Mayor and Members of the City Council

STAFF REPORT

For the Meeting of November 23, 2026

Title/Subject

Amendments to Chapters 154 and 157 of the Hermiston Code of Ordinances to implement statewide housing law changes

Summary and Background

A hearing is scheduled to consider proposed changes to the city's subdivision and zoning chapters in the Hermiston Municipal Code. The city received a Housing Assistance Planning Grant from the Oregon Department of Land Conservation and Development (DLCD) in 2025. The purpose of the planning assistance grant is to update the Hermiston code and bring the code into compliance with recent state level statutory changes. Housing has been a priority for the state legislature through several sessions, and each session has seen broad changes in statutes regarding how cities shall process land use applications.

Housing code changes started in 2017 with a requirement to permit accessory dwelling units wherever single-family dwelling units were also permitted. These changes expanded in 2019 with a requirement that cities implement middle housing permissions based on population size. Cities under 10,000 were not required to adopt any middle housing permissions (a later legislative session lowered this threshold to cities below 2,500). Cities between 10,000 and 25,000 were required to adopt medium city middle housing permissions which require the permitting of one and two-family (duplex) dwellings in all residential zones. Hermiston adopted the medium city requirements in 2020, permitting duplexes in all five residential zones. Cities larger than 25,000 in size were required to adopt large city middle housing requirements and to permit, single family, duplex, triplex, quadplex, and cottage cluster housing in all residential zones.

As part of the grant application, the city considered voluntarily complying with large city permitting of all middle housing types. After multiple work sessions with the planning commission and city council, the voluntary compliance with large city middle housing has been removed from the draft amendments. The existing mandatory duplex provisions are retained and all other voluntary middle housing elements have been removed. No zoning map amendments are proposed as part of this update.

In order to complete this code update, the City has partnered with Winterbrook Planning to act as the city's planning consultants to help determine the necessary code changes and to craft updated language.

The work program for the code update consists of several steps:

- Consider and review relevant statutory changes at the state level
- Audit the Hermiston code for compliance and deficiencies with state law
- Draft compliant code language for Hermiston
- Adopt new code language into the municipal code

City staff and consulting team have spent all of 2026 working on these code revisions in coordination with state land use staff at DLCD. The revisions being considered for adoption are the final draft amendments intended to comply with the mandatory law changes and also incorporating some small modifications of existing code to better clarify the development process.

Many of the code revisions center around multi-family housing development. Multi-family housing is defined as needed housing in ORS 197A.018. Needed housing is required to follow clear and objective permitting standards under state law and shall not be subject to a discretionary permitting process. In plain English, a clear and objective standard is a standard where compliance can be determined in an objective manner. Examples of a clear and objective standard are whether a property meets an objective setback distance from a property line, if a minimum number of parking spaces are provided, or if the building meets the maximum height standard. Examples of a standard that is not clear and objective would be that a use is "reasonably compatible with surrounding property." The city code treats multi-family housing to discretionary or subjective approval processes in the R-2, C-1, and NCO zoning districts. Each of these districts require a public hearing and conditional use permit in order to permit multi-family housing. After the work sessions before the planning commission and city council, changes to the code were developed to meet the clear and objective standard for multi-family housing in these three zones. In the C-1 and NCO zones, the code is amended to allow multi-family housing as an outright use, provided it is built in compliance with the R-3 standards of the zoning code (the R-3 zone is the city's primary multi-family zone). In the R-2 zone, the multi-family housing is eliminated as a permitted use entirely. Discussions before the city council and planning commission determined that the character of the city's R-1 and R-2 zones should focus on lower density single and two-family housing. The removal of multi-family housing as a use in the R-2 zone required what is known as a Measure 56 notification to all owners of R-2 zoned land. City staff mailed over 1,600 notices 20 days in advance of the first evidentiary hearing. Testimony received as a result of noticing is included in this staff report. Additionally, staff has prepared a map of the City's R-2 zoning and highlighted all multi-family development that will be affected by the proposed restriction.

Similarly, changes at the state level regarding manufactured home parks necessitate changes to the city zoning standards for this use. The current zoning permits manufactured home parks outright in the R-4 zone and conditionally in the R-3 zone. Again, the conditional use permit process is no longer an option for needed housing types, and the R-3 zoning cannot utilize that process. Additionally, state law has changed and now requires cities to permit manufactured home parks in any zone which permits a housing density of six to twelve units per acre. The city's R-2, R-3, R-4, and RR zones all meet this density threshold. Under the mandatory code changes, manufactured dwelling parks become outright uses in the four affected zones. However, the city's minimum size for a manufactured dwelling park of one acre remains in effect. Under ORS 197A.436 a city may not establish a minimum lot size larger than one acre for manufactured home parks.

In addition to the major changes listed above, staff offers a summary of additional changes being proposed:

Amendments to Chapter 154 Subdivisions

- For clarity the chapter title is proposed to be renamed to “Land Divisions” as it encompasses several land division types.

