

# **COBURG CITY COUNCIL ACTION ITEM**



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**TOPIC: Ordinance A-200-L: An Ordinance Amending Article VII.C of the Coburg Zoning Code to Implement a Form-Based Code for the Central Business District and Implementing Other General Housekeeping Updates to the Zoning Code**

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**Meeting Date: September 27, 2022**  
**Staff Contact: Megan Winner, Planner**  
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## **REQUESTED COUNCIL ACTION:**

Adoption of an ordinance amending Article VII.C of the Coburg Zoning Code to implement a form-based code for the Central Business District and implementing other general housekeeping updates to the Coburg Zoning Code, also known as the Coburg Development Code. This is the second Reading of Ordinance A-200-L.

## **Suggested motion:**

I move to adopt Ordinance A-200-L an ordinance amending Article VII.C of the Coburg Zoning Code to implement a form-based code for the Central Business District and implementing other general housekeeping updates to the Zoning Code. .

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## **CITY COUNCIL GOAL**

Council Goal 1: Livability, Health and Vitality  
Council Goal 5: Strategic Planning  
Council Goal 6: Economic Development

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## **BACKGROUND**

In 2020, the City of Coburg contracted with the Urban Collaborative LLC., to conduct a Build-Out Scenario analysis. The Build-Out Scenario project spurred discussion in the community about what is currently allowed in the Zoning Code. From this discussion, an Ad-Hoc Code Review Committee was formed at the direction of the City Council. The Ad-Hoc Code Review Committee comprised of two City Councilors, two Planning Commissioners, two citizens-at-large and one business owner. The Ad-Hoc Code Review Committee met bi-weekly for a period of over 8 months, from February to October of 2021 to review and make recommendations on the proposed amendments. By the end of their meetings, the Committee chose to pursue a form-based code for and prohibit the use of formula-based businesses (also known as chain stores) within the Central Business District zoning district, in addition to other amendments to the code.

The form-based code overlay to the boundaries of the Central Business District is one of the most significant amendments being proposed. One primary purpose of a form-based code is to focus on the built environment and its desired look and feel. The form-based code overlay, including a regulating plan, development checklist and rendering have been reviewed and recommended approval by the Ad-Hoc Code Review Committee (Attachment F).

**Other amendments to the code include:**

- Prohibiting the use of formula-based businesses (also known as chain stores) within the Central Business District
- Correcting scrivener's errors and other straightforward language changes
- Addition of alternative street design standards
- Addition of a Public Facilities zoning district section
- Addition of rendering for the Highway Commercial zoning district,
- Additional Mobile Food Vending standards as recommended by the Coburg Fire Chief

**From Planning Commission Public Hearing on July 20th, 2022**

Planning Commission received the staff report, presentation and public testimony. Planning Commission had questions for staff and discussion ensued. Planning Commission had concerns particularly over the formula business restriction, but voted unanimously to recommend approval of the proposed amendments to City Council.

**From City Council Public Hearing on July 26, 2022:**

The City Council received the staff report, presentation and public testimony. City Council and public testimony identified several questions/concerns, particularly regarding the prohibited use of formula businesses in the Central Business District. City Council directed staff to research and develop an alternate code amendment to allow formula businesses as a conditional use with a potential square footage restriction, rather than an outright prohibited use. City Council continued the hearing and public record and requested another first reading of the ordinance take place on August 9 to accommodate the additional alternate amendment request. City Council adjourned until August 9, 2022, to perform a first reading of the ordinance and receive the staff report on the alternate amendment as directed by Council. Council will deliberate and hear a second reading and make a decision at the September 13, 2022 meeting.

**From City Council First Reading and Public Hearing on August 9<sup>th</sup>, 2022**

Staff received no further direction and will present the second reading on September 13, 2022.

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**APPROVAL CRITERIA**

**ARTICLE X.E TYPES OF REVIEW PROCEDURES, TYPE IV PROCEDURE**

***E. Type IV Procedure (Legislative).***

**1. *Pre-Application Conference.*** A pre-application conference is required for all Type IV applications initiated by a party other than the City of Coburg. The requirements and procedures for a pre-application conference are described in Section F.

