

AGENDA  
DAYTON PLANNING COMMISSION  
WORK SESSION



DATE: THURSDAY, SEPTEMBER 12, 2024  
TIME: 6:30 PM  
PLACE: DAYTON CITY HALL ANNEX – 408 FERRY STREET, DAYTON, OREGON  
VIRTUAL: ZOOM MEETING – ORS 192.670/HB 2560

You may join the Planning Commission Meeting online via Zoom at: <https://us06web.zoom.us/j/85410045100>

*Dayton – Rich in History . . . Envisioning Our Future*

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<u>ITEM</u>	<u>DESCRIPTION</u>	<u>PAGE #</u>
A.	CALL TO ORDER & PLEDGE OF ALLEGIANCE	
B.	APPROVAL OF THE AGENDA	
C.	APPEARANCE OF INTERESTED CITIZENS	
D.	WORK SESSION	
	1. Planning Commission review of various amendments	1-2
	primarily to comply with HB 3395 and SB 1537 – Staff Report	
	i. Exhibit A: DLUDC draft amendments with changes tracked	3-33
	ii. Exhibit B: Comparison of R-2 and R-3 Zoning Requirements	35
	iii. Exhibit C: DLCD 2023 Land Use Legislation Report	37-51
	iv. Exhibit D: DLCD 2024 Land Use Legislation Report	53-59
E.	OTHER BUSINESS	
F.	ADJOURN	

Posted: September 6, 2024

By: Rocio Vargas, City Recorder/Planning Coordinator

## NEXT MEETING DATES

Planning Commission Meeting **October 10, 2024** (if needed)

Planning Commission Meeting **November 14, 2024** (if needed)

*Virtually via Zoom and in Person, City Hall Annex, 408 Ferry Street, Dayton, Oregon*

The public is strongly encouraged to relay concerns and comments to the Commission of any other topic in one of the following ways:

- Email - at any time up to 5 pm the day of the meeting to [rvargas@daytonoregon.gov](mailto:rvargas@daytonoregon.gov). The Chair will read the comments emailed to the Planning Coordinator.
- Appear in person - If you would like to speak during public comment, please sign up on the sign-in sheet located on the table when you enter the City Hall Annex.
- Appear by Telephone only - please sign up prior to the meeting by emailing the Planning Coordinator at [rvargas@daytonoregon.gov](mailto:rvargas@daytonoregon.gov) the chat function is not available when calling by phone into Zoom.
- Appear Virtually via Zoom - once in the meeting send a chat directly to the Planning Coordinator Rocio Vargas, use the raise hand feature in Zoom to request to speak during public comment, **you must give the Planning Coordinator your First and Last Name, Address and Contact Information (email or phone number) before you are allowed to speak.** When it is your turn, the Chair will announce your name and unmute your mic.



**PLANNING COMMISSION WORK SESSION  
LA 2024-02-CODE UPDATES  
STAFF REPORT**

**DATE:** September 12, 2024  
**FILE NUMBER:** LA 2024-02  
**SUBJECT:** Planning Commission review of various amendments primarily to comply with HB 3395 and SB 1537  
**EXHIBITS:** Exhibit A: DLUDC draft amendments with changes tracked  
Exhibit B: Comparison of R-2 and R-3 Zoning Requirements  
Exhibit C: DLCD 2023 Land Use Legislation Report  
Exhibit D: DLCD 2024 Land Use Legislation Report

**BACKGROUND**

In 2023 the Oregon Legislature passed HB 3395 which included the following requirements applying to Dayton:

- Cities between 2,500 – 10,000 residents are required to adopt ordinances to allow duplexes on any lot zoned for residential use that allows single-family detached housing;
- Local governments are required to approve Single Room Occupancy (SRO) developments with up to 6 units on each lot zoned for single-family detached housing;
- If the lot allows the development of 5 or more units, the SRO development must be approved up to the number of units allowed by the underlying density standard; and
- Cities cannot apply development standards for duplexes and single room occupancies that are more restrictive than the standards that apply to single family homes.

To assist cities in updating their ordinances to comply with the new regulation, DLCD awarded a grant to MWVCOG to complete these required updates to the Dayton Land Use and Development Code (DLUDC).

More recently, the legislature passed SB 1537 which included additional requirements that are addressed in these amendments, including:

- Requirements that local governments allow certain adjustments to local code for projects within a UGB that result in net new housing units;
- Requirements that local governments approve applications for replat, property line adjustment, and extension, alteration, or expansion of nonconforming land use at the administrative level through a limited land use procedure;
- Removing local requirements for these application types and other limited land use decisions to undergo a quasi-judicial process with a public hearing. Other limited land use decisions subject to this requirement include subdivisions, partitions, and site design reviews.

Additional amendments are included to address general housekeeping needs and technical corrections, and address compliance with other ORS provisions, primarily ORS 197A.400 requirements that a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing and that the standards, conditions, and procedure may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

The draft amendments in Exhibit A respond to the legislative priorities discussed above as follows:

#### Siting Duplexes – ORS 197.758

- All residential zones – All standards for siting duplexes made consistent with standards for single-family homes. Primarily minimum lot sizes but some design and development standards are also affected.

#### Single Room Occupancies – ORS 197.286, ORS 197.314

- Added definition of single room occupancy from ORS 197
- Added single-room occupancies as defined in ORS 197 as a permitted use in all residential zones
- Applied the minimum lot size requirement for multifamily to single-room occupancies.

#### Housing Land Use Adjustments – ORS 197A

- Section 7.3.103 Minor Variance – incorporates standards and criteria from Section 38 of SB 1537 for approving mandatory housing adjustments.

#### Limited Land Use Decisions – ORS 197.195

- Section 7.3.101 Summary of Application Types and Review Procedures – Makes partitions, subdivisions, and site development review applications Type I limited land use actions.
- Section 7.3.202 Procedures for Type I Review – Added limited land use notice requirements to the Type I procedures.

#### Clear and Objective Standards for Housing Applications – ORS 197A.400

- All residential zoning sections, administrative procedures, and provisions of the DLUDC were reviewed to ensure applicable standards, and procedures are clear and objective.

### **REQUESTED ACTION**

Provided input and feedback on proposed amendments. Potential actions from the Planning Commission may include:

- Schedule a second work session and instruct staff to prepare a revised draft of the amendments to address comments from the Planning Commission, or
- Schedule the first public hearing before the Planning Commission to consider a recommendation to the City Council.

# EXHIBIT A

## 7.1.200.03 Definitions

The following words and phrases, when used in this Code, shall have the meanings ascribed to them in this Section:

~~**Density:** The number of dwellings units per acre of land. "Land" includes all property within an "area" as defined in this section.~~

**Density:** •

**Gross Density or Units per Gross Acre:** The number of dwelling units or lots per acre prior to calculation of net density. •

**Net Density or Units per Net Acre:** The number of dwelling units or lots per acre based on net area, which is the area of a parcel that excludes land dedicated for public rights-of-way or stormwater easements, common open space, land dedicated for public parks, flood plains, and unbuildable natural areas.

**Middle housing:** Duplexes, triplexes, quadplexes, cottage clusters, townhouses, and single room occupancies.

**Short-Term Rental, Owner Occupied:** A single or two-family dwelling where the owner resides and rents no more than three guest rooms in a single dwelling to overnight guests for a period less than 30 consecutive days. The owner occupies the primary dwelling during the overnight rental period. The room (s) for rent may include rooms within an accessory dwelling unit or attached duplex.

**Single Room Occupancy:** A residential development with no fewer than four attached units that are independently rented and lockable and provide living and sleeping space for the exclusive use of an occupant, but require that the occupant share sanitary or food preparation facilities with other units in the occupancy.

**Site, Development, or Complex:** A group of structures or other development that is functionally or conceptually integrated, regardless of the ownership pattern of the development or underlying land.

### **7.2.102.01 Purpose**

The purpose of the R-1 zone is to allow *the* development of single-family homes, *duplexes, and single-room occupancies* on individual lots provided with urban services at urban densities. Other uses compatible with residential development are also appropriate. These areas are designated as Residential in the Comprehensive Plan.

### **7.2.102.02 Permitted Uses**

The following uses, ~~when developed under the applicable development standards in this Code,~~ are permitted in the R-1 zone: ~~when developed under the applicable development standards in this Code:~~

- A. One detached single-family dwelling on a separate lot or parcel.
- B. *One two-family (duplex) dwelling on a single lot or parcel.*
- ~~C. Residential homes.~~
- ~~D. Single Room Occupancies with up to six units on a lot.~~
- ~~E. Child day care service, including family day-care/daycare provider, for 12 or fewer children.~~
- ~~F. The following uses, subject to the applicable standards in Section 7.2.4:~~
  - ~~1. Accessory structures and uses allowed in Section 7.2.203 and subject to the provisions in Section 7.2.309.~~
  - ~~2. Accessory Dwelling Units - Section 7.2.402.~~
  - ~~3. Attached Dwelling Units - Section 7.2.403.~~
  - ~~4. Manufactured homes on individual lots - Section 7.2.404.~~
  - ~~5. Manufactured home parks with Site Development Review and subject to Section 7.2.405.~~
  - ~~6. Home Occupations - Section 7.2.406.~~
  - ~~7. Owner-occupied short-term rentals - Section 7.2.417.~~

### **7.2.102.03 Special Permitted Uses**

~~The following uses, when developed under the applicable standards in this Code and special development requirements, are permitted in the R-1 zone:~~

- ~~A. Partitions, subject to the provisions in Section 7.2.307.~~
- ~~B. Subdivision, subject to the provisions in Section 7.2.307.~~
- ~~C. Accessory Dwelling Unit (one per detached single-family dwelling), subject to the provisions in Section 7.2.402.~~
- ~~D. Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.~~

- ~~E. Two-family dwellings (duplexes) subject to the following:~~
  - ~~1. The duplex shall be located on a corner lot.~~
  - ~~2. Access shall be subject to the following:~~
    - ~~a. Where both adjacent streets are of the same street designation (e.g. local street) the duplex may obtain access from each adjacent street or share a single access.~~
    - ~~b. Where the adjacent streets are of a different street designation (e.g. local and collector) a shared access shall be required from the lower street designation.~~
- ~~F. The following uses, subject to the applicable standards in Section 7.2.4:~~
  - ~~1. Manufactured homes on individual lots (Section 7.2.404)~~
  - ~~2. Home occupations (Section 7.2.406):~~
  - ~~3. Owner-occupied Owner-occupied short-term rentals (Section 7.2.417)~~

**Commented [CF1]:** These uses were moved to the permitted section.

**7.2.102.04 Conditional Uses**

The following uses require approval of a Conditional Use Permit and are subject to a Site Development Review:

- A. Private or public elementary schools.
- B. Public parks, playgrounds, community clubs including swimming, tennis, and similar recreation facilities; and other public or semi-public uses.
- C. Child day-care services for 13 or more children.
- D. House of Worship and the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including but not limited to the uses set forth in Section 7.2.407.
- E. Small wind energy systems including compliance with Section 7.2.413.
- ~~F. A manufactured home on a residentially zoned individual lot or parcel immediately adjacent to a significant historical resource as identified in the Dayton Comprehensive Plan subject to the provisions of Section 7.2.404.E.~~

**7.2.102.05 Dimensional Standards**

- A. Minimum Lot Dimension and Height Requirements

DIMENSION	Residential Uses	Non-Residential Uses
Lot Size	7,000 sq. ft. <del>Single Family</del> 9,000 sq. ft. <del>Duplex</del>	(1)
<del>Average</del> Width	50	(1)
<del>Average</del> Depth	80	(1)

Maximum Height	35 feet
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1. Adequate to comply all applicable development standards

B. Minimum Yard Setback Requirements

SETBACKS	Residential Uses	Non-Residential Uses
Front <i>and street side</i>	15 feet	20 feet
Side	5 feet	10 feet
Rear	15 feet <i>-1-story</i> <i>20 feet -2-story</i>	20 feet
<i>Street-side</i>	<i>15 feet</i>	<i>20 feet</i>
Garage (1)	20 feet	20 feet

1. The garage setback shall be measured from the property line or the edge of a private access easement. The length of the driveway shall be determined by measuring along the centerline of the driveway.
2. See Sections 7.2.308.06.C and 7.2.308.07.E for standards that apply to decks and patios.