- Expedited land division and middle housing land division are added to the definitions and added as a new process in 154.73 and 154.74 respectively. Expedited land divisions are a new land division process for residential development under ORS 197A.140. Middle housing land divisions are required under ORS 92.031 to allow for each unit in a middle housing development to be situated on a separate lot and owned separately. The city has already processed several duplex middle housing land divisions under the governing statute.

- The jurisdiction of the planning commission changes significantly as a result of legislative changes. All preliminary plat reviews change from a planning commission process to an administrative review by city staff. Under this new law, minor partitions are approved at the staff level only. Major partitions and subdivisions still require city council approval for the final platting.

- Replats are moved from the land division process to a limited land use decision process. This change retains the public notice and comment requirement but the replat is processed administratively by planning staff.

- The subdivision design standards in 154.15 through 154.22 are modified to better incorporate the TSP standards and to clarify language which is not clear and objective.

- Preliminary plat review in 154.35 is changed to review by the planning official and explicitly classified as a limited land use decision.

- Numerous wordsmith changes are made to clarify requirements, remove requirements which are not clear and objective (i.e. open to interpretation),and add partitions to several sections or change subdivision to “land division” as necessary.

- *Amendments to Chapter 157 Zoning*

- Considerable modifications to the definitions in 157.002 are proposed. Many of these definitions are changing to comply with current statutes or to define new terms and requirements which are introduced later in the code. Of note, the word “family” is excised from the code and changed to “unit” where applicable (e.g. single family dwelling becomes single unit dwelling).

- Multi-family housing is removed as a conditional use in the R-2 zone and added as an outright use in the C-1 and NCO zones. Where market rate multi-family is allowed in commercial zones (except the NCO), ground floor residential is not permitted on collector and arterial streets.

- Single-room occupancy dwellings are added to comply with ORS 197A.

- Manufactured dwelling parks of at least one acre become outright uses in all residential zones except R-1.

- Several types of housing become permitted uses in the commercial zones. Specifically, affordable housing, conversion of existing commercial structures to residential use, replacement of existing dwellings, and mixed-use housing. The draft amendments change the existing C-1 multi-unit conditional use permit process to an outright use as conditional use processes can no longer be used for housing.

- Amendments to the childcare provisions are also proposed to comply with regulatory changes at the state level. In essence childcare is removed from a discretionary conditional use permit process.

- Affordable housing and childcare are added to the M-1 Light Industrial zone. Heavy Industrial retains the current prohibition in accordance with state law.

- Emergency shelters are removed from the M-1 zone and moved to a separate permitting process at the city council level. Under amended state law emergency shelters are outright uses in all zones provided a set of statutorily prescribed standards are met.

- Manufactured dwelling and manufactured dwelling park standards are significantly amended to reflect the updated state law limiting city ability to regulate design and construction as well as building size.

- Design standards for single room occupancies, affordable housing in commercial zones, and conversion from commercial to residential use in commercial zones are added.

- The timeline for replacement of non-conforming dwellings destroyed by fire or calamity is increased from one to four years in compliance with state law.
- Residential upzoning (i.e. a change in zoning to a higher residential density) is to be processed administratively by planning staff when connected to a residential development application. All other zone amendments remain a quasi-judicial process in front of the planning commission. Most residential upzoning requires a change in comprehensive plan map designation as well. This provision will only be applicable to zoning changes from R-1 to R-2 which are both zones under the Low Density Residential comprehensive plan map designation.

- A new section detailing all required administrative reviews is created.
- A change in development standard policy from requiring a default option of signing a non-remonstrance agreement for future street improvements to requiring installation of improvements at the time of construction is proposed. An applicant will still have the ability to request a deferral of improvement installation.

- A new setback standard for garages is proposed. The existing 20-foot setback remains unchanged, but the point of measurement changes from property line to back of sidewalk. Several developments have roadside drainage swales which results in the back of sidewalk being located several feet behind the property line. This can result in a practical driveway length of less than 20 feet resulting in a vehicle overhanging or blocking the sidewalk.

- A new residential rear setback is proposed. The new setback is established as 10 feet for a building height up to 20 feet. The rear setback for buildings over 20 feet in height increases to 20 feet. This replaces the current setback of 10 feet for buildings up to 15 feet in height and then increases one foot for each foot of building height over 15 feet to a maximum setback of 25 feet.

- Residential development is excluded from the planned unit development process. The PUD process is inherently subjective and discretionary and cannot create a clear and objective path for residential development.

- Parking standards are updated to reflect statutory requirements for middle housing and accessory dwellings. The updated parking standards represent minimum spaces and developers may choose to construct additional parking voluntarily.