**FINDING:** The City of Coburg initiated this procedure. This criterion is not applicable.

**2.     *Timing of Requests.*** *The City accepts legislative requests twice yearly, meeting January and July application timeline requirements. The City Council may initiate its own legislative proposals at any time.*

**FINDING:** The City of Coburg initiated this procedure. This criterion is met.

**3.     *Application Requirements.***

**a.     *Application forms.*** *Type IV applications shall be made on forms provided by the City Planning Official or designee.*

**b.     *Submittal Information.*** *The application shall contain:*

- (1) The information requested on the application form;*
- (2) A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);*
- (3) The required fee; and*
- (4) One copy of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.*

**FINDING:** The City of Coburg initiated this procedure. These criteria are not applicable.

**4.     *Notice of Hearing.***

**a.     *Required hearings.*** *A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications, except annexations where only a hearing by the City Council is required.*

**b.     *Notification requirements.*** *Notice of public hearings for the request shall be given by the City Planning Official or designee in the following manner:*

- (1) At least 10 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.175 and mailed to:*
  - (i) Each owner whose property would be rezoned in order to implement the ordinance (including owners of property subject to a comprehensive plan amendment shall be notified if a zone change*

- would be required to implement the proposed comprehensive plan amendment);*
- (ii) Any affected governmental agency;*
- (iii) Any person who requests notice in writing;*
- (iv) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175;*
- (2) At least 10 days before the scheduled Planning Commission public hearing date, and 10 days before the City Council hearing date, public notice shall be published in a newspaper of general circulation in the City.*
- (3) The City Planning Official or designee shall:*
  - (i) For each mailing of notice, file an affidavit of mailing in the record as provided by subsection 1; and*
  - (ii) For each published notice, file in the record the affidavit of publication in a newspaper that is required in subsection 2.*
- (4) The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and development code amendments at least 45 days before the first public hearing at which public testimony or new evidence will be received. The notice to DLCD shall include a DLCD Certificate of Mailing.*
- (5) Notifications for annexation shall follow the provisions of this Chapter.*

**FINDING:** The proposed amendment does not rezone any property in the City. However, Measure 56 notice and Type IV mailing notice was sent to every property owner in Coburg City limits using the Lane County Assessors roll through RLID. Agency referral was sent to affected agencies on May 24, 2022. The notice of public hearings at Planning Commission and City Council was published in the Register Guard. Staff notified DLCD through their online Post Amendment Plan Acknowledgement (PAPA) process in March 2022. These criteria are met.

**7. *Decision-Making Criteria.*** *The recommendation by the Planning Commission and the decision by the City Council shall be based on the following factors:*

- a. Approval of the request is consistent with the Statewide Planning Goals;*

**FINDING:** As explained below, the request is consistent with the Statewide Planning Goals. This criterion is met.

**APPLICABLE STATEWIDE PLANNING GOALS:**

## **GOAL 1: Citizen Involvement**

**FINDING:** The Ad-Hoc Code Review Committee held several public meetings and work sessions while reviewing and suggesting new language for the proposed amendments. As part of the adoption process, two public hearings are scheduled, July 20, 2022 with the Planning Commission and July 26, 2022 with the City Council, followed by a second reading of the ordinance at the August 9<sup>th</sup> City Council meeting.

## **GOAL 2: Land Use Planning**

**FINDING:** The proposed amendments enhance the Coburg Zoning Code, and are based on the Comprehensive Plan relevant policies as required by Goal 2.

## **GOAL 5: Natural Resources, Scenic and Historic Areas, and Open Spaces**

**FINDING:** The proposed amendments preserve the historic architectural character of the Central Business District, which is within Coburg's National Historic District. The intention of the amendments within the Central Business District is to protect the historic assets and special environment, both natural and manmade, of the community so that the uniqueness of Coburg may flourish without inappropriate changes.

## **GOAL 9: Economic Development**

**FINDING:** The proposed amendments to the Coburg Zoning Code enhance the code for further economic opportunity in the Central Business district as required by Goal 9. Reducing formula based businesses fosters a more hospitable business environment for small businesses and entrepreneurs.

