Question:

Should the City Council approve Resolution 2021-34 entitled:

RESOLUTION NO. 2021-34

A RESOLUTION OF THE CITY OF LINCOLN CITY EXTENDING ESTABLISHED TEMPORARY PARKING AND TRAFFIC CONTROL MEASURES FOR A PORTION OF NW 15TH STREET AND A PORTION OF NW 34TH COURT, PROHIBITING VEHICULAR TRAFFIC EXCEPT FOR EMERGENCY VEHICLES

Staff Recommendation:

Staff recommends approval of Resolution 2021-34.

Authority:

10.08.010 Powers of the city council.

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

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

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

8. Establishment and revision of speed limits and traffic regulations in parks;
9. Temporary blocking or closing of streets;
10. Establishment of bicycle lanes and paths and traffic controls for such facilities;
11. Restriction of the use of certain streets by any class or kind of vehicle to protect the streets from damage;
12. Authorization of issuance of oversize or overweight vehicle permits;
13. Establishment, maintenance, removal or alteration of the following classes of traffic controls:
 - a. Crosswalks, safety zones and traffic lanes,
 - b. Intersection channelization and areas where drivers of vehicles shall not make right, left or U-turns, and the time when such prohibitions apply,
 - c. Parking, including but not limited to truck parking areas, parking for disabled persons, parking areas and time limitations, including the form of permissible parking (e.g., parallel or diagonal), prohibited parking areas (one or both sides of the street), parking permits and metered parking,
 - d. Loading zones and stops for vehicles,
 - e. Traffic-control signals.

Background

Based on the success of Resolution 2021-31 temporarily closing the above-referenced streets, staff recommends extension of the closure until after labor day.

Council Options:

Approve the Resolution.

Do Not approve the Resolution.

Approve the Resolution (with amendments).

Financial Impact

No financial impact except materials and crew time.

Potential Motions:

Move to approve Resolution 2021-34.

Move to approve Resolution 2021-34, with the following amendments.

Move to reject the proposed Resolution.

Attachments:

FINAL Res. 2021-34 Traffic Control NW 15th Street adding 34th Court (DOC)

FINAL Ext. 1 NW 15th - NW 34th Closures 2021 with Image (003) (PDF)

RESOLUTION NO. 2021-34

**A RESOLUTION OF THE CITY OF LINCOLN CITY EXTENDING ESTABLISHED
TEMPORARY PARKING AND TRAFFIC CONTROL MEASURES FOR A PORTION OF
NW 15TH STREET AND A PORTION OF NW 34TH COURT, PROHIBITING
VEHICULAR TRAFFIC EXCEPT FOR EMERGENCY VEHICLES**

RECITALS

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

The closure of streets, either permanently or temporarily for safety reasons, is expressly listed as within the authority of the City Council; and

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

On June 26, and June 27, 2021 uncontrolled vehicular access to the beach via the NW 15th Street beach access caused numerous dangerous situations, including unsafe vehicular operation in the vicinity of pedestrians, operation of vehicles outside authorized areas, stuck vehicles due to incoming tides, multiple tow truck and public safety (police and fire) deployments; and

The crush of vehicular traffic in the vicinity of the NW 15th Street beach access (between 100 to 200 vehicles), including stuck vehicles, caused a bottleneck of traffic stopping some vehicles from leaving, and prohibiting emergency vehicles from entering; and

The temporary closure of the above streets (June 29 thru July 13) in Resolution 2021-31 effectively eliminated the safety concern described herein despite the busy July 4 holiday weekend; and

New information has come to light regarding beach driving incidents at the 34th court beach access which supports continued closure;

The City Council finds and determines that there exists an engineering and public safety basis for an exercise of municipal parking and traffic control authority, specifically to extend the temporary prohibition on vehicular traffic on NW 15th

1 Street from Harbor Ave to the beach, except or public safety / emergency vehicles;
2 and

3
4 Closure of NW 15th Street will necessitate a companion closure of NW 34th Court
5 (sometimes mistakenly referred to as "36th Street beach access" or "35th Court"), to
6 avoid all beach traffic moving to that location; and

7
8 **NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF**
9 **LINCOLN CITY, AS FOLLOWS:**

10 **SECTION 1. RECITALS.**

11
12 The above recitals are true and correct and are incorporated herein by this
13 reference.

14
15 **SECTION 2 . IMPOSING TRAFFIC CONTROL FOR TEMPORARY PERIOD.**

16 Effective upon posting of appropriate signage prohibiting vehicular access, (except
17 for emergency vehicles) by the City Public Works Department, the requested
18 exercise of parking and traffic control authority is hereby approved, specifically,

19
20 NW 15th Street is temporarily closed to all vehicular traffic from Harbor
21 Avenue to the beach, excepting access by public safety and emergency
22 vehicles on official business. Some limited parking may be provided.

23
24 NW 34th Court is temporarily closed to all vehicular traffic from NW Jetty
25 Avenue to the beach, excepting access by public safety and emergency
26 vehicles on official business. Some limited parking may be provided.

27
28 The precise closure is depicted on the attached map set forth in Exhibit A and
29 incorporated herein by this reference.

30
31 The closure concerns areas of the City of Lincoln city public street right-of-way
32 outside the jurisdiction of Oregon State Parks.

33
34 The prior closure is hereby extended from 12:00 PM, July 13, 2021 to and through
35 12:00 PM, September 7, 2021.

36
37
38

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

2

3 The Public Works Department is directed to erect Road Closed or other appropriate
4 signage in the appropriate locations to notify the public that vehicular traffic is
5 prohibited on NW 15th Street and NW 34th Court, that the beach access for vehicles is
6 effectively closed. Pedestrian access to the beach via the NW 15th Street segment and
7 34th Court segment noted herein is expressly authorized. City police and code
8 enforcement officers are to be advised of the temporary restrictions by City
9 Administration. City Administration shall post the closure on the City's webpage.
10 Failure to observe the posted traffic control measure is a Class B violation and may be
11 cited under Lincoln City Municipal Code Chapter 1.16.

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

14

15 **PASSED AND APPROVED** by the City Council of the City of Lincoln City, Oregon, this
16 12th day of July, 2021.

17

18

19 SUSAN WAHLKE, MAYOR

20

21 ATTEST:

22

23

24

25 JAMIE YOUNG, CITY RECORDER

26

27 APPROVED AS TO FORM:

28

29

30

31 RICHARD APPICELLO, CITY ATTORNEY