The city held informational sessions on these amendments on September 9 and October 12. The September session was held before the planning commission and multiple revisions were recommended. The October session was held before the city council, and additional revisions were again recommended after considering the planning commission's deliberations. The proposed ordinance incorporates all of the planning commission and city council recommendations. The ordinance maintains the city's current policy of complying only with medium city requirements for middle housing (duplexes and accessory dwellings in all residential zones for cities between 10,000 and 25,000 population). The remaining amendments within the code comply with state law. There are several amendments which are considered voluntary that staff is recommending. These amendments are intended for clarity, compliance with modern code design, or minor policy adjustments such as the garage setback measuring from back of sidewalk rather than property line. These voluntary amendments are included in the code and are also specifically identified in a separate attachment to this report which contains only those pages which have a voluntary change and notations explaining why the change is proposed.

The proposed ordinance is legislative in nature. The ordinance makes changes to the text of the city's development ordinances and has impact beyond a discrete area or property. No amendments to the zoning map are proposed.

Testimony Received

Three letters are included in the council packet. Should any additional testimony be received between the time of report publication and the hearing, that testimony will also be provided to the city council.

1. The Fair Housing Council of Oregon submitted a recommendation that the city report and findings be amended to reflect the city's Housing Needs Analysis regarding Goal 10 and the provision of middle housing. Goal 10 findings in the staff report have been added.
2. Testimony from Southgate Village Apartments was presented to the planning commission both in person and by letter. This testimony reflects the fact that the Southgate Village Apartments and several other housing developments are located on R-2 zoned property which will no longer allow for multi-unit development. This change will render existing multi-unit developments non-conforming and has the potential to affect future financing as well as casualty loss or other redevelopment. After considering this testimony the planning commission directed staff to create a provision in the amended code to state that multi-unit development in place at the time of adoption of this ordinance is considered a conforming use for the purposes of zoning compliance and redevelopment or

restoration. This provision has been added to the final ordinance as §157.027(C) and states, "*Continuation of Existing Uses; Existing Multi-unit Dwellings. Every multi-unit dwelling lawfully existing on the effective date of Ordinance No. 2390 is deemed a conforming use and may be continued, maintained, repaired, altered, expanded, reconstructed, or rebuilt, including after damage, destruction, or voluntary removal, subject only to the clear and objective development standards of the R-3 zone in §157.027 at the time the applicable development application is submitted. The City of Hermiston shall not require a reduction in the number of lawfully established dwelling units solely because the existing use, structure, lot, or site does not conform to a subsequently adopted development standard*."

3. Testimony from Jason and Christy Gefre requesting that the city council not adopt the R-2 multi-unit prohibition or recommending alternative solutions such as allowing middle-housing of triplex and quadplex units in the R-2 zone and also protecting existing multi-unit development.

Staff has prepared a map of the City's R-2 zoning. This map details the location of all existing multi-family housing in the R-2 zone. New language in 157.026(C) creates protective language for the existing developments. This change does not permit new multi-family housing in the R-2 zone.

Planning Commission Recommendation

The planning commission held a public hearing on the proposed amendments on November 12, 2026. The planning commission considered the testimony surrounding the R-2 text amendments and directed staff to draft additional language clarifying that existing multi-family housing in the R-2 zone is considered a conforming use which is incorporated in 157.026(C). After directing staff to make the amendment, the planning commission recommended that city council adopt the final text amendments. The planning commission vote was four in favor, one against, and one abstention.

Tie-In to Council Goals

The amendments are proposed as part of a Housing Planning Assistance grant from the Department of Land Conservation and Development. The grant is classified as code assistance and is intended to bring the city code into compliance with statutory and rule changes. The city council adopted Resolution 2383 on July 28th, 2025, in support of the grant application.

Fiscal Information

This grant is a pass-through grant where grant funds are transferred directly from the state to the consultant. The city does not have a financial commitment to the grant apart from in-kind staff time.

Alternatives and Recommendation

Alternatives

The city council may choose to:

- Adopt Ordinance 2390 as submitted. Adoption of the ordinance brings the city development code into compliance with statewide changes in land use regulations. The ordinance as prepared is generally crafted to comply with mandatory regulatory changes.

As noted in the staff report and presentation, housing can no longer be approved through a discretionary process. Thus, the conditional use permit is not an option the city may utilize for housing development at any level.

- Prepare amendments to Ordinance 2390. Should the council find any portion of the proposed ordinance to be unacceptable or in need of modification, the council should direct staff to amend the ordinance and represent the ordinance at the next council meeting.

- Deny Ordinance 2390 and maintain the current development code. Should the council choose to reject the draft ordinance, the city code will continue to require revisions and require a separate work program to bring non-compliant portions of the code into conformance with state requirements for housing development.

Recommended Action/Motion

Ordinance 2390 represents the final draft of multiple revisions to the development code following input from the planning commission and city council. All of the recommended changes from each body are represented in the final code. Although there are still a small number of voluntary changes within the amendments to Chapter 157 (Zoning), the voluntary changes are intended to clarify and ease interpretation of the development code, not to comply with middle housing requirements Hermiston is not yet subject to. Therefore, staff recommends that the city council accept the planning commission recommendation and adopt Ordinance 2390 as submitted.

- Motion to adopt findings of fact in support of Ordinance 2390
- Motion to adopt Ordinance 2390

Submitted By:

Clinton Spencer, Planning Director