**STATEWIDE PLANNING GOALS 3,4, 6,7,8, 10 -19 are not applicable to this amendment.**

**CONCLUSION:** The proposed amendments to the Coburg Zoning Code meet the necessary requirements of the applicable Statewide Planning Goals. This amendment does not change the priority or inventory of those related requirements. These criteria are met.

*b. Approval of the request is consistent with the Comprehensive Plan; and*

**FINDING:** As explained below, the request is consistent with the Comprehensive Plan. This criterion is met.

## **APPLICABLE COMPREHENSIVE PLAN POLICIES AND GOALS**

### **GOAL 1: Citizen Involvement**

**FINDING:** The Ad-Hoc Code Review Committee held several public meetings and work sessions while reviewing and suggesting new language for the proposed amendments. As part of the adoption process, two public hearings are scheduled, July 20, 2022 with the Planning Commission and July 26, 2022 with the City Council, followed by a second reading of the ordinance at the August 9<sup>th</sup> City Council meeting. Notice was sent to every property owner in the City. Information and invitations to comment were put in the newsletter and on the City's website.

## **GOAL 2: Land Use**

**Policy 11:** *Central Business District – The Central Business District designation is intended to establish the downtown area as the historic heart of Coburg. The CBD is the location for smaller scale commercial and business facilities, civic buildings and city functions, and mixed use. The Central Business district will be historic and pedestrian-oriented in character.*

**Finding:** The proposed amendments largely affect the Central Business District development regulations in the zoning code. This zone contains vacant properties where development will significantly contribute to the character of the historic downtown corridor. The intention of the proposed amendments within the Central Business District, both the form-based code overlay and prohibited use of formula-based businesses, is to protect the historic assets and special environment, both natural and manmade, of the community so that the uniqueness of Coburg may flourish without inappropriate changes.

Alternative street standards provide flexibility in the design, repair and construction of streets, particularly in historic neighborhoods.

The proposed amendments provide a way forward for intentional development.

**Policy 17:** *Public Facility – This designation is intended to provide lands for public facilities and uses such as water reservoirs, sewage treatment plants, pump stations, major electric utilities and similar uses.*

**Finding:** The addition of a Public Facilities section to the Zoning Code will promote and ensure the purpose of the designation.

## **GOAL 5: Open Spaces, Scenic and Historic Areas, and Natural Resources**

**Coburg Objective:** To protect, restore and enhance open space, scenic and historic areas, and, to promote a healthy and visually attractive environment in harmony with the natural landscape.

**Finding:** The proposed amendments preserve the historic architectural character of the Central Business District, which is within Coburg's National Historic District. The intention of the amendments within the Central Business District is to protect the historic assets and special

environment, both natural and manmade, of the community so that the uniqueness of Coburg may flourish without inappropriate changes.

#### **GOAL 9: Economy**

**Coburg Objective:** To guide community development in such a way that the local economy is improved while maintaining Coburg's small town atmosphere.

**Policy 11:** *The City shall promote quality of life and compatibility of commercial and industrial uses with the small town, historic character of the community.*

**Policy 20:** *The downtown area of Coburg should reflect the rural and historic character of the area. Businesses are encouraged to provide attractive building exteriors, signs, landscaping and parking lots that are in keeping with character of the downtown area. The downtown area is the heart of Coburg and essential businesses and city functions should be located in this area. The downtown area should invite citizens and other customers to use alternative modes of transportation, including walking and bicycling to patronize these businesses.*

**Policy 21:** *The Coburg Development Code shall include standards that ensure development in the downtown reflects the rural and historic character of the area, and provides an attractive, pedestrian-oriented character for the downtown.*

**Policy 22:** *The City shall encourage a vital downtown area as a key strategy to maintaining the City's quality of life.*

**Policy 23:** *The City shall encourage mixed-use in the Central Business District, and where appropriate, in adjacent areas.*

**Policy 26:** *The City shall utilize design standards for commercial and industrial development uses.*

**Finding:** The proposed amendments to the Coburg Zoning Code enhance the code for further economic opportunity and vitality in the Central Business district. The form based code overlay will ensure development in the downtown reflects the rural and historic character of the area and provide an attractive, pedestrian-oriented character for the downtown. Reducing formula-based businesses fosters a more hospitable business environment for small businesses and entrepreneurs.