**7.2.102.06 Development Standards**

All development in the R-1 Zone shall comply with the *applicable provisions of this Code. The following references additional* development requirements:

- A. *Off-street* Parking: Parking shall be as specified in Section 7.2.303.
- B. Yards and Lots: Yards and lots shall conform to the standards of Section 7.2.308.
- C. Site Development Review: Manufactured home parks and non-residential uses shall require a Site Development Review, pursuant to Section 7.3.1.
- D. Lot Coverage: The maximum coverage allowed for buildings, accessory structures, and paved parking shall be *as follows: 65% of the site area.*

<i>Maximum building coverage (primary building):</i>	<i>35%</i>
<i>Maximum parking area coverage (including garage):</i>	<i>30%</i>



<b>Combined maximum lot and parking area coverage:</b>	<b>60%</b>
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- E. Landscaping: ~~Undeveloped~~ Areas of the property not covered by buildings, accessory structures, and paved parking shall be landscaped, including all required yards. Landscaping shall be provided pursuant to the requirements in Section 7.2.306.
- F. ~~Density:~~ Subdivisions ~~lots~~ shall be developed-permitted at a minimum density of four ~~dwelling~~ units per acre. ~~with a maximum density of six dwelling units per acre.~~
- G. Redevelopment Plan: A redevelopment plan shall be required when units are proposed at densities under four units per acre. ~~to place a single family home on a parcel containing more than 1 acre.~~ This plan shall be approved by the City prior to the issuance of a building permit. The following shall apply:
  1. The redevelopment plan shall indicate how the remaining undivided or undeveloped portion of the property could be developed at a density consistent with the minimum requirements of the R-1 zone.
  2. A redevelopment plan shall be required to place a single-family home or duplex on a parcel containing more than 1 acre. This plan shall be approved by the City before the issuance of a building permit.
  2. ~~The p~~Plans may be revised or modified at the time of development provided the revised plan complies with the applicable development requirements of the R-1 zone.

### 7.2.103.01 Purpose

The R-2 zone is intended to provide ~~single family home, middle housing , and multifamily homes for detached and attached dwellings on a lot or multiple dwellings~~ on a lot~~s~~ at an intermediate density. Other uses compatible with residential development are also appropriate. R-2 zones are located in areas designated Residential in the Comprehensive Plan.

### 7.2.103.02 Permitted Uses

The following uses, ~~when developed under the applicable development standards in the Code,~~ are permitted in the R-2 zone ~~when developed under the applicable development standards in the Code:~~

- A. ~~One detached single family dwelling on a separate lot or parcel. Single-family dwellings, attached and detached.~~
- B. ~~Middle housing types, including single room occupancies. Buildings with two or more dwelling units.~~
- ~~C. Combination of permitted attached or detached dwellings on a lot.~~
- ~~C. Multifamily homes.~~
- D. Residential homes and facilities.
- E. Child day care service, including family ~~day care~~ provider, for 12 or fewer children.
- ~~F. The following uses, subject to the applicable standards in Section 7.2.4:~~
  - ~~1. Accessory structures and uses allowed in Section 7.2.203 and subject to the provisions in Section 7.2.309.~~
  - ~~2. Accessory dwelling units - Section 7.2.402.~~
  - ~~3. Attached dwelling units - Section 7.2.403.~~
  - ~~4. Manufactured homes on individual lots - Section 7.2.404.~~
  - ~~5. Manufactured home parks according to Section 7.2.405 with Site Development Review.~~
  - ~~6. Home occupations - Section 7.2.406.~~
  - ~~7. Short-term rentals - Section 7.2.417.~~

### 7.2.103.03 Special Permitted Uses

~~The following uses, when developed under the applicable standards in the Code and special development requirements, are permitted in the R-2 zone:~~

- ~~A. Partitions, subject to the provisions in Section 7.2.307.~~
- ~~B. Subdivision, subject to the provisions in Section 7.2.307.~~
- ~~C. Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.~~

~~D. The following uses, subject to the applicable standards in Section 7.2.4:~~

- ~~1. Accessory dwelling unit (Section 7.2.402).~~
- ~~2. Attached dwelling units (Section 7.2.403).~~
- ~~3. Manufactured homes on individual lots (Section 7.2.404).~~
- ~~4. Manufactured home parks (Section 7.2.405).~~
- ~~5. Home occupations (Section 7.2.406).~~
- ~~6. Owner occupied short-term rentals (Section 7.2.417).~~

**7.2.103.04 Conditional Uses**

The following uses require approval of a Conditional Use Permit and are subject to a Site Development Review:

- A. Public or private elementary schools.
- B. Public parks, playgrounds, community clubs including swimming, tennis and similar recreational facilities, and other public and semi-public uses.
- C. Child day-care services for 13 or more children.
- D. House of Worship and the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including but not limited to the uses set forth in Section 7.2.407.
- E. Assisted living centers, nursing homes and similar institutions. These facilities are subject to the development provision for multi-family residential development.
- F. Small wind energy systems including compliance with Section 7.2.413.

**7.2.103.05 Dimensional Standards**

- A. Minimum Lot Dimension and Height Requirements.

DIMENSION	<del>Detached s</del> Single fFamily <del>middle housing,</del> <del>multifamily and</del> <del>manufactured home park</del> <del>housing</del>  <del>Duplex</del>	<del>Attached</del> <del>Single Family</del> <del>(Townhomes)</del>	Multi-Family Non-Residential
Lot Size	6000 sq. ft. <del>(1)</del> <del>7000 sq. ft.</del>	<del>3500 sq. ft.</del>	9000 sq. ft. <del>(2)</del> <del>(3)</del>
Lot Width	50 feet	<del>25 feet</del>	<del>50 feet</del>
Lot Depth	80 feet	<del>80 feet</del>	<del>80 feet</del>

Maximum Height	35 feet
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~~1. Attached single family dwellings shall have a minimum lot area of 3500 square feet.~~

12. Multi-family development *and manufactured home parks* must comply with the density standard in Section 7.2.103.06.

~~3. Parcel size shall be adequate to contain all structures within the required yard setbacks.~~

B. Minimum Yard Setback Requirements

SETBACKS	Single Family, <i>and middle housing.</i>	Multi-Family	Non-Residential
Front	15 feet	15 feet	20 feet
Side	5 feet (1)	<del>(3)</del> 10 feet	10 feet
Rear	<del>15 feet</del> (2)	<del>15 feet</del> (3)	20 feet
Street-side	15 feet	15 feet	20 feet
Garage (4)	20 feet	20 feet	<del>20 feet</del> N/A

1. Zero side yard dwelling units are subject to the setback provisions in Section 7.2.404.

~~2. The rear yard setback shall be as follows: 15 feet for a 1-story home; 20 feet for 2 or more stories.~~

~~3. The setback shall be no less than the minimum rear yard setback of the zone on the adjacent property. In no case shall the setback be less than 10 feet.~~

24. The garage setback shall be measured from the property line or the edge of a private access easement. The length of the driveway shall be determined by measuring along the centerline of the driveway.

35. See Sections 7.2.308.06.C and 7.2.308.07.E for standards that apply to decks and patios.

**7.2.103.06 Development Standards**

All development in the R-2 Zone shall comply with the *applicable provisions of this Code.* The following *references additional* development requirements:

- A. Offstreet Parking: Parking shall be as specified in Section 7.2.303.
- B. Yards and Lots: Yards and lots shall conform to the standards of Section 7.2.308.
- C. Site Development Review: Manufactured home parks, multi-family residential development and non-residential uses shall require a Site Development Review, pursuant to Section 7.3.1.
- D. Lot Coverage: The maximum coverage allowed for buildings, accessory structures and paved parking shall be ~~as follows:~~ **70% of the site.**

**~~Maximum building coverage (primary building): 40%~~**

**~~Maximum parking area coverage (including garage): 35%~~**

**~~Combined maximum lot and parking area coverage: 70%~~**

- E. Landscaping: Undeveloped areas of the property shall be landscaped, including all required yards. Landscaping shall be provided pursuant to requirements in Section 7.2.306. Multiple family developments shall comply with provisions in Section 7.2.306.06.

- F. Density: The following density provisions shall apply:

**~~1. Land Sub~~ divisions: ~~The minimum density~~ shall be **required to provide a minimum of 5 units per net acre.**; ~~the maximum density shall be 7 units per acre.~~**

**2. Manufactured home parks ~~and multifamily development~~:** The minimum density shall be 6 units per **net** acre; the maximum density shall be **12**10 units per **net** acre **on a lot.**

**~~3. Multi-family development: The minimum density shall be 8 units per acre; the maximum density shall be 12 units per acre.~~**

- G. Redevelopment Plan: A redevelopment plan shall be required to place a **single family single-family** home, **duplex or single room occupancy** on a parcel containing more than 1 acre. This plan shall be approved by the City prior to the issuance of a building permit. The following shall apply:

- 1. The redevelopment plan shall indicate how the remaining undeveloped portion of the property can be developed at a density consistent with the requirements of the R-2 zone.
- 2. The plan may be revised or modified at the time of development provided the revised plan complies with the density requirement of the R-2 zone.

### 7.2.105.01 Purpose

To provide areas for the development of a mixture of single family, multi-family, and manufactured homes, and limited retail and service commercial uses.

### 7.2.105.02 Permitted Uses

The following uses, when developed under the applicable development standards in the Code, are permitted in the CR zone:

- A. The following residential uses are permitted in the CR zone:
  - 1. ~~Detached S~~ single family dwellings, ~~detached~~
  - 2. ~~Middle housing types Duplexes.~~
  - 3. Multi-family dwellings.
  - 4. ~~Residential units over ground floor commercial.~~
  - 5. ~~The following uses, subject to the applicable standards in Section 7.2.4:~~
    - a. ~~Accessory structures and uses allowed in Section 7.2.203 and subject to the provisions in Section 7.2.309.~~
    - b. ~~Accessory dwelling unit (Section 7.2.402).~~
    - c. ~~Attached dwelling units (Section 7.2.403).~~
    - d. ~~Manufactured homes on individual lots (Section 7.2.404).~~
    - e. ~~Home occupations (Section 7.2.406).~~
    - f. ~~Owner occupied short-term rentals (Section 7.2.417).~~
    - g. ~~Short-term rentals (Section 7.2.417).~~
    - h. ~~Small wind energy systems, subject to the provisions in Section 7.2.413.~~
  - 64. Residential care homes and facilities
  - 75. Child day care service, including family day care provider, for 12 or fewer children.
  - 86. Assisted living centers, nursing homes and similar institutions. These facilities are subject to the development provisions for multi-family residential development.
- B. The following commercial uses are permitted:
  - 1. Business offices including, but not limited to, insurance, real estate and title insurance; credit agencies, brokerages, loan companies, and investment companies; television and radio broadcast studios (excepting a broadcast

antennae or dish), and, miscellaneous offices such as detective agencies, drafting services or contractors offices.

2. Professional offices and clinics including, but not limited to, medical, dental, engineering and legal services, but excluding veterinary clinics.
3. Banks and other financial institutions.
4. Retail sales outlet including, but not limited to, food stores, pharmacy, furniture store, artist supplies, hobby or photography store, florist, hardware store, appliance or stereo equipment store, pet shop, sporting goods, department store, clothing, jewelry, gift, and other types retail activities but excluding liquor stores.
5. Restaurants, bakeries, coffee and snack shops but excluding taverns, bars and similar establishments.
6. Retail and service-related stores such as TV and radio sales and service, bicycle shop, gunsmiths, upholstery shops or other similar activities where a service department is customarily a secondary activity to the retail use.
7. **Service-related** businesses such as barber shops, beauty shops, tailors, advertising agencies, travel agencies, art or craft studios, self-serve laundry, dry cleaning (except bulk dry cleaning plants), parcel service, printing or photocopying, video rental, or other activities where the primary activity is the providing of a service to retail customers.
8. Accessory structures and uses customarily provided for retail activities.

