



CITY OF ST. HELENS PLANNING DEPARTMENT

MEMORANDUM

TO: Planning Commission
FROM: Jacob A. Graichen, AICP, City Planner
RE: 2024 Development Code Amendments Workshop for January 2024 meeting
DATE: January 2, 2024

Staff took advantage of December 2023 and started working on code amendments, some long awaited, that we hope to adopt with a formal process sometime in '24. We want to start working with the Commission on some of these matters in January and meetings thereafter as appropriate and time allows.

For this first work session we want to discuss and attain feedback on the following items:

1. **Validity periods** for land use permits. This is addressed on a separate memo. Basic question is should time be increased and/or cleaned up across all categories? We've done some updates to these in the past but have not looked at all validity periods together in recent history.
2. **Dwelling units.** Ordinance No. 3264 adopted in 2021 changed the city's regulations such that single-family zoning no longer exists. This was a reaction to Oregon House Bill 2001, which required this of St. Helens because the population exceeds 10,000. It required duplexes to be allowed anywhere detached single-family dwellings were allowed.

Before the 2021 change, the city adopted its Housing Needs Analysis in 2019. One of the recommendations from that effort was to develop a cottage cluster code. A cottage cluster consists of multiple detached dwellings on the same lot. When we adopted the duplex rules in 2021, it included allowances for the two units to be attached as a conventional duplex, or detached, with two detached units on the same lot. Multifamily development, 3 or more units on a lot, currently must be in buildings with 3 or more units. One staff goal for the 2024 amendments is for multifamily to mean 3 or more units on a lot, regardless of the detached and/or attached configuration. This will allow more options, including cottage cluster type development.

In an effort promote clarity and objectivity, other categories should be examined. This includes standalone multifamily development, when development is above non-residential use, and when units (even one) is on the same level as a non-residential use. Basically, want all zoning districts to be cohesive to promote clarity and objectivity.

See the table attached to this memo. This includes all residential uses; the ones between the horizontal black lines are those for consideration. Note that multifamily standards in Chapter 17.96 SHMC apply when there are three or more units, thus the distinction between 1-2 and 3+ units.

Some questions/comments for the commission:

- The attached table dated January 2, 2024 for the proposed are based on staff's assumptions. Do you agree?
- Should we worry about having dwelling units on the same level as non-residential use at all? Or should this be more focused on ground floor units on the same level as non-residential. Note that having on the same level, at least ground level, promotes work/live spaces.
- Multifamily as a standalone use should be the same as multifamily above nonresidential uses.
- In buildings with non-residential use, we could potentially restrict the number of units to 1. It's the case when a single-detached unit is allowed, that duplexes must be allowed too.

3. **Single room occupancies (SROs).** 2023 HB 3395 adds single room occupancies to the list of “needed housing” and requires local governments to allow them.

Amended ORS language from the HB:

(1) As used in this section “single room occupancy” means 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 re-quire that the occupant share sanitary or food preparation facilities with other units in the occupancy.

(2) Within an urban growth boundary, each local government shall allow the development of a single room occupancy:

(a) With up to six units on each lot or parcel zoned to allow for the development of a detached single-family dwelling; and

(b) With the number of units consistent with the density standards of a lot or parcel zoned to allow for the development of residential dwellings with five or more units.

For zoning, initial proposal to allow SRO up to six units, in any zoning that allows detached single-family dwellings. SRO development would be between 4-6 units. This pertains to the R10 and R7 zones.

We could change our local dentition to be three units, consistent with how we define multi-family development (i.e., 3 or more dwelling units), if so desired.

If the zoning allows detached single-family and multifamily development, units above 6 will be based on the multifamily density allowed by zoning. In these zoning districts, more than 6 units would be a conditional use, consistent with the permitted/conditional use distinction between detached single-family dwellings and multi-family. This pertains to the R5, AR, MHR, MU and HBD zones.

If the zoning district does not allow detached single-family dwellings but allows multifamily development, the minimum SRO units is four (based on the ORS definition) and the number of units allowed would be the same as for multifamily development. This could be more restrictive then the six units possible where a single-family dwelling is allowed. SRO development would be a permitted or conditional use, consistent with how multifamily development is treated in the specific zoning district. This pertains to the RD Marina, PD Plaza (upper floors only), RD Mill and GC zones.

With the proposal to clarify a density limit of 2 units for Highway Commercial and detached single-family dwellings are not allowed in the HC zone, SRO development would not be possible.