#### **GOAL 11: Public Facilities and Services**

**Coburg Objective:** To provide the residents of Coburg the public facilities and services which make possible a safe, healthy and satisfying living environment.

**Finding:** The addition of a Public Facilities section to the Zoning Code will promote and ensure the purpose of the designation.

**GOAL 12: Transportation**

**Policy 3:** *Improve the aesthetics of streets and streetscapes, especially at City entrance ways such as Interstate 5 interchange area. Aesthetic improvements may address: street design, trees, lighting, utility lines, sidewalks, park strips, noise abatement, etc.*

**Finding:** Alternative street design standards are meant to provide flexibility, improve aesthetics and preserve the historic character of the community. Some existing local streets are unable to follow the standards for new roadways due to narrow right-of-way. Council directed staff to create alternative street design standards to provide flexibility, improve aesthetics and preserve the historic character of the community.

**GOALS 3,4, 6,7,8, 10, 13, 14 are not applicable to this amendment**

**CONCLUSION:** The proposed amendments to the Coburg Zoning Code support and promote goals, objectives and policies of the Comprehensive Plan. These criteria are met.

*c. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.*

**FINDING:** The proposed amendments do not change any physical aspect of any property. This criterion is not applicable.

**8. Approval Process and Authority.**

*a. The Planning Commission shall:*

*(1) After notice and a public hearing, vote on and prepare a recommendation to the City Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and*

*b. Any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file a written statement of opposition with the City Planning Official or designee before the Council public hearing on the proposal. The City Planning Official or designee shall send a copy to each Council member and place a copy in the record; and*



- c. *If the Planning Commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal within 60 days of its first public hearing on the proposed change, the City Planning Official or designee shall:*

- (1) Report the failure together with the proposed change to the City Council; and*
- (2) Provide notice and put the matter on the City Council's agenda for the City Council to hold a public hearing and make a decision. The Commission shall take no further action.*

**FINDING:** The hearing and approval process and procedure shall be as normal. These findings will be updated following the Planning Commission hearing to reflect the recommendation made. These criteria will be met.

- d. *The City Council shall:*

- (1) Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application;*
- (2) Consider the recommendation of the Planning Commission; however, the City Council is not bound by the Commission's recommendation; and*
- (3) Act by ordinance, which shall be signed by the Mayor after the Council's adoption of the ordinance.*

**FINDING:** The hearing and approval process and procedure shall be as normal. These criteria will be met.

**9. Vote Required for a Legislative Change.**

- a. *A vote by a majority of the qualified voting members of the Planning Commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.*
- b. *A vote by a majority of the qualified members of the City Council present is required to decide any motion made on the proposal.*

**FINDING:** The hearing and approval process and procedure shall be as normal. These criteria will be met.

- 10. *Notice of Decision.*** Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five business days after the City Council decision is filed with the City Planning Official or designee. The City shall also provide notice to all persons as required by other applicable laws.

**FINDING:** Staff shall follow up with correct noticing procedures should the City Council vote to approve the amendments. This criterion will be met.

- 11. *Final Decision and Effective Date.*** A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.

**FINDING:** Should Planning Commission and City Council vote to approve the amendment, the ordinance will be effective **on the thirtieth day after adoption of City Council and approval by the Mayor.** Effective October 13, 2022, in accordance with Article X of the Coburg Zoning Code. This criterion will be met.

- 12. *Record of the Public Hearing.***

- a. *A record of the proceeding shall be made by a minutes recorder, stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record;*
- b. *All exhibits received and displayed shall be marked to provide identification and shall be part of the record;*
- c. *The official record shall include:*
  - (1) *All materials considered by the hearings body;*
  - (2) *All materials submitted by the City Planning Official or designee to the hearings body regarding the application;*
  - (3) *The v record made by the minutes recorder, stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;*
  - (4) *The final ordinance;*
  - (5) *All correspondence; and*
  - (6) *A copy of the notices that were given as required by this Chapter.*

**FINDING:** The City shall follow record procedures as described. These criteria will be met.

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**BUDGET**

N/A

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**RECOMMENDATION**

Staff recommends that the Council approve the proposed code amendment, in accordance with the above findings to ensure that it complies with the Criteria for Land Use District Text Amendments set forth in Article XVI of the Coburg Zoning Ordinance No. A-200-I.