### **7.2.105.03 Special Permitted Uses**

***The following uses, when developed under the applicable standards in the Code and special development requirements, are permitted in the GR zone:***

- A. Partitions, subject to the provisions in Section 7.2.307.***
- B. Subdivision, subject to the provisions in Section 7.2.307.***
- C. Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.***
- D. The following uses subject to the applicable standards in Section 7.2.4:***
  - 1. Accessory dwelling units (Section 7.2.402).***
  - 2. Attached dwelling units (Section 7.2.403).***
  - 3. Manufactured homes on individual lots (Section 7.2.404).***
  - 4. Home occupations (Section 7.2.406).***
  - 5. Owner occupied short-term rentals (Section 7.2.417).***

~~6. Short-term rentals (Section 7.2.417).~~

~~E. Small wind energy systems, subject to the provisions in Section 7.2.413.~~

~~F. Drive-through windows and walk-up windows as part of a permitted use, subject to the provisions in Section 7.2.414 and 7.2.415 respectively.~~

**7.2.105.04 Conditional Uses**

The following uses require a Conditional Use Permit:

- A. Public or private schools.
- B. Public parks, playgrounds, community clubs including swimming, tennis and similar recreational facilities, and other public and semi-public uses.
- C. Child day care service for 13 or more children.
- D. House of Worship and the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including but not limited to the uses set forth in Section 7.2.407.
- E. Park and Ride Lot: Parking spaces cannot count as required parking or be used for vehicle storage.
- F. Commercial activities which do not comply with the provisions in Section 7.2.105.02.B.
- G. Wineries with retail sales.

**7.2.105.05 Dimensional Standards**

The following dimensional standards shall be the minimum requirements for all development in the CR District.

A. Minimum Lot Area and Density Standards

<del>1.</del> Single-family dwelling, detached	<del>75,000</del> square feet
<del>3.</del> Single-family dwellings, attached	3,500 square feet
<del>2.</del> <b><i>Other middle housing types and multifamily (Multi-family development must comply with the density standards in Section 7.2.105.06). Duplex</i></b>	7,000 square feet
<del>3.</del> <b><i>Multi-family dwelling (Multi-family development must comply with the density standards in Section 7.2.105.06).</i></b>	<del>9,000</del> square feet
4. Commercial Use	<del>3,500</del> <del>5,000</del> square feet



<del>5.</del> Mixed commercial and residential:	<b><i>7,000 square feet Shall comply with the minimum for multi-family development.</i></b>
<del>6.</del> Public utility structures:	Lot area shall be adequate to contain all proposed structures within the required yard setbacks.

B. Minimum Yard Setback Requirements

<b><i>1. Residential Uses</i></b>	
<b><i>a. Front Yard</i></b>	<b><i>15 feet</i></b>
<b><i>b. Garage setback</i></b>	<b><i>20 feet</i></b>
<b><i>c. Rear Yard</i></b>	<b><i>10 feet</i></b>
<b><i>d. Side Yard (interior)</i></b>	<b><i>5 feet</i></b>
<b><i>e. Side Yard (adjacent to street)</i></b>	<b><i>15 feet</i></b>
<b><i>2. Commercial Uses</i></b>	
<b><i>a. Front Yard</i></b>	<b><i>None</i></b>
<b><i>b. Rear Yard</i></b>	
<b><i>i. Abutting a non-residential district</i></b>	<b><i>None</i></b>
<b><i>ii. Abutting a residential district</i></b>	<b><i>10 feet</i></b>
<b><i>c. Side Yard</i></b>	
<b><i>i. Abutting a non-residential district</i></b>	<b><i>None</i></b>
<b><i>ii. Abutting a residential district</i></b>	<b><i>10 feet</i></b>
<b><i>3. Mixed commercial and residential</i></b>	
<b><i>a. Front Yard</i></b>	<b><i>5 feet</i></b>
<b><i>b. Rear Yard</i></b>	
<b><i>i. Abutting a non-residential district</i></b>	<b><i>5 feet</i></b>
<b><i>ii. Abutting a residential district</i></b>	<b><i>10 feet</i></b>
<b><i>c. Side Yard</i></b>	
<b><i>i. Abutting a non-residential district</i></b>	<b><i>5 feet</i></b>

<i>ii. Abutting a residential district</i>	<i>10 feet</i>
<i>4. Public</i>	
<i>a. Front Yard</i>	<i>15 feet</i>
<i>b. Garage setback</i>	<i>20 feet</i>
<i>c. Rear Yard</i>	<i>10 feet</i>
<i>d. Side Yard (interior)</i>	<i>5 feet</i>
<i>e. Side Yard (adjacent to street)</i>	<i>15 feet</i>

	Residential	Commercial	Mixed Residential/Commercial	Public
Front Yard	15 feet	None	5 feet	15 feet
Rear Yard	10 feet			15 feet
Abutting non-residential		none	5 feet	
Abutting a residential district		10 feet	10 feet	
Side Yard (interior)	5 feet			5 feet
Abutting non-residential		none	5 feet	
Abutting a residential district		10 feet	10 feet	
Street Side	15 feet			15 feet
Garage				

1. See Sections 7.2.308.06.C and 7.2.308.07.E for standards that apply to decks and patios.

C. Maximum Structure Height

1. Principal Structure	350 feet
2. Accessory Structure	20 feet

7.2.105.06 Development Standards

- A. Use Restrictions. ~~The following use restrictions shall apply:~~
  - 1. ~~No permitted, special permitted, or conditionally permitted use shall in any way involve the slaughter, rendering, or processing of animals. The processing of grains, fruits, vegetables, or dairy products for breads, wines, jams, cheeses, and similar products may be allowed as part of a permitted or conditionally permitted commercial business.~~
- B. Commercial Uses. Commercial uses in the CR zone shall comply with the following additional conditions:
  - 1. All business, service, processing, or merchandise displays shall be conducted wholly within an enclosed building, except for the following:
    - a. Off-street parking and loading.
    - b. Temporary display and sales of merchandise; provided it does not interfere with pedestrian or automobile circulation, or areas of a permitted drive-through window or walk-up window.
    - c. Outdoor seating for a permitted eating and drinking establishment, subject to screening and buffering provisions in Section 7.2.306.04. The greater of 12 seats or 75 percent of the indoor seating capacity of the establishment is allowed for outdoor seating.
  - 2. The maximum lot size for any commercial use shall be one acre.

3. Any new commercial structure shall maintain a residential appearance. Metal buildings, pole barns, and similar structures are prohibited within the CR zone.
4. Commercial uses shall not engage in the manufacturing, processing, assembly, or compounding of products other than those clearly incidental to the business conducted on the premises.
- ~~5. The commercial use shall have a maximum floor area of 2,500 square feet per lot.~~
6. Any outside storage space maintained in the CR Zone shall be enclosed by a **6-foot** sight-obscuring fence or a hedge row not less than 3 feet high and capable of attaining a height of 6 feet.

C. Mixed Commercial and Residential Uses. Development of mixed commercial and residential uses shall be subject to the provisions in item B., above.

D. Unless otherwise exempted, all development in the CR Zone shall comply with the applicable provisions of this Code. The following references additional development requirements:

1. Off-street parking. Parking shall be as specified in Section 7.2.303.
2. Yards and Lots. Yards and lots shall conform to the standards of Section 7.2.308.
3. Subdivisions and Partitions. Land divisions shall be reviewed in accordance with the provisions of Section 7.2.307.
4. Site Development Review: Multi-family and/or commercial uses within the CR Zone shall be subject to the Site Development Review requirements and procedures in Section 7.3.1. In addition, any conversion of an existing residence ~~which~~ that includes a commercial use shall require a site development review.
5. Lot Coverage: The maximum coverage allowed for buildings, accessory structures, and paved parking shall be as follows:

<del>a.</del> Residential	75%
<del>b.</del> Commercial <i>and Mixed Residential and Commercial</i>	85%
<del>c.</del> <i>Mixed Residential and Commercial</i>	<b>80%</b>

6. Landscaping: All *areas covered by buildings, accessory structures, and paved parking required yards* shall be landscaped. Landscaped areas shall be landscaped as provided in Section 7.2.306.

Multiple family developments shall comply with provisions in Section 7.2.306.06.

### 7.2.310 ~~Single-Family~~ *and Middle Housing* Dwelling Design Standards

All new single-family, *two-family, and single-room occupancy* dwellings, including manufactured homes located on individual lots, shall contain at least three (3) of the following design elements on the side of the house which fronts the street, to provide architectural relief:

- A. Dormer(s) or gable(s).
- B. Cupola(s).
- C. Bay or bow window(s).
- D. Exterior shutters.
- E. Recessed entry or entries.
- F. Front porch at least 100 square feet in area.
- G. Covered porch entry or entries.
- H. Pillars or posts in the front entry or entries.
- I. Eave(s) (minimum 6").
- J. Off-set(s) on building face or roof (minimum 16")

## 7.2.404 Manufactured Homes On Individual Lots

*Individual manufactured homes shall be permitted in any zone where single-family dwellings are permitted. The manufactured home shall comply with the following standards:*

*Where permitted as a special use, manufactured homes located on individual lots outside of a mobile home park shall meet the following requirements:*

- A.** *The manufactured home shall meet all provisions of the Dayton Land Use and Development Code as applicable to other dwellings in the same zone, including but not limited to development standards, architectural requirements, and minimum size requirements to which a conventional single-family residential dwelling on the same lot would be subject. ~~Construction Date. The manufactured home shall have been manufactured after June 15, 1976, and exhibit the Oregon Department of Commerce "Insignia of Compliance" that indicates conformance with Housing and Urban Development (HUD) standards.~~*
- B.** ~~*Minimum Area. The manufactured home shall be multi-sectional with a minimum area of 1,000 square feet.*~~
- 6B.** ~~*The manufactured home shall be installed according to the Oregon Manufactured Dwelling Installation Specialty Code. Foundation. The manufactured home shall be placed on an excavated and back-filled foundation, enclosed at the perimeter with either concrete, concrete block, brick, stone, pressure treated wood, or combination thereof. No more than 24 inches of the enclosing material may be exposed above grade. Where the building site has a sloped grade, no more than 24 inches of the enclosing material shall be exposed on the uphill side of the home. If the manufactured home is placed on a basement, or within an identified flood hazard zone, the 24-inch limitation shall not apply.*~~
- D.** ~~*Roof. The manufactured home roof shall have a nominal pitch of 3 feet for each 12 feet in width.*~~
- E.** ~~*Exterior Material. The manufactured home shall have an exterior that is residential in appearance.*~~
- F.** ~~*Garage. The manufactured home shall have a garage with exterior material that is residential in appearance, or, a carport with a concrete parking surface. The garage or carport shall be placed on the property prior to occupancy of the manufactured home.*~~
- 6C.** Energy Efficiency. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting the performance standards which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the state building code.
- H.** ~~*Lot Development Standards. The manufactured home shall meet all applicable development standards, such as setbacks and height limitations, in the Development Code.*~~
- 4D.** Transportation Equipment. The tongue, axles, wheels, and traveling lights shall be removed from the manufactured home.

