



Where Life is Sweet

Members of the Planning Commission
STAFF REPORT
For the Meeting of January 8, 2025

Title/Subject

Work session to review recent legislation and required code updates

Summary and Background

The Oregon legislature passed several amendments to the land use statutes over the last few sessions. The majority of these amendments are housing related and intended to facilitate more housing in more places, primarily with the goal of increasing overall density. These amendments began with the middle housing and accessory dwelling amendments in 2019 and have continued with new amendments in each session. Since land use implementation ordinances are tightly regulated in Oregon, staff has been stockpiling the required amendments until there are enough amendments to justify the cost and time required to do formal amendments. In the intervening time, staff has been tracking and noting the amendments and operating under the new rules where applicable knowing that a full slate of ordinance amendments will be forthcoming in future years. The volume of amendments in the 2024 session now makes it practical to consider a cumulative update to the city development code for compliance.

Staff has prepared a series of ordinance updates addressing each bill singly. A final code update will likely consolidate all of the updates into one omnibus ordinance amendment. However, for the purposes of considering the impact of each update in isolation and with maximum focus, the material is presented here with individual amendment packets. The drafted amendments are written to be the minimum compliance with the new legislation. As a team, the city may be able to draft more detailed requirements which are still compliant with the legislation. Much of the legislation is written in a preemptive manner making it difficult to place additional local restrictions on local development if such regulation is not already in place and applied to all development in the city.

The planning commission was provided a summary memo from staff last spring and that memo is included again here for reference. This memo points out that there are dozens of housing related amendments which have been passed at the state level, but many are either directives for state agencies, funding requirements, or similar and do not require city action. The legislation which will require city action is highlighted in the attached memo.

In the interest of not burdening the planning commission with hundreds of pages to study prior to the work session, staff elects to not include the full text of each bill, but rather to provide a link to the adopted legislation. The planning commission may choose whether to study the

source material or simply to read the proposed code amendments to comply with the new rules.

HB 3395 Residential Uses in Commercial Zones

<https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/HB3395/Enrolled>

<https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/HB2984/Enrolled>

HB 3395 and 2984 are both included in this update as there is considerable overlap between the practical effects. This legislation contains many provisions which apply to cities in general, but three items are within the city's jurisdiction and should be addressed.

- Affordable housing becomes an outright use in commercial zones
- Emergency shelters become an outright use as long as it is operated by a non-profit or government agency
- Single-room occupancy housing becomes an outright use in all residential zones up to six units

It is helpful to note that under the "shall approve" requirement for emergency shelters in this bill, staff recommends entirely excising the city's emergency shelter requirements in the M-1 zone. The new legislation is more permissive than the city's rules but appears to incorporate many of the items originally discussed at the city level. It is staff's belief that the state used Hermiston's code as well as some other codes to model the adopted legislation.

HB 4063 Middle Housing Update

<https://olis.oregonlegislature.gov/liz/2024R1/Downloads/MeasureDocument/HB4063/B-Engrossed>

This legislation contains several provisions, but the most relevant provision for the city is the further refinement of the middle housing land division process. The city has approved one middle housing land division to date in the Diamond Run subdivision where roughly a third of the subdivision was replatted into middle housing lots. The city has been complying with the statutory framework for the land division process to date, but this legislative update provides an opportunity to codify the process and to incorporate the state's expedited land division process which has been in statute for several years but has not been a factor in local development.

HB 4064 Manufactured Dwelling Amendments

<https://olis.oregonlegislature.gov/liz/2022R1/Downloads/MeasureDocument/HB4064/Enrolled>

This legislation relaxes rules for siting of manufactured dwellings. In a manner similar to prior legislation which permitted manufactured housing in all residential zones, this legislation relaxes rules for the housing itself, and cities cannot apply additional design standards not applied to all site built housing. The practical effect of this legislation is to limit the city's ability to require carports, garages, and double wide housing. The legislation is beneficial in that it provides new definitions for mobile homes, manufactured housing, and prefabricated dwellings. Since these newly relaxed standards only apply to manufactured housing and

prefabricated dwellings, some of the concerns the planning commission has had in the past about single-wide mobile homes are still protected. The city is still not required to allow placement of any mobile home outside of a mobile home park and that limits placement of housing constructed prior to 1976.

Some housekeeping language to the manufactured dwelling park standards to comply with prior legislative requirements is also included.

SB 1537 Omnibus Housing Bill

<https://olis.oregonlegislature.gov/liz/2024R1/Downloads/MeasureDocument/SB1537/Enrolled>

This legislation has several provisions which do not apply at the city level but there are two which directly affect the city at a daily level.

- A developer may request up to ten deviations from property development standards and these deviations shall be granted if the applicant can demonstrate it will produce more or more affordable housing than would otherwise be provided. This is a low evidentiary bar and works to circumvent the city's traditional variance process. As the legislation is written, this becomes an administrative land use decision at the staff level, but it is still subject to notice. Only the applicant is eligible to appeal the staff decision. As a result of incorporating this deviation process into the code, staff recommends also excising the infill designation process. There is considerable overlap between the two processes.
- Property line adjustments, replats, and expansion of non-conforming uses and structures all move to the administrative land use process. The city has long processed the property line adjustment in this manner, but replats and non-conforming uses have traditionally required planning commission review. Under the statute the planning commission and city council will review the final plat, but preliminary replatting is a staff decision subject to notice and administrative approval. The expansion of a non-conforming use also moves out of the planning commission review under this statute.

Housekeeping Amendments

The planning commission may wish to discuss if other code changes are appropriate at this time. Staff recommends consideration of complying with the state law that cities cannot require additional parking for ADUs as established in ORS 197A.425 (attached). Staff also recommends consideration of the recommended parking amendments while such a large set of code amendments is being heard.

Tie-In to Council Goals

This is a set of housekeeping amendments. The city does not have an option whether or not to comply with the legislation. However, the final form of adopted code language is discretionary.

Fiscal Information

The city will incur substantial noticing expenses in order to comply with the new legislation. A legal opinion will need to be rendered to determine if these development code amendments fall under Measure 56 noticing requirements. Under Measure 56, a direct mail notice must be sent to every property owner when a code change changes the base zoning of a property or limits a

use previously allowed in a zone. If a M56 notice is necessary, noticing costs will be approximately \$10,000.

Alternatives and Recommendation

Recommended Action/Motion

No action is needed. The work session is intended to further refine the compliant code language.

Submitted By:

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