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**NEXT STEPS**

*If approved, proposed code amendments shall take effect and shall become final as specified in the enacting ordinance. Staff will then update the official zoning map to include the additional overlay zoning district.*

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**ATTACHMENTS**

A. Ordinance A-200-

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**REVIEWED THROUGH:**

Anne Heath, City Administrator  
Henry Hearly, Contract Planner  
Sammy Egbert, City Recorder

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## ORDINANCE A-200-L

### AN ORDINANCE AMENDING ARTICLE VII.C OF THE COBURG ZONING CODE TO IMPLEMENT A FORM BASED CODE FOR THE CENTRAL BUSINESS DISTRICT AND IMPLEMENTING OTHER GENERAL HOUSEKEEPING UPDATES TO THE ZONING CODE.

**WHEREAS**, the City of Coburg conducted a Build Out Scenario analysis which spurred discussion to review the Coburg, Oregon Zoning Code and led to the creation of an Ad-Hoc Code Review Committee comprised of two City Councilors, two Planning Commissioners, two citizens-at-large and one business owner;

**WHEREAS**, with the passage of Resolution 2020-22, the Coburg City Council directed the formation of an Ad-Hoc Code Review Committee. The Committee met bi-weekly for a period of over 8 months, from February to October of 2021, to review and make recommendations on the proposed amendments. At the conclusion of the Committee's work, the Committee chose to pursue a form-based code overlay for the Central Business District zoning district, prohibit the use of formula based businesses within the Central Business District, add alternative street standards and a Public Facilities section, in addition to other amendments to the code;

**WHEREAS**, through routine review and inspection of the Coburg Zoning Code, City staff recognized several housekeeping items that needed to be updated throughout the Development Code. The housekeeping items that require updating are included in the amendments proposed of Ordinance A-200-L.

**WHEREAS**, staff have prepared the proposed text amendments, as seen in Exhibit "A" attached hereto to be incorporated in the Coburg Zoning Code.

**WHEREAS**, staff have prepared Findings of Fact to support adoption of Ordinance A-200-L, as seen in Exhibit B attached hereto.

**WHEREAS**, after proper notice, the City of Coburg Planning Commission conducted a public hearing and considered the amendments at their July 20, 2022 public meeting. The Planning Commission passed a motion recommending that City Council adopt the proposed Development Code amendments;

**WHEREAS**, after proper notice, the City of Coburg City Council held a public hearings on July 26, 2022 and August 9<sup>th</sup>, 2022 to consider the proposed Zoning Code amendments.

#### NOW, THEREFORE, THE CITY OF COBURG ORDAINS AS FOLLOWS:

**Section 1.**     **Coburg Zoning Code.** The City of Coburg Zoning Development Code is hereby amended as shown in Exhibit "A". Exhibit "A" is hereby adopted by this reference.

**Section 2.**     **Findings of Fact.** The Findings of Fact set forth in Exhibit "B" attached to this Ordinance are adopted as findings in support of this Ordinance.

- Section 3.**     **Severability.** The sections and subsections of this ordinance are severable. The invalidity of any section or subsection shall not affect the validity of the remaining sections and subsections.
- Section 4.**     **Conflicts.** In the event that sections or provisions of this ordinance conflicts with other ordinances, then the standards established by this ordinance shall take priority.
- Section 5.**     **Reference Errors.** The City Recorder, at the request of, or with the concurrence of the City Attorney, is authorized to administratively correct any reference errors contained herein.
- Section 6.**     **Effective Date.** This ordinance takes effect on the thirtieth day after adoption of City Council and approval by the Mayor.

After public notice and reading pursuant to the Coburg City Charter and after Council deliberations followed by councilor motion and second, this ordinance was put to a vote, the results of which were:

**ADOPTED** by the **City Council** of the **City of Coburg** this 27<sup>th</sup> day of September, 2022, by a vote of \_\_\_\_ for and \_\_\_\_ against.

**APPROVED** by the Mayor of the City of Coburg this 27<sup>th</sup> day of September, 2022.

\_\_\_\_\_  
Ray Smith, Mayor

**ATTEST:**

\_\_\_\_\_