**JE.** A Conditional Use permit shall be required to place a manufactured home on a residentially zoned individual lot or parcel immediately adjacent to a significant historical resource as identified in the Dayton Comprehensive Plan. The application shall be subject to the criteria contained in DMC 7.3.107 as well as the following factors:

1. Location. The dwelling shall be situated to maintain the greatest possible distance from the immediately adjacent historical site or structure while maintaining compliance with the setback requirements.
2. Orientation. If the primary entrance of the immediately adjacent historical building faces a public street, the primary entrance to the manufactured home shall also face the same public street. This provision does not apply if either lot or parcel is a "corner lot" as defined by this Code.
3. Screening. Screening and buffering shall be required. Screening may include fencing, berms, vegetation, or any combination thereof. The screening shall be designed to maintain the visual integrity of the immediately adjacent historic site or building. For example, a wooden fence may be required instead of a chain-link fence.
4. Intent. It is not the intent of this section to grant a conditional use permit in all circumstances, even if factors 1 to 3 above are successfully met. The Conditional Use shall be granted only under those circumstances ~~which that~~ are unique to the subject property and will not impair or adversely impact the integrity of the immediately adjacent historical site. The burden of proof shall be placed by the applicant to ensure these concerns are adequately addressed.
5. The following a-e clarify the term "immediately adjacent:"
  - a. Immediately adjacent does not include a property separated from the Designated Landmark property by a public right-of-way, including but not limited to an alley or a street.
  - b. Immediately adjacent does not include a property whose only immediate adjacency is a property corner touching a property corner of the Designated Landmark property.
  - c. Except as set forth in DMC 7.2.404.J, 5(e) below, immediately adjacent does not include a property whose side or rear property line, or portion thereof, touches a designated Landmark property, but whose frontage is on a different street from the Designated Landmark property.
  - d. Immediately adjacent does not include a property whose frontage is on the same street as a Designated Landmark property and whose side or rear property line, or a portion thereof, touches a Designated Landmark property, but is separated from the Designated Landmark property by another property.
  - e. Immediately adjacent includes a corner property whose side or rear property line, or a portion thereof, touches a Designated Landmark



property that is also a corner property, and a manufactured home is not allowed on the immediately adjacent corner property regardless of which frontage the manufactured home faces.

### 7.3.101 Summary Of Application Types And Review Procedures

[7.3.101.01 Type I Action](#)

[7.3.101.02 Type II Actions](#)

[7.3.101.03 Type III Actions](#)

[7.3.101.04 Type IV Actions](#)

All development permits and land use actions are processed under the City's administrative procedures. There are four types of actions, each with its own procedures. See Land Use Application process, Table 1. (*Revised Ordinance 600, effective 11/4/10*)

#### LAND USE APPLICATION PROCESS

LAND USE ACTION	TYPE	STAFF	PLANNING COMMISSION	CITY COUNCIL
Minor Variance	I	Final Decision	Appeal of Staff Decision	Appeal of Commission Decision
Lot Line Adjustment	I	Final Decision	Appeal of Staff Decision	Appeal of Commission Decision
Partition (inc. Expedited Review)	I	Final Decision	Appeal of Staff Decision	Appeal of Commission Decision
Historic Exterior Alteration or New Construction (unless determined to required a Type II procedure by the City Manager) <i>Added ORD 600 11-4-10</i>	I	Final Decision	Appeal of Staff Decision	Appeal of Commission Decision
Site Plan Review	It	<b><i>Final Decision Recommendation to Commission</i></b>	<b><i>Appeal of Staff Decision Final Decision</i></b>	Appeal of Commission Decision
Conditional Use (inc. Flood Plain)	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Major Variance (inc. Flood Plain)	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision

Subdivision (inc. Expedited Review)	It	<b><i>Final Decision Recommendation to Commission</i></b>	<b><i>Appeal of Staff Decision Final Decision</i></b>	Appeal of Commission Decision
Historic Demolition and Moving <i>Added ORD 600 11-4-10</i>	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Historic Exterior Alteration or New Construction (if referred by the City Manager) <i>Added ORD 600 11-4-10</i>	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Comprehensive Plan Map Amendment	III	Recommendation to Commission	Recommendation to Council	Final Decision
Zone Change	III	Recommendation to Commission	Recommendation to Council	Final Decision
Annexation	III	Recommendation to Commission	Recommendation to Council	Final Decision
Historic Landmark and District Designation <i>Added ORD 600 11-4-10</i>	III	Recommendation to Commission	Recommendation to Council	Final Decision
Text Amendments Legislative Zone and Plan Map Changes	IV	Recommendation to Commission	Recommendation to Council	Final Decision

**7.3.101.01 Type I Action**

Type I actions are administrative reviews processed by the City staff. The review standards are generally clear and objective and allow little or no discretion. Conditions may be placed on the decision and notice is sent to the applicant and property owners within the required notice area. Appeal is to the Planning Commission. The following actions are processed under the Type I procedure:

1. Minor Variance
2. Property Line Adjustment
- 3. Partitions**
- 4. Subdivisions**

**3-5. Site Development Review**

**4-6.** Historic Exterior Alteration or New Construction (unless determined to require a Type II procedure by the City Manager).

**7.3.101.02 Type II Actions**

A Type II action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow considerable discretion. Staff has an advisory role. Public notice and a public hearing is provided. Section 3.202 lists the notice requirements. Appeal of a Type II decision is to the City Council. The following actions are processed under a Type II procedure:

**1.—Site Plan Review**

**2-1.** Conditional Use, including Flood Plain

**3-2.** Major Variance, including Flood Plain

**4-3.** ***Subdivision,*** Planned Unit Development ***and a Partition including a Private Street***

**5-4.** Historic Demolition and Moving

**6-5.** Historic Exterior Alteration or New Construction (if referred to the Planning Commission by the City Manager))

**7.3.101.03 Type III Actions**

A Type III action is a quasi-judicial process in which the City Council applies a mix of objective and subjective standards. Staff and the Planning Commission have advisory roles. Public notice is provided and public hearings are held before the Commission and City Council. Section 3.202 lists the notice requirements. Appeal of the decision is to the Land Use Board of Appeals (LUBA). The following actions are processed under a Type III procedure:

1. Comprehensive Plan Map Amendments (involving 5 or fewer adjacent land ownerships or less than 10 acres)
2. Zone Changes (involving 5 or fewer adjacent land ownerships or less than 10 acres)
3. Annexation

**7.3.101.04 Type IV Actions**

A Type IV action is a legislative review in which the City considers and enacts or amends laws and policies. Private parties cannot apply for a Type IV action; it must be initiated by City staff, Planning Commission, or City Council. Public notice and hearings are provided in a Type IV process. The following actions are processed under a Type IV procedure:

1. Text Amendments to the Comprehensive Plan and Development Code
2. Enactment of new Comprehensive Plan or Development Code text

3. Comprehensive Plan Map Amendments (involving more than 5 separate land ownerships or more than 10 acres)
4. Zone Changes (involving more than 5 separate land ownerships or more than 10 acres)

### 7.3.103 Minor Variances

#### 7.3.103.05 Criteria And Procedure

Staff may grant a minor variance in accordance with the Type I review procedures. Approval of a minor variance shall require compliance with the following:

1. The intent and purpose behind the specific provision being varied is either clearly inapplicable under the circumstances or the particular proposed development otherwise clearly satisfies the intent and purpose of the provision being varied.
2. The proposed development will not unreasonably impact adjacent existing or planned uses and development.
3. The minor variance does not expand or reduce a quantifiable standard by more than 10 percent and is the minimum necessary to achieve the purpose of the minor variance.
4. There has not been a previous land use action prohibiting an application for a minor variance.
5. ***The application meets all qualifications, criteria and standards for a mandatory adjustment to housing development standards made a part of ORS 197A by Section 38 of HB 1537.***

## 7.3.106 Site Development Review

### 7.3.106.01 Purpose

The Site Development Review Process is intended to ~~guide~~*ensure* future growth and development in accordance with the Development Codes; provide an efficient process and framework to review development proposals; ensure safe, functional, energy-efficient developments which are compatible with the natural and man-made environment; and resolve potential conflicts that may arise between proposed developments and adjacent uses.

The site development review provisions are not intended to preclude uses that are permitted in the underlying zones.

### 7.3.106.02 Applicability Of Provisions

- A. Applicability. Site Development Review shall be applicable to all new developments and major remodeling, except:
1. Single-family detached dwellings and Accessory Dwelling Units (ADUs);
  2. ~~Middle housing types on lots zoning for single family homes~~*A duplex*; or
  3. Any commercial, industrial or public facility expansion or remodel that does not exceed 25 percent of the total square footage of the structure existing at the time of the adoption of this Code and/or does not expand the activity/business area on the subject property beyond 25 percent (i.e. outdoor uses).
  4. Wireless Communication Facilities for properties within a Public (P) zone district.
- B. When the discontinuation or abandonment of a previously approved use requires new site development review. If use of a property subject to a previous site development review approval is discontinued for any reason other than fire or other catastrophe beyond the owner's control for a period of more than two years, it shall be deemed abandoned and shall no longer be an approved use. For purposes of calculating the two-year period, a use is considered discontinued when:
1. The use of land is physically vacated;
  2. The use ceases to be actively involved in the sale of merchandise or the provision of services; for example, as evidenced by the removal of signs, goods, stock, or office equipment, or the disconnection of telephone or utility service;
  3. Any lease or contract under which the development has occupied the land is terminated;
  4. A request for final reading of water and power meters is made to the applicable utility districts;
  5. The owner's utility bill or property tax bill account became delinquent; or
  6. An event occurs similar to those listed in subsections 1-5, above, as determined by the City Manager.

- C. Underlying Zone. All of the provisions and regulations of the underlying zone shall apply unless modified by other Sections of this Code.

**7.3.106.03 Review And Approval Process**

Site Development Review applications shall be reviewed ~~under in accordance with~~ the Type II review procedures specified in Section 7.3.202~~4~~.

**7.3.106.04 Application And Fee**

An application for Site Development Review shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Notice shall be subject to the provisions in Section 7.3.204.

**7.3.106.05 Submittal Requirements**

The following information shall be submitted as part of a complete application for Site Development Review:

- A. Proposed grading and topographical changes;
- B. All existing and proposed structures, roadway access, adjacent roads, bikeways, pedestrian facilities, public or private, easements or right-of-way to, or within 200 feet of the subject property and utilities including ~~finished architectural and~~ floor elevations and setbacks;
- C. Motor vehicle, bicycle and pedestrian circulation patterns, parking, loading and service areas;
- D. Proposed access to public roads, bikeways, pedestrian facilities, railroads or other transportation systems
- E. Site drainage plan including methods of storm drainage, sanitary sewer system, water supply system and electrical services. Inverse elevations may be required for all underground transmission lines;
- F. Proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses;
- G. Proposed on-premise signs, fencing or other fabricated barriers, together with their heights and setbacks; and,
- H. ~~A written narrative report documenting compliance with the applicable approval criteria contained in Section 7.3.106.06. The expected development schedule.~~
- I. The location of any flood boundary.
- J. ~~Other information determined by the City Planning Official. The City may require studies or exhibits prepared by qualified professionals to address specific site features or project impacts (e.g., traffic, noise, environmental features, natural hazards, etc.), as necessary to determine a proposal's conformance with this Code.~~

**7.3.106.06 ~~Evaluation Of~~ Site Development Plan Approval Criteria**



An application for Site Design Review shall be approved if the proposal meets all of the following criteria. The City decision-maker, in approving the application, may impose reasonable conditions of approval, consistent with the applicable criteria. The review of a Site Development Plan shall be based upon consideration of the following:

- A. The application is complete, in accordance with Section 7.3.106.05, above;
- B. The application complies with all of the applicable provisions of the underlying zone, including, but not limited to, building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other applicable standards;
- C. The application complies ~~Conformance~~ with applicable General Development Provisions of Section 7.2.2 and the General Development Standards in Section 7.2.3.
- ~~DB.~~ Adequacy of public and private facilities: The application complies with any applicable supplemental standards for special uses in Section 7.2.4
- ~~C.~~ E. For non-residential uses, all adverse impacts to adjacent properties, such as light, glare, noise, odor, vibration, smoke, dust, or visual impact, are avoided; or where impacts cannot be avoided, they are minimized; and ~~Traffic safety, internal circulation and parking;~~
- ~~FD.~~ F. The proposal meets all existing conditions of approval for the site or use, as required by prior land use decision(s), as applicable. ~~Provision for adequate noise and/or visual buffering from non-compatible uses.~~
- ~~E.~~ Conformance with development requirements of the underlying zone.

### 7.3.202.01 Procedures For Type I Review

- A. Upon receipt of an application for a Type I land use action, the City staff shall review the application for completeness.
1. Incomplete applications shall not be reviewed until all required information has been submitted by the applicant.
  2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary.
- B. The application shall be deemed complete for the purposes of issuing a staff report and related timing provisions either:
1. Upon receipt of the additional information to complete the application; or
  2. If the applicant refuses to submit the information the application shall be deemed complete for review purposes on the 31st day after the original submittal.
- C. Referrals may be sent to affected agencies such as City departments, police and fire departments, school district, utility companies, and applicable state agencies at the Manager's option. When a land use development has either direct access or creates an additional 20% average daily traffic on a county road or state highway, then a referral shall be sent to the Yamhill County Public Works Department or ODOT, as appropriate. (*Amended ORD 608 effective 10/06/11*)
- D. ***Written notice of the application shall be mailed to the applicant and owners of property, including county and state agencies responsible for roads and highways, within 200 feet of the boundaries of the subject property. The content of the written notice shall included the following: Within thirty (30) days of receipt of a complete application, staff shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this Code.***
1. ***Provide a 14-day period for submission of written comments prior to the decision;***
  2. ***State that issues which may provide the basis for an appeal to the Land Use Board of Appeals shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue;***
  3. ***List, by commonly used citation, the applicable criteria for the decision;***
  4. ***Set forth the street address or other easily understood geographical reference to the subject property;***
  5. ***State the place, date and time that comments are due;***
  6. ***State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;***

- 7. Include the name and phone number of a local government contact person;**
- 8. Provide notice of the decision to the applicant and any person who submits comments under subparagraph (A) of this paragraph. The notice of decision must include an explanation of appeal rights; and (I) Briefly summarize the local decision making process for the limited land use decision**

- E. Approvals of a Type I action may be granted subject to conditions and performance agreement requirements.
- F. Notice of the decision shall comply with the provisions in Section 7.3.204.
- G. A Type I land use decision may be appealed to the Planning Commission, by either the applicant or persons receiving notice of the decision. The appeal shall be filed within 15 days from the date of the final decision, pursuant to the provisions of Section 7.3.207.

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## EXHIBIT B

### Comparison of standards in R-2 and R-3 Zones

	R-2	R-3
Single family detached	Permitted	Not permitted
Single family attached	Permitted	Not permitted
Duplex	Permitted	Permitted
Multifamily	Permitted	Permitted
SRO's	Permitted	Permitted
Manufactured home parks	Permitted	Permitted
Manufactured homes on individual lots	Permitted	Not permitted
Min. Lot Size	6000 SF	6000 SF
Density	5-7 units per acre for subdivisions 6-10 units/ acre for manufactured home parks 8-12 units/acre for multifamily	None for subdivisions 6-10 units/acre for manufactured home parks 12-20 units/acre for multifamily
Lot coverage	70% max	75% max

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# Oregon

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August 25, 2023

TO: Interested Persons, Local Governments and State Agencies

FROM: Palmer Mason, Senior Policy Advisor  
Alexis Biddle, Legislative and Policy Coordinator  
Department of Land Conservation and Development



SUBJECT: 2023 Land-Use Legislation Report

## 2023 LAND USE LEGISLATION REPORT

### INTRODUCTION

The attached report describes legislation passed in the 2023 long session by the Oregon Legislature related to state land use statutes or the land use programs administered by the Department of Land Conservation and Development (DLCD). This report is also published on the DLCD website under "Legislative Information" at: <https://www.oregon.gov/lcd/NN/Pages/Legislative-Updates.aspx>.

This report provides a summary of each legislative measure but does not provide a comprehensive breakdown of each bill. Therefore, we recommend that this report be used primarily as a reference to legislation that may be of interest, and that readers refer to the bills directly for a full picture of legislative intent and law.

This report includes hyperlinks to the Oregon Legislative Information System (OLIS) page for each bill. From those pages, readers can find the engrossed versions of bills and access to legislative history and testimony.

State law requires DLCD to notify local governments when new statutory requirements require changes to local comprehensive plans, regional framework plans, or ordinances implementing these plans<sup>1</sup>. Application of these statutory changes to specific plans and codes should be determined by local planning and legal staff.

<sup>1</sup> Oregon Law (ORS 197.646) requires that "a local government shall amend its acknowledged comprehensive plan, regional framework plan, and land use regulations implementing the plan, by a self-initiated post-acknowledgment process under ORS 197.610 to 197.625 to comply with ... a new statutory requirement." Furthermore, this statute requires that, "when a local government does not adopt amendments to a comprehensive plan, a regional framework plan and land use regulations implementing the plan as required by ... this section, the new statutory ... requirements apply directly to the local government's land use decisions."

## I. HOUSING

### HB 2001 – Oregon Housing Needs Analysis

**Chief Sponsors:** Rep. Dexter, Rep. Helfrich, Sen. Jama, and Sen. Anderson

**Summary:** HB 2001 updates the statutory framework implementing Goal 10 to emphasize a measurable and accountable approach to housing production that provides needed units at all levels of affordability, promotes a greater range of housing options and types, and affirmatively furthers fair housing. Among its major provisions, this legislation includes the following:

#### *Housing Need Methodology & Housing Production Targets*

- Establishes the Oregon Housing Needs Analysis (OHNA) methodology within the Department of Administrative Services to project the statewide 20-year housing need, to allocate the proportional share of need to individual cities and counties, and to identify housing production targets for each city over 10,000 and unincorporated urban areas of the Metro counties no later than January 1, 2025.
- Requires the 20-year allocation of housing need to include the following:
  - Population and household growth;
  - Current housing underproduction;
  - Housing needed for people experiencing homelessness; and
  - Housing units projected to be converted into second and vacation homes.
- Requires the OHNA methodology to report housing needs using the following household income levels:
  - Below 30% Median Family Income (MFI);
  - 30% to 60% MFI;
  - 60% to 80% MFI;
  - 80% to 120% MFI; and
  - Above 120% MFI.

#### *Housing Production Dashboard*

- Requires OHCS to publish no later than January 1, 2025, a housing production dashboard with assessments of the progress made by cities above 10,000 population on housing production targets.



### *Equity Analysis*

- Requires OHCS to maintain a comprehensive statewide equity analysis, based on best available data, to provide baseline analysis that local jurisdictions must complete as part of a Housing Production Strategy to track equity-related housing outcomes.

### *Urbanization*

- Outlines a set of clear principles that LCDC must follow in adopting or implementing housing rules that focus on making housing accessible and affordable, emphasize production and support to local governments, emphasize equitable outcomes and environmental justice, and avoid litigation or regulatory uncertainty.
- Directs LCDC to adopt rules that focus on providing flexibility and certainty in local compliance with Goals 10 and 14. Rules relating to housing production strategies and housing accountability are due on or before January 1, 2025, and rules relating to buildable land inventories and UGB amendments, land exchanges, and urban reserves on or before January 1, 2026.
- Allows LCDC to postpone the application of HB 2001 to cities currently adopting changes and updates under Goal 10 until January 1, 2026.
  - *Note: This was amended to January 1, 2027 in HB 2889.*
- Requires cities to identify “development ready lands” as part of their buildable land inventories, focused on areas annexed and zoned to allow housing with clear and objective standards, readily served with public facilities or near-term improvements identified in the adopted capital improvement plan.
- Modifies the “Needed Housing” statute to reflect OHNA estimates and allocations. Cities will determine the type, characteristics, and locations of housing based on the allocation of housing need by DAS. Metro will estimate and allocate housing need to cities and urban, unincorporated areas within the Metro region.
  - *Note: HB 2889 shifted the allocation responsibility in the Metro region from Metro to DAS. This allocation will be based on the needs projection developed by Metro as part of the Growth Management Decision. Additionally, the OHNA policy estimates and allocates housing need for urban, unincorporated areas within the Metro with the expectation that policy recommendations for Goal 10 implementation will be developed for the 2024 Session.*

### *Housing Accountability*

- Establishes a framework for DLCD to periodically evaluate housing production progress and refers underperforming cities to a housing acceleration program, effective January 1, 2025. Require DLCD to evaluate city progress and performance on production, affordability, and choice, and for cities that are underperforming, not completing HPS requirements by the deadline, or referred by an enforcement order, refer into the housing acceleration program.
- Expands the conditions under which LCDC may pursue an enforcement order and the types of actions that LCDC may compel from cities relating to the housing acceleration program, housing production strategies and local housing approvals.

### *Housing Production Strategies*

- Establishes a clear state goal for housing production strategies of providing to further “housing choice for all”, ‘affirmatively furthering fair housing’, and fair and equitable housing outcomes
- Clarifies the types of actions that increase housing production, affordability, and choice, including ‘efficiency measures’ which were historically part of the buildable lands statute.
- Establishes a Housing Coordination Strategy required for Metro and optional for other regional/county entities, recognizing the coordinating role that regional governments play in housing planning and outlining the actions and tools that could be included in such strategies.

### *Population Forecasts*

- Amends the population forecast statutes to require the Population Research Center and Metro to include race, ethnicity and disability in their projections. Further requires the Population Research Center to include tribal lands in its projections.

*Requires complex rulemaking and a rules advisory committee.*

**Status:** Governor signed

**Effective Date:** March 29, 2023

## **[HB 3395](#) – Housing Omnibus Bill**

**Chief Sponsors:** Speaker Rayfield, Rep. Dexter, Rep. Gomberg, and Sen. Jama

**Summary:** HB 3395 sets forth numerous policy changes related to residential development:

- Requires non-Metro cities between 2,500 – 10,000 residents to adopt ordinances allowing duplexes on any lot zoned for residential use that allows single family detached housing by June 30, 2025. DLCD will receive \$1.25m to provide grant assistance for those cities to update their local development codes.
- In areas within UGB boundaries and zoned for commercial use, directs local governments to allow housing units available to those households making 60% of area median income, or allow mixed use structures with ground floor commercial for those households with moderate incomes as defined in ORS 456.270 (80-120% AMI). This provision takes effect as of January 1, 2024.
- Provides local governments flexibility on their required timelines for final action on an application for a permit, limited land use decision or zone change. Specifically, when a local government tentatively approves an application for the development of a residential structure within an urban growth boundary, they may extend the deadline (150 days for

counties, 120 days for cities) by up to seven days to ensure sufficiency of the final order. Additionally, it provides local and state government agencies the ability to withdraw final decisions for reconsideration on appeal for an application relating to the development of a residential structure. Collectively, these provisions are intended to reduce appeals that can substantially delay the development of housing by providing local governments more time and ability to address issues before they are appealed. These provisions take effect as of January 1, 2024.

- Makes permanent the requirement that local governments approve emergency shelters subject to certain conditions and operated by a local government, non-profit, religious corporation, or housing authority located on any property within the UGB or on rural residential lands. This provision does not apply when the point-in-time count indicates that homelessness comprises less than 0.18% of the total state population.
- Awards attorney fees to any local government or intervening applicant that prevails on the appeal of the local approval of an emergency shelter, and to any applicant that prevails on the appeal of a local denial.
- Exempts development established on or after January 1, 2024, in which each residential unit is subject to an affordability restriction, owned by a public benefit corporation or owned by a religious corporation from the definition of “planned community” provided in ORS 94.550. This provision takes effect as of January 1, 2024.
- Precludes local governments from reviewing and approving condominium plats, and prohibits any zoning, subdivision, building code or other regulation that imposes a tax or fee, approval process or permitting requirements upon any development or property proposed as condominium not also imposed on a different form of ownership. This provision takes effect as of January 1, 2024.
- Directs that cities and counties to accept as assurance for the provision of water and sewer services one or more award letters from public funding sources made to a person subdividing a property for affordable housing if the value of the award letters exceeds the total project cost. This provision takes effect as of January 1, 2024.
- Requires local governments to approve Single Room Occupancy development with up to 6 units on each lot zoned for single family detached housing and, if the lot allows the development of 5 or more units, then the SRO development must be approved up to the number of units allowed by the underlying density standard. This provision takes effect as of January 1, 2024.
- Amends the definition of “needed housing” in ORS 197.296 and 197.303 to include “single room occupancy” development, meaning that local governments must consider this development type when evaluating the amount of buildable land necessary for

residential development over a 20-year timeframe and when preparing Housing Production Strategies to meet housing production goals. This provision takes effect as of January 1, 2024.

- Establishes a process for homeowner associations to remove discriminatory language from any declaration or bylaws adopted for a planned community or condominium established before September 1, 2021, to review these documents and amend such language on or before December 31, 2024.
- Allows the Public Utilities Commission to permit utilities to convey a real property interest at below market prices or as a gift provided the property is used for affordable housing. This provision takes effect as of January 1, 2024.
- Directs the Oregon Department of Administrative Services, in consultation with DLCD and OHCS, to provide grants to councils of government and economic development districts to support housing and community development capacity in local governments and the federally recognized tribes. HB 3395 appropriates \$5M for this purpose.

*Requires conforming rulemaking.*

**Status:** Governor signed

**Effective Date:** June 30, 2023

## **HB 2127 – Pendleton UGB Expansion for Affordable Housing Pilot Extension**

**Chief Sponsor:** Rep. Mannix

**Summary:** In 2016, the Oregon Legislative Assembly passed House Bill 4079, which established a pilot program for the construction of affordable housing. The program allowed two cities to approve affordable housing on land outside but adjacent to their urban growth boundary (UGB) under certain conditions, including the a demonstration selected projects that were likely to provide affordable housing that otherwise would not have been built. Ultimately, the cities of Bend and Redmond were selected. Later, in 2021, the Legislative Assembly enacted House Bill 2160, which allowed LCDC to consider an application from the City of Pendleton under the pilot project with a deadline for the application on June 30, 2023.

HB 2127 removed the deadline for the City of Pendleton to apply to a pilot project program for affordable housing and sunsets the program on January 2, 2028.

**Status:** Governor signed

**Effective Date:** June 30, 2023

## **HB 2889** – Oregon Housing Needs Analysis Recommendations

**Chief Sponsors:** Rep. Dexter, Rep. Fahey, Rep. Marsh, Sen. Jama, and Sen. Gorsek

**Summary:** HB 2889 served as the “clean-up” legislation to HB 2001 adopted earlier to implement the Oregon Housing Needs Analysis (OHNA) framework and to update Goals 10 and 14 for improved housing production. The bill revises the OHNA Methodology process and targets to reflect the policy priorities to track the production of all levels of housing affordability. It also re-assigned the responsibility for allocating housing need in the Metro region from Metro Regional Government to Department of Administrative Services. Finally, HB 2889 includes other technical clarifications to correct errors, ensure the policy functions as intended, and avoid create potential unanticipated consequences.

**Status:** Governor signed

**Effective Date:** July 18, 2023

## **HB 2898** – Extending Time for Siting Recreational Vehicles as Shelter

**Chief Sponsors:** Rep. Cate and Sen. Brock Smith

**Summary:** Since 2005, Oregon law has allowed the use of a recreational vehicle (RV) as a dwelling if all of the following conditions are met:

- the RV is located in a manufactured home park, mobile home park, or RV park;
- the RV is occupied as a residential dwelling; and
- the RV has lawful water and electric hook-ups and a sewage disposal system.

In response to the 2020 wildfires, the Legislative Assembly enacted House Bill 2809 (2021), which also permitted the siting of an RV as a dwelling on the lot of a manufactured or single-family home made uninhabitable by a natural disaster, until the home is made habitable or 24 months following the date it was made uninhabitable. House Bill 2898 extends the time allowance for living in an on-site RV to five years. The measure also specifies that, under applications to alter, restore, or replace a dwelling destroyed by the 2020 wildfires, the applicant is permitted to occupy an RV until December 30, 2030.

**Status:** Governor signed

**Effective Date:** January 1, 2024

## **HB 2984** – Commercial to Residential Conversions Exemptions

**Chief Sponsor:** Rep. Marsh

**Summary:** HB 2984 requires local governments to allow conversion of a building from commercial to residential use without requiring a zone change or conditional use permit. It clarifies housing developed under these provisions may occur only within an urban growth

boundary for cities with populations of 10,000 or greater, and not on lands zoned for heavy industrial use. It allows local governments to require payment of system development charge (SDC) if charge is based on specific commercial to residential conversion policy adopted by a local government on or before December 31, 2023; or is for water or wastewater and offset by any SDCs paid when building was originally constructed. Prohibits enforcement of parking minimums greater than those required for existing commercial or residential use.

**Status:** Governor signed

**Effective Date:** January 1, 2024

### **HB 3442 – Allowing Affordable Housing in Hazard Areas**

**Chief Sponsors:** Rep. Javadi and Sen. Brock Smith

**Summary:** HB 3342 allows local governments with urban growth boundaries within 10 miles of the Pacific Ocean to approve affordable housing on public lands, areas zoned for commercial use or religious assembly, or certain industrial areas within 100-year floodplains or on property constrained by land use regulations based on natural hazards and hazards, if, within the city's urban growth boundary, more than 60 percent of land is within a tsunami inundation zone or more than 30 percent is within a 100-year floodplain. HB 3442 limits this affordable housing to those locations meeting minimum federal standards required by the National Flood Insurance Program or equally or more stringent local standards, occurring outside of flood waterways, and having updated emergency response plans.

**Status:** Governor signed

**Effective Date:** July 31, 2023

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## **II. CLIMATE**

### **HB 3409 – Climate Package (Solar Siting)**

**Chief Sponsors:** Speaker Rayfield, Rep. Marsh, Rep. K. Pham, Senator Dembrow, and Senator Lieber

**Summary:** HB 3409 is a climate package with many components – only one of which impact land use planning statutes and rules:

*Finding opportunities and reducing conflict in siting photovoltaic solar power generation facilities*

- Directs DLCD to conduct two rulemakings related to the siting of solar energy facilities. The first rulemaking is to include photovoltaic energy facilities as a “rural industrial use”

for purposes of goal exceptions by November 3, 2023. The second rulemaking will establish conditions for local governments to prioritize areas for photovoltaic energy facilities siting least likely to conflict with natural and cultural resource values by July 1, 2025.

- Establishes the 17 member rules advisory committee for siting photovoltaic solar power generation facilities to advise DLCD on adoption of rules related to photovoltaic solar power generation facility siting. DLCD is to provide an initial report to an appropriate interim committee of the legislative assembly by September 15, 2025, and a final report to certain entities by December 31, 2025.
- The measure requires DLCD to contract with a third party to support the rules advisory committee, including to facilitate and coordinate meetings, and furnish maps, data, and technical assistance. Members of the rules advisory committee are entitled to compensation and expenses. These portions of the measure sunset January 2, 2026.
- Provides DLCD \$471,692 general fund in the 2023-25 biennium. Department anticipates hiring one full-time planner 4. This position would provide support for the rules advisory committee and allow DLCD to develop more policy and technical expertise in renewable energy issues.

**Status:** Governor signed

**Effective Date:** July 27, 2023

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### III. RESOURCE LANDS

#### HB 2192 – Replacement Dwellings on Forest Land

**Chief Sponsors:** Rep. Wright and Sen. Brock Smith

**Summary:** On lands zoned for forest use, current law provides for alteration, restoration, or replacement of lawfully established dwellings as a permitted use if the dwelling "has" intact exterior walls, an intact roof structure, indoor plumbing connected to a sanitary waste disposal system, interior electric wiring, and a heating system. If the dwelling is being replaced, it must be removed, demolished, or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling. Forestland dwelling statutes do not allow for alteration, restoration, or replacement of dwellings that no longer have intact walls and other structural components and do not meet requirements related to ad valorem taxation.

By contrast, on lands zoned for exclusive farm use, current law provides for alteration, restoration, or replacement of lawfully established dwellings as a permitted use if the dwelling "has" or "formerly had" intact structural features (HB 2746, 2013). Similarly, HB 2289 (2021)

required that a local government approve an application to alter, restore, or replace a dwelling affected by the 2020 Labor Day wildfires if the former dwelling "had" intact structural features.

HB 2192 would modify requirements for a lawfully established forestland dwelling to be altered, restored, or replaced by aligning criteria applicable to the alteration, restoration, or replacement of lawfully established dwellings on forestland with the criteria for certain farmland dwellings. It allows for a lawfully established dwelling to be altered, restored, or replaced if:

- (1) the county determines that the dwelling formerly had intact exterior walls and roof structure, indoor plumbing, interior wiring for interior lights, and a heating system and
- (2) unless the value of the dwelling was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation since the later of five years before the date of the application or the date that the dwelling was built and became subject to property tax assessment; or if the value of the dwelling was eliminated as a result of destruction or demolition it was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and since the later of five years before the date of the destruction or demolition or the date that the dwelling was built and became subject to property tax assessment.

HB 2192 provides that applicable construction codes related to building, plumbing, sanitation, and health and safety may not be applied to the replacement dwelling if doing so would prohibit the siting of the replacement dwelling. An application for a replacement building must be filed within three years following the date that the dwelling last possessed all of the required qualifying features. Construction of the replacement dwelling must commence no later than four years after its application is approved and finalized. A replacement dwelling must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code if the dwelling is in an area identified as extreme or high wildfire risk on the statewide wildfire risk map or if no statewide wildfire risk map has been adopted.

*Requires conforming rulemaking.*

**Status:** Governor signed

**Effective Date:** January 1, 2024

## **[HB 3179](#) – Modifies Jurisdiction for Solar Photovoltaic Power Generation Facilities**

**Chief Sponsor:** Rep. Helm

**Summary:** HB 3179 increases the maximum acreage for solar photovoltaic power generation facilities under county jurisdiction. On high-value farmland the maximum facility acreage increases from 160 to 240 acres; on land that is predominantly cultivated or composed of certain soil acreage increases from 1,280 to 2,560 acres; and on any other land the acreage for county jurisdiction increases from 1,920 to 3,840 acres. Facilities greater than these thresholds will continue under the jurisdiction of the Energy Facility Siting Council.



HB 3179 also requires renewable energy facility that is solar photovoltaic power generating facility using newly authorized acreage limit under HB 3179 to provide decommissioning plan to accomplish restoration of site to useful, nonhazardous condition, which includes bonding or other security as financial assurance. The bill prohibits the Oregon Department of Transportation and the county court or board of county commissioners from discriminating against or favoring a renewable energy facility in reviewing or granting siting permits for such facilities to be built on the right of way of state highways or county roads.

*Requires conforming rulemaking.*

**Status:** Governor signed

**Effective Date:** January 1, 2024

### **HB 3197 – Limits Clear and Objective Requirements for Housing**

**Chief Sponsor:** Rep. McLain

**Summary:** HB 3197 directs local governments to apply clear and objective standards to residential development within urban growth boundaries and, after July 1, 2025, to apply such standards to residential development within non-resource lands, areas zoned for rural residential, and unincorporated communities designated in county comprehensive plans. Similarly, for farmworker accessory housing, counties must apply additional standards beyond those under ORS Chapter 215 or DLCDC rules as clear and objective. Finally, HB 3197 no longer limits the discretionary option to clear and objective standards to appearance and aesthetic standards, allowing developers and local governments to agree alternative design and development standards.

**Status:** Governor signed

**Effective Date:** July 31, 2023

### **SB 70 – Rural Residential Rezoning in Eastern Oregon Border Region**

**Chief Sponsor:** Sen. Findley and Rep. Owens

**Summary:** In 2017, the Legislative Assembly created the Eastern Oregon Border Economic Development Region (Border Region) and established the Eastern Oregon Border Economic Development Board (Board) through the enactment of HB 2012. The Border Region is defined in rule as the area within 20 miles of the Oregon border with Idaho, which includes the cities of Ontario, Vale, and Nyssa.