Important to note that the statute does not require SRO’s to be treated the same as detached single family dwellings. Because we do not need to treat SRO development like detached-single family dwellings, we can consider certain standards. First, it seems logical to require 1 off-street parking space per unit, consistent with the requirement for a normal studio apartment. Second, the multifamily standards of SHMC 17.96.180 could apply.

Some questions/comments for the commission (some from above):

- The attached table dated January 2, 2024 for the proposed are based on staff’s assumptions for SRO residential development as described above. Do you agree?
- Should we have our local dentition for SRO residential development to be three units, consistent with how we define multi-family development (i.e., 3 or more dwelling units)? This would be instead of the four as defined by the ORS, and promotes some consistency.
- In the case where a zoning district does not allow a detached single-family dwelling, but allows multi-family development, should the initial number of units allowed start at 6 and then 7 or more based on the multifamily dwelling unit density calculation of the zone? Or just require the number of units to match the multifamily dwelling unit? The latter would be more restrictive.
- Should the city require 1 parking space per SRO unit and require SRO development to comply with the same standards a multi-family per SHMC 17.96.180?

4. **2023 House Bill 2984** amending ORS 197.308. ORS 197.308 includes a couple of provisions that preempt local zoning law. HB 2984 resulted in the following (caution, this is an overview of the statute, intended to be better organized for the reader, and not a substitute for reviewing the actual language):

A local government with a population of at least 10,000, shall allow conversions of a building or a portion of one from commercial to residential.

- No zone change or Conditional Use Permit can be imposed
- Economic considerations (e.g., Economic Opportunities Analyses) cannot be considered
- Does not apply to lands zone to allow industrial uses
- Off-street parking requirements are limited
- Includes System Development Charge restriction (see City of St. Helen Resolution No. 1999)
- There appears to be density and height exceptions that vary based on existing density standards, that allow higher than normal densities and height, with some potential to reduce with the right findings.
- This does not apply to properties with inadequate utilities, with slopes 25% or greater, floodplains or other natural hazards.

When Resolution No. 1999 was discussed with the Council at their December 20, 2023 work session, they expressed concern about this preemption of our land use laws. There was talk of having the Planning Commission consider it.

One idea was to allow some sort of industrial use in potentially affected zones, because the statue does not call out industrial zoning, rather stating “may not occur on lands zoned to allow industrial uses.” Including limited industrial uses in those zoning districts is a potential strategy, but I’m not sure if the potential backfire of this approach related to the probable lesser impact to the city overall of this new law is worth the risk.

Another provision under ORS 197.308 is that government is to allow affordable housing (as defined by the ORS), including commercial building conversions, if it is on property that is:

- Owned by a public body or non-profit corporation organized as a religious corporation; or
- Is zoned for commercial uses, public lands, or to allow religious assembly

And:

- No zone change or Conditional Use Permit can be imposed
- Economic considerations (e.g., Economic Opportunities Analyses) cannot be considered
- This does not apply to properties with inadequate utilities, with slopes 25% or greater, floodplains or other natural hazards
- May be possible on lands zoned to allow industrial uses if it is publicly owned, adjacent to land zoned for residential uses or schools, and not specifically designated for heavy industrial uses
- There appears to be density and height exceptions that vary based on existing density standards with some potential to reduce with the right findings, but in this case does not apply in areas not zoned for residential uses.

Attached: Zoning Table dated January 2, 2024
HB 2984
City of St. Helens Resolutions No. 1999

Long Term Residential Uses by Zoning District – 2024 Code Amendment Proposal

Zone Use	R10	R7	R5	AR	MHR	MU	RD, Marina	RD, Plaza	RD, Mill	HBD	GC	HC	LI	HI	PL
1-2 Units Attached/Detached	P/P	P/P	P/P	P/P	P/P	P/P	N/N	N/N ¹	N/N	P/P	N/N	N/N	N/N	N/N	N/N
3+ Units Attached/Detached (Proposed)	N/N	N/N	C/N (C/C)	P/N (P/P)	C/N (C/C)	C/N (C/C)	C/N	N/N	P/N	C/N (C/C)	C/N	N/N	N/N	N/N	N/N
1-2 Units Upper Floors (Proposed)	N	N	N	N	N	S (P)	S (P)	P	P	S (P)	S (P)	S (C)	N	N	N
3+ Units Upper Floors (Proposed)	N	N	N	N	N	S (C)	S (C)	P	P	S (C)	S (C)	S (N)	N	N	N
Unit, Same Level as Non-Residential (Proposed)	N	N	N	N	N	C	S (N)	S ² (C)	S (C)	C	S (C)	S (N)	N	N	N
Single Room Occupancy (Proposed)	S (P-6)	S (P-6)	S (P-6) (C-6+)	S (P-6) (P-6+)	S (C-6+)	S (P-6) (C-6+)	S (C-4+)	S (P-4+ Upper Only)	S (P-4+)	S (P-6) (C-6+)	S (C-4+)	S (N)	N	N	N
Attached SFD	N	N	P	P	N	P	N	N	P	P	N	N	N	N	N
M Home Park	N	N	N	N	P	N	N	N	N	N	N	N	N	N	N
RV Park	N	N	N	N	C	C	C	N	N	N	C	C	C	C	C
Houseboat	N	N	N	N	N	N	P	N	P	N	N	N	N	N	N
Caretaker	N	N	N	N	N	N	N	N	N	N	N	N	C	C	N