In 2021, the Board urged the legislature to pass SB 16 as a means to increase rural residential housing options in the Border Region in response to significant residential growth in Idaho. The

Legislative Assembly enacted the bill, which authorizes counties to partition and rezone up to 200 acres of lands within the Border Region from exclusive farm use to residential use, provided that the rezoned lands are not high-value farmland and other specified requirements are met.

SB 70 amends the definition of "high-value farmland" for residential rezoning of lands within the (Border Region to allow for rezoning within the boundaries of an irrigation district, drainage district, water improvement district, water control district, or related corporation, and within a portion of the Snake River Valley viticultural area. The bill requires that the rezoned lands are within a rural fire protection district, comply with applicable fire prevention code requirements, and are not within an area designated as a 100-year floodplain on a current Federal Emergency Management Agency map. It changes county authority to "partition" to county authority to "divide" lands zoned for exclusive farm use within the Border Region, provided that certain conditions are met.

**Status:** Governor signed

**Effective Date:** January 1, 2024

## **SB 80 - Wildfire Bill**

**Chief Sponsors:** Senate Interim Committee on Natural Resources and Wildfire Recovery

**Summary:** SB 80 updates many of the requirements set forth in SB 762 (2021), the omnibus wildfire bill, including:

- Directs the State Department of Forestry to oversee the development and maintenance of a comprehensive statewide wildfire hazard map. The map's name has been updated to "hazard" from "risk" and purposes of the map have been defined.
- The hazard zones have been changed to three zones: low, moderate, and high, from five risk classes (none, low, moderate, high, and extreme). Property owner notice and appeal processes have been revised.
- Requirements for a robust community engagement process have been added, including holding eight in-person meetings with county commissioners and staff throughout the state and a follow up meeting for counties to be scheduled by Association of Oregon Counties.
- Requirements for State agencies that use the map layer that geospatially displays the locations of socially and economically vulnerable communities are detailed, including how resources are directed, how communities are identified, and how outreach is conducted. No date is specified for the map's release, it is to be "completed and released expeditiously."

**Status:** Awaiting Governor's Signature

**Effective Date:** August 4, 2023

### **SB 85 – Amending Concentrated Animal Feeding Operation Regulations**

**Chief Sponsors:** Senate Interim Committee on Natural Resources and Wildfire Recovery

**Summary:** SB 85 requires local government to issue a land use compatibility statement for proposed concentrated animal feeding operations (CAFOs). It also allows local governments to require a buffer or setback for large CAFOs that would be adjacent to legal residences or structures that were legal when constructed.

**Status:** Governor Signed

**Effective Date:** July 27, 2023

### **SB 644 – Accessory Dwelling Unit Standards in Rural Residential Zones**

**Chief Sponsor:** Sen. Knopp, and Sen. Findley

**Summary:** **SB 644** allows **counties to approve** accessory dwelling units in rural residential zones constructed consistent with Section R327 of the Oregon Residential Specialty Code if no statewide map of wildfire risk has been adopted or is located in an area on an adopted state wildfire risk map that vulnerable to extreme or high wildfire risk. Note that SB 80 (see above) provides the Oregon Department of Forestry direction with regard to adopting a statewide wildfire risk map.

**Status:** Governor signed

**Effective Date:** May 8, 2023

### **SB 1013 – Allowing Recreational Vehicles on Certain Rural Properties**

**Chief Sponsors:** Sen. Hayden, Sen. Linthicum, and Sen. Brock Smith

**Summary:** SB 1013 authorizes counties to allow property owners in a rural residential zones to site one recreational vehicle (RV) subject to residential rental agreement on property, provided: the property is not within an urban reserve and includes a single-family dwelling occupied solely as property owner's primary residence; no other dwelling units are sited on the property; the property owner does not allow the use of the RV or RV space for vacation or other short-term occupancy; the RV is owned or leased by the tenant; and the property owner provides essential services to the RV.

SB 1013 allows a county to require a property owner to register RV siting with the county; enter into written residential rental agreement with RV tenant; limit payment amount property owner may accept from tenant; and hold RV to county inspection and siting standards.

SB 1013 defines "recreational vehicle" for purposes of Act as a recreational vehicle that has not been rendered structurally immobile and is titled with the Department of Transportation. The bill prohibits a state agency from prohibiting placement or occupancy of RV solely on grounds it is an RV if it meets provisions of Act. Finally, the bill clarifies RVs sited under the measure's provisions are not subject to the state building code.

**Status:** Governor signed

**Effective Date:** January 1, 2024

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#### IV. ADMINISTRATIVE AND MISCELLANEOUS

##### [HB 3362](#) – Validation of Illegal Land Division Purchased by Innocent Purchasers

**Chief Sponsors:** Rep. Conrad and Rep. Wright

**Summary:** HB 3362 allows a county to approve an application to validate a unit of land acquired by an innocent purchaser prior to January 1, 2023 if the county: before the acquisition, approved an application for the recognition of the unit of land as a lawfully established unit of land and approved an application for a property line adjustment to that unit of land, and after acquisition, revoked these approvals. The bill exempts such applications from specified minimum lot or parcel sizes and sunsets county authority on January 2, 2025.

HB 3362 allows any person, notwithstanding standing requirements or deadlines, to file with the Land Use Board of Appeals (LUBA) a notice of intent to appeal a land use decision made by a county if: the challenged decision approved an application for a template dwelling, a legal lot verification, or a property line adjustment; the approval of the challenged decision was based on forged deeds or documents; the applicant is not an "innocent purchaser" under the definition provided in this Act; and the applicant owned the property that was the subject of the challenged land use decision on January 1, 2023.. Prohibits the county from approving a new application for a template dwelling on the lot or parcel if the challenged decision is overturned on appeal.

**Status:** Governor signed

**Effective Date:** January 1, 2024

## **SB 4 – Siting Authority for Semiconductor and Advanced Manufacturing**

**Chief Sponsors:** Rep. Bynum, Rep. Wallan, Sen. Knopp, and Sen. Sollman

**Summary:** SB 4 allows the Governor to add lands by executive order to existing urban growth boundaries for use in semiconductor manufacturing, advanced manufacturing or supply chain development related to these industries. The lands must be designated on or before Dec. 31, 2024, contiguous to the city’s existing urban growth boundary, entirely within three miles of that boundary and not located on an acknowledged urban reserve. Before designating any such lands, the bill requires the Governor to determine that suitable lands are not available within the existing UGB boundary and to take public input on the potential designation. The Governor may designate up to 8 sites within specific acreage limits.

Any lands designated under SB 4 are considered an acknowledged urban growth boundary. DLCD must consider any designated lands included in a local ordinance adopted within 6 months of the executive order that zones the lands for semiconductor or advanced manufacturing uses as an acknowledged amendment to the local comprehensive plan or land use regulations. Lands added to UGBs may be removed upon order by the Governor if the lands will not receive federal semiconductor financial assistance.

**Status:** Governor signed

**Effective Date:** April 13, 2023

## **HB 3458 – Limiting Appeals of Remands to Issues Raised under Original Appeal**

**Chief Sponsor:** Rep. McLain

**Summary:** HB 3458 prohibits a party from raising new issues before the Land Use Board of Appeals (LUBA) in cases where LUBA remands all or a portion of a decision related to an acknowledged comprehensive plan or land use regulation and the local government adopts the same changes following remand with revised findings and additional evidence responding to the remand. The bill also allows LUBA to partially affirm decisions if a local government demonstrates that a land use decision adopting a change to an acknowledged comprehensive plan or land use regulation contains a severability clause and specifically challenged portions of the changes are complete and capable of being executed with the legislative intent. HB 3458 applies to decisions made and petitions filed with LUBA on or after the effective date of this Act.

**Status:** Governor signed

**Effective Date:** September 24, 2023

If you have questions or comments about the report or other legislation, please contact DLCD Legislative and Policy Coordinator, Alexis Biddle, at (971) 718-4504, or [Alexis.Biddle@dlcd.oregon.gov](mailto:Alexis.Biddle@dlcd.oregon.gov)

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# Oregon

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TO: Interested Persons, Local Governments and State Agencies

FROM: Alexis Hammer, Legislative and Policy Manager  
Aurora Dziadul, Legislative and Policy Analyst  
Department of Land Conservation and Development

DATE: April 10, 2024

SUBJECT: **2024 Land Use Legislation Report**



## INTRODUCTION

The attached report describes legislation passed in the 2024 short session by the Oregon Legislature related to state land use statutes or the land use programs administered by the Department of Land Conservation and Development (DLCD). This report is also published on the DLCD website under "Legislative Information" at:

<https://www.oregon.gov/lcd/NN/Pages/Legislative-Updates.aspx>.

This report provides a summary of each legislative measure but does not provide a comprehensive breakdown of each bill. Therefore, we recommend that this report be used primarily as a reference to legislation that may be of interest and that readers refer to the bills and their legislative history directly for a full picture of legislative intent and law.

This report includes hyperlinks to the Oregon Legislative Information System (OLIS) page for each bill. From those pages, readers can access bill language, measure history, and related testimony.

State law requires DLCD to notify local governments when new statutory requirements require changes to local comprehensive plans, regional framework plans, or ordinances implementing these plans<sup>1</sup>. Application of these statutory changes to specific plans and codes should be determined by local planning staff and legal counsel.

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<sup>1</sup> Oregon Law (ORS 197.646) requires that "a local government shall amend its acknowledged comprehensive plan, regional framework plan, and land use regulations implementing the plan, by a self-initiated post-acknowledgment process under ORS 197.610 to 197.625 to comply with ... a new statutory requirement." Furthermore, this statute requires that, "when a local government does not adopt amendments to a comprehensive plan, a regional framework plan and land use regulations implementing the plan as required by ... this section, the new statutory ... requirements apply directly to the local government's land use decisions."

## KEY LEGISLATION

### SB 1537– GOVERNOR KOTEK’S HOUSING PRODUCTION FRAMEWORK

*Chief Sponsor:* Senate President Rob Wagner at the request of Governor Tina Kotek

*Appropriation (DLCD):* \$10,629,017

*Positions (DLCD):* 28

*FTE (DLCD):* 14.46

#### **Sections 1 – 7 | Housing Accountability and Production Office**

*Summary:* Sections 1 – 7 of SB 1537 direct the Department of Land Conservation and Development (DLCD) and Department of Consumer and Business Services (DCBS) to create a joint Housing Accountability and Production Office (HAPO). HAPO will support increased housing production throughout the state by supporting local jurisdictions and developers and enforcing state housing laws. The office is authorized and encouraged to provide a wide range of financial and technical support to local partners, including assisting with permitting and land use decisions, implementation of local procedures and codes, and compliance with housing law. The office will also receive complaints – from housing developers regarding violations of state housing laws related to a specific project, more general complaints from members of the public within that jurisdiction, or from DLCD or DCBS. If the complaint is valid, HAPO will investigate to determine whether there is a potential violation of state housing laws. If the office finds a potential violation, written notice will be provided to the local government specifying the violation, opportunities for funding or technical assistance to remedy the violation will be offered, and the office will cite the authority that will be invoked if the violation continues. After 60 days, if a local government has not addressed the violation, an enforcement action can be taken against the jurisdiction requiring local housing policies be brought into compliance. The Housing Accountability and Production Fund is created through this bill to hold funding for technical support and operations by DLCD, \$5,000,000 is allocated to it for technical assistance and the 3 required reports. DLCD will submit a report to the legislature on the work of HAPO on or before September 15, 2026.

*Operative date:* July 1, 2025 (Note: HAPO will begin implementation and coordination of the office and grant assistance upon signing of the bill. However, HAP) will not begin taking complaints or pursuing enforcement until the operative date of July 1, 2025.)

#### **Sections 8 – 9 | Opting in to Amended Housing Regulations**

*Summary:* Sections 8 – 9 of SB 1537 state that if new standards are adopted after an application is submitted, a housing developer may request that the new standards be applied to their development application, without being required to submit a redundant application or pay a duplicative fee. The applicant must opt into the newly applicable standards in full and are limited to one request before public notice is issued for the application. The local government’s 120-day clock to review the application is reset once the developer requests to apply the new criteria, and the local government may charge for any additional costs related to application review.

*Operative date:* 91<sup>st</sup> day after *sine die*

#### **Sections 10 – 11 | Attorney Fees for Needed Housing Challenges**

*Summary:* Sections 10 – 11 of SB 1537 determine that, for land use decisions within an urban growth boundary (UGB), attorney fees may be awarded to a housing development applicant and local government in the event that a land use appeal is decided in their favor.



*Operative date:* January 1, 2025

**Sections 12 – 16 | Infrastructure Supporting Housing Production**

Sections 12 – 16 of SB 1537 require the Oregon Business Development Department (OBDD), also known as Business Oregon, to provide technical support for infrastructure funding to local jurisdictions with \$3,000,000 in funding allocated to the Housing Infrastructure Support Fund. Separately, DLCD will develop key considerations and metrics that can be utilized by the legislature in prioritizing infrastructure investments. This report will be delivered on or before December 31, 2024.

*Operative date:* 91<sup>st</sup> day after *sine die* (Note: This is only applicable to the Housing Infrastructure Support Fund.)

*Sunset:* January 2, 2030 (Note: This is only applicable to the Housing Infrastructure Support Fund.)

*Note:* Sections 17 – 23 of SB 1537 were removed by amendment and bill sections were not subsequently renamed.

**Sections 24 – 36 | Housing Project Revolving Loan Fund**

*Summary:* Sections 24 – 36 of SB 1537 create a Housing Project Revolving Loan Fund within Oregon Housing and Community Services (OHCS) to partner with local governments to provide interest-free loans that jurisdictions can use to subsidize affordable and moderate housing projects. Local jurisdictions may opt into utilizing this program and use the would-be additional property tax revenue to repay the state fund within ten years, unless another timeframe is agreed upon. OHCS must have completed implementation of this fund by June 30, 2025, and is appropriated \$75,000,000 in one-time funding for this purpose.

*Operative date:* 91<sup>st</sup> day after *sine die*

**Sections 37 – 43 | Housing Land Use Adjustments**

*Summary:* Sections 37 – 43 of SB 1537 require local governments to allow certain adjustments to local code on housing development projects that are within an urban growth boundary. The development must result in net new housing units and demonstrate that the adjustments will help the project reach an outcome of feasibility, affordability, increased housing units, or reduction in sale cost that would not otherwise be tenable without the requested adjustments. These adjustments may not exceed 10 per project, and do not include zoning requirements, affordability, accessibility, natural resource protections and natural hazard mitigations. Local governments may apply to HAPO for an exception to this requirement, if they meet criteria specified in the bill. The Department of Land Conservation and Development will produce a report detailing the use of this provision to the legislature by September 15 of every even-numbered year.

*Operative date:* January 1, 2025

*Sunset:* January 2, 2032

**Section 44 – 47 | Limited Land Use Decisions**

*Summary:* Sections 44 – 47 of SB 1537 permit local governments to approve applications for replat, property line adjustment, and an extension alteration or expansion of nonconforming land use at the administrative level. These sections remove any local requirement for these application types and other limited land use decisions to undergo a quasi-judicial process with

a public hearing. Local governments may apply to HAPO for a hardship exemption from these requirements.

*Operative date:* January 1, 2025

*Sunset:* N/A (Note: Hardship applications sunset January 2, 2032.)

### **Sections 48 – 60 | One-Time Site Additions to Urban Growth Boundaries**

*Summary:* Sections 48 – 60 of SB 1537 establish an alternative process by which local jurisdictions can amend their urban growth boundaries (UGBs). Cities may apply for a UGB expansion as long as they have 1) not expanded the UGB in the past 20 years and do not have an undeveloped, contiguous tract exceeding 20 net residential acres or 2) can demonstrate that 75% of lands within previous UGB expansion areas have either developed or completed comprehensive planning, including the public facilities and financial planning necessary to support development. The jurisdiction applying must also have a population that is disproportionately cost-burdened compared to the state. The new housing proposed in the UGB expansion must include at least 30% affordable housing - specifically, the housing must be available for rent by households making 80 percent or below area median income (AMI), or available for purchase by households making 130 percent or below AMI. Local jurisdictions will provide a conceptual plan with their amendment proposal to support the petition and demonstrate the feasibility of utilizing this land for affordable housing development and meeting housing needs of their communities. UGB expansions cannot exceed 50 net acres for cities 25,000 and below in population and 100 acres for cities 25,000 and above in population, with a cap of 300 net acres for the entire Metro UGB. Cities may adopt a 15 net acre one-time UGB addition without producing a complete communities plan if they propose to meet the affordable housing production outcomes above. Additionally, SB 1537 provides cities with the option to exchange existing lands within their UGB for certain lands adjacent to the UGB without completing associated Goal 10 and 14 analyses, with the requirement that lands must be similarly sized, zoned for residential use, and added lands are zoned for the same or greater density than those removed.

*Operative date:* 91<sup>st</sup> day after *sine die*

*Sunset:* January 2, 2033

## **HB 4063 – HOUSING POLICY OMNIBUS**

*Chief Sponsor:* House Committee on Housing and Homelessness

### **Sections 1 – 6 | Metro Unincorporated Urban Lands**

*Summary:* Sections 1 – 6 of HB 4063 define Metro urban unincorporated lands as being not within a city, zoned for urban development, and within the boundaries of a sanitary district or sanitary authority and water provider, and not zoned with a designation for future urbanization. The county in which this land resides is responsible for planning for needed housing in these communities unless an intergovernmental agreement is reached with another local government to perform these duties. In the 2025 legislative session, DLCD will bring forward a request for funding to provide technical support to counties and local governments that include Metro Unincorporated Urban Lands and are implementing housing production strategies.

*Operative date:* Upon passage

### **Sections 7 – 8 | Opting in to Amended Housing Development Regulations**

*(Note: The following language mirrors that in Sections 8 – 9 of SB 1537.)*

*Summary:* Sections 8 – 9 of HB 4063 state that if new standards are adopted after an application is submitted, a housing developer may request that the new standards be applied to their development application, without being required to submit a redundant application or pay a duplicative fee. The applicant must opt into the newly applicable standards in full and are limited to one request before public notice is issued for the application. The local government's 120-day clock to review the application is reset once the developer requests to apply the new criteria, and the local government may charge for any additional costs related to application review.

*Operative date:* 91<sup>st</sup> day after *sine die*

### **Section 9 | Homebuyer Letter**

*Summary:* Section 9 of HB 4063 removes a provision in ORS 696.805 that required a seller's agent to reject letters from homebuyers. This provision was struck down as unconstitutional by the District Court. This Section removes the language from statute.

*Operative date:* 91<sup>st</sup> day after *sine die*

### **Sections 10 – 13 | Middle Housing Partitions**

*Summary:* Sections 10 -13 of HB 4063 clarify that a local jurisdiction may allow the resulting parcel of a partition to be divided into three more parcels for middle housing development.

*Operative date:* 91<sup>st</sup> day after *sine die*

*Note:* Sections 14 – 24 of HB 4063 were removed by amendment and bill sections were not subsequently renamed.

### **Sections 25 – 28 | Single-Unit Housing Property Tax Exemption Approval**

*Summary:* Sections 25 – 28 of HB 4063 provide that local jurisdictions may approve or deny single-unit housing property tax exemptions at the administrative level. They are required to submit notice to the county assessor's office upon rendering a decision.

*Operative date:* 91<sup>st</sup> day after *sine die*

### **Sections 29 – 44 | House Bill 2001 (2023) Technical Fixes**

*Summary:* Sections 29 – 44 of HB 4063 clarifies that Metro cities will receive a housing needs allocation from the Department of Administrative Services in the same manner as non-Metro cities.

*Operative date:* 91<sup>st</sup> day after *sine die*

## **SB 1564 – PRESUMED CLEAR AND OBJECTIVE MODEL HOUSING ORDINANCES**

*Chief Sponsors:* Sen. Anderson, Sen. Knopp & Rep. Breese-Iverson

*Appropriation (DLCD):* \$550,000

*Summary:* SB 1564 requires the Land Conservation and Development Commission (LCDC) to adopt model ordinances for housing types within urban growth boundaries. These model ordinances will encompass single-family detached housing, middle housing, accessory dwelling units, and multifamily housing. The Department of Land Conservation and

Development (DLCD) will develop three different sets of model ordinances by January 1, 2026 for local adoption, segregated by city population size – below 2,500, 2,500 to 25,000, and above 25,000 – and taking into account geographical and other regional factors. These model ordinances are presumed clear and objective. Local governments may choose to adopt model ordinances prescribed for their population size or a larger population bracket into their local code or adopt them by reference. These ordinances can be adopted in whole or in part, meaning cities can choose to utilize the state model ordinance for certain housing types while retaining their local ordinances for another type.

*Operative date:* Upon passage

### HB 4026 – PROHIBITION OF URBAN GROWTH BOUNDARY REFERENDUM

*Chief Sponsor:* House Committee on Rules

*Summary:* HB 4026 prohibits a local government from referring the decision to expand their urban growth boundary to a ballot vote.

*Operative date:* January 1, 2023

### HB 4015 – BATTERY ENERGY STORAGE SITING

*Chief Sponsor:* House Committee on Climate, Energy, and Environment

*Summary:* HB 4015 defines a battery energy storage system (BESS) as an energy storage system that, other than personal and noncommercial uses, collects energy from the electric grid or an energy generation facility, uses rechargeable batteries to retain and store power, and discharges energy when needed. It clarifies that BESS do not require additional permitting when sited adjacent to another energy facility. Additionally, the bill allows a developer or a local government to elect to defer regulatory review to the Energy Facility Siting Council.

*Operative date:* 91<sup>st</sup> day after *sine die*

### HB 4080 – OFFSHORE WIND ROADMAP

*Chief Sponsor:* Rep. Grayber & Rep. Gomberg

*Appropriation (DLCD):* \$998,072

*Positions (DLCD):* 2

*FTE (DLCD):* 1.16

#### **Sections 1 – 4 | Offshore Wind Roadmap Development**

*Summary:* Sections 1 – 5 of HB 4080 require the Department of Land Conservation and Development (DLCD) to develop a Roadmap for state policy on offshore wind development. The roadmap must be informed through robust community and tribal nation engagement, and it must support economic opportunity and continuity for the region, protection of natural and cultural resources, and achievement of state energy and climate goals. DLCD will engage with affected Ports, Tribal nations, local governments, and community members in the development of this roadmap. The Department is also required to complete an assessment of enforceable policies for a federal consistency review.

*Operative date:* Upon passage

## **Sections 5 – 6 | Legislative Report**

*Summary:* Sections 5 – 6 of HB 4080 require DLCD to submit a report to the legislature detailing how the roadmap development process was completed by September 1, 2025.

*Operative date:* Upon passage

*Sunset:* January 2, 2026

*Note:* Sections 7 – 9 of HB 4080 do not have land use implementation requirements.

## **CONCLUSION**

If you have questions or comments about the report or other legislation, contact Alexis Hammer, Legislative and Policy Manager ([alexis.hammer@dlcd.oregon.gov](mailto:alexis.hammer@dlcd.oregon.gov); 971-718-4505) or Aurora Dziadul, Legislative and Policy Analyst ([aurora.dziadul@dlcd.oregon.gov](mailto:aurora.dziadul@dlcd.oregon.gov); 971-446-8834).

CC:

Land Conservation and Development Commission  
League of Oregon Cities  
Association of Oregon Counties  
Local Officials Advisory Committee  
Citizen Involvement Advisory Committee  
Oregon Chapter of American Planning Association