¹ Except for historic residential structures

² Except not allowed on first floor

P - Permitted
N - Not Allowed

C - Conditional Use
S - Silent

Zoning Districts

R-10: Suburban residential

R7: Moderate residential

R5: General residential

AR: Apartment residential

MHR: Mobile home residential

MU: Mixed use

RD: Riverfront district (Marina, Plaza, and Mill subdistrict)

HBD: Houlton business district

GC: General commercial

HC: Highway commercial

LI: Light industrial

HI: Heavy industrial

PL: Public lands

The official zoning map can be found here: <https://www.sthelensoregon.gov/planning/page/zoning-maps-gis>

Zoning information can also be found here: <http://webgis.metroplanning.com/sainthelensgis/sainthelensgis.html>

Enrolled House Bill 2984

Sponsored by Representative MARSH; Representatives ANDERSEN, DEXTER, FAHEY, HELM, MCLAIN, Senators ANDERSON, DEMBROW, GOLDEN, JAMA, PATTERSON (Presession filed.)

CHAPTER

AN ACT

Relating to housing; amending ORS 197.308.

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

SECTION 1. ORS 197.308, as amended by section 4, chapter 47, Oregon Laws 2022, is amended to read:

197.308. (1) As used in this section[,]:

(a) “Affordable housing” means residential property:

[(a)] (A) In which:

[(A)] (i) Each unit on the property is made available to own or rent to families with incomes of 80 percent or less of the area median income [*as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development*]; or

[(B)] (ii) The average of all units on the property is made available to families with incomes of 60 percent or less of the area median income; and

[(b)] (B) Whose affordability [*is enforceable*], including **affordability under a covenant** as described in ORS 456.270 to 456.295, **is enforceable** for a duration of no less than 30 years.

(b) “**Area median income**” means **the median income for the metropolitan statistical area in which housing is located as determined by the Housing and Community Services Department and adjusted for household size based on information from the United States Department of Housing and Urban Development.**

(2) A local government shall allow affordable housing[, *and may not require a zone change or conditional use permit for affordable housing.*] if the proposed affordable housing is on property that is:

(a) Owned by:

(A) A public body, as defined in ORS 174.109; or

(B) A nonprofit corporation that is organized as a religious corporation; or

(b) Zoned:

(A) For commercial uses;

(B) To allow religious assembly; or

(C) As public lands.

(3) A local government shall allow the conversion of a building or a portion of a building from a commercial use to a residential use.

[(3)] (4) [Subsection (2)] **Subsections (2) and (3)** of this section:

[(a) Does not apply to the development of housing not within an urban growth boundary.]

(a) Prohibit the local government from requiring a zone change or conditional use permit before allowing the use.

(b) *[Does]* **Do** not trigger any requirement that a local government consider or update an analysis as required by a statewide planning goal relating to economic development.

[(c) Applies on property zoned to allow for industrial uses only if the property is:]

[(A) Publicly owned;]

[(B) Adjacent to lands zoned for residential uses or schools; and]

[(C) Not specifically designated for heavy industrial uses.]

[(d)] (c) [Does] **Do** not apply on lands where the local government determines that:

(A) The development on the property cannot be adequately served by water, sewer, storm water drainage or streets, or will not be adequately served at the time that development on the lot is complete;

(B) The property contains a slope of 25 percent or greater;

(C) The property is within a 100-year floodplain; or

(D) The development of the property is constrained by land use regulations based on statewide land use planning goals relating to:

(i) Natural disasters and hazards; or

(ii) Natural resources, including air, water, land or natural areas, but not including open spaces or historic resources.

(5) The development of housing under subsection (2) of this section may occur only:

(a) Within an urban growth boundary; and

(b) On lands zoned to allow for industrial uses only if the property is:

(A) Publicly owned;

(B) Adjacent to lands zoned for residential uses or schools; and

(C) Not specifically designated for heavy industrial uses.

(6) The development of housing under subsection (3) of this section:

(a) Applies only within an urban growth boundary of a city with a population of 10,000 or greater;

(b) May not occur on lands zoned to allow industrial uses;

(c) May require the payment of a system development charge as defined in ORS 223.299 only if:

(A) The charge is calculated pursuant to a specific adopted policy for commercial to residential conversions adopted on or before December 31, 2023; or

(B) The charge is for water or wastewater and includes an offset for at least 100 percent of the water or wastewater system development charges paid when the building was originally constructed; and

(d) May not be subject to enforcement of any land use regulation that establishes a minimum number of parking spaces that is greater than the lesser of:

(A) The amount that may be required for the existing commercial use; or

(B) The amount that may be required in lands zoned for residential uses that would allow the converted development.

[(4)] (7) A local government shall approve an application at an authorized density level and authorized height level, as defined in ORS 227.175 (4), for the development of affordable housing, at the greater of:

(a) Any local density bonus for affordable housing; or

(b) Without consideration of any local density bonus for affordable housing:

(A) For property with existing maximum density of 16 or fewer units per acre, 200 percent of the existing density and 12 additional feet;

(B) For property with existing maximum density of 17 or more units per acre and 45 or fewer units per acre, 150 percent of the existing density and 24 additional feet; or

(C) For property with existing maximum density of 46 or more units per acre, 125 percent of the existing density and 36 additional feet.

[(5)(a)] **(8)(a)** Subsection [(4)] **(7)** of this section does not apply to housing allowed under subsection (2) of this section in areas that are not zoned for residential uses.

(b) A local government may reduce the density or height of the density bonus allowed under subsection [(4)] **(7)** of this section as necessary to address a health, safety or habitability issue, including fire safety, or to comply with a protective measure adopted pursuant to a statewide land use planning goal. Notwithstanding ORS 197.350, the local government must adopt findings supported by substantial evidence demonstrating the necessity of this reduction.

SECTION 1a. If House Bill 3442 becomes law, section 1 of this 2023 Act (amending ORS 197.308) is repealed and ORS 197.308, as amended by section 4, chapter 47, Oregon Laws 2022, and section 1, chapter __, Oregon Laws 2023 (Enrolled House Bill 3442), is amended to read:

197.308. (1) As used in this section[.];

(a) “Affordable housing” means residential property:

[(a)] **(A)** In which:

[(A)] **(i)** Each unit on the property is made available to own or rent to families with incomes of 80 percent or less of the area median income [*as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development*]; or

[(B)] **(ii)** The average of all units on the property is made available to families with incomes of 60 percent or less of the area median income; and

[(b)] **(B)** Whose affordability [*is enforceable*], including **affordability under a covenant** as described in ORS 456.270 to 456.295, **is enforceable** for a duration of no less than 30 years.

(b) “Area median income” means the median income for the metropolitan statistical area in which housing is located as determined by the Housing and Community Services Department and adjusted for household size based on information from the United States Department of Housing and Urban Development.

(2) A local government shall allow affordable housing[, *and may not require a zone change or conditional use permit for affordable housing.*] if the proposed affordable housing is on property that is:

(a) Owned by:

(A) A public body, as defined in ORS 174.109; or

(B) A nonprofit corporation that is organized as a religious corporation; or

(b) Zoned:

(A) For commercial uses;

(B) To allow religious assembly; or

(C) As public lands.

(3) A local government shall allow the conversion of a building or a portion of a building from a commercial use to a residential use.

[(3)] **(4)** [Subsection (2)] **Subsections (2) and (3)** of this section:

[(a) *Does not apply to the development of housing not within an urban growth boundary.*]

(a) Prohibit the local government from requiring a zone change or conditional use permit before allowing the use.

(b) [Does] **Do** not trigger any requirement that a local government consider or update an analysis as required by a statewide planning goal relating to economic development.

[(c) *Applies on property zoned to allow for industrial uses only if the property is:*]

[(A) *Publicly owned;*]

[(B) *Adjacent to lands zoned for residential uses or schools; and*]

[(C) *Not specifically designated for heavy industrial uses.*]

[(d)] **(c)** Except as provided in paragraph [(e)] **(d)** of this subsection, [*does*] **do** not apply on lands where the local government determines that:

(A) The development on the property cannot be adequately served by water, sewer, storm water drainage or streets, or will not be adequately served at the time that development on the lot is complete;

(B) The property contains a slope of 25 percent or greater;

(C) The property is within a 100-year floodplain; or

(D) The development of the property is constrained by land use regulations based on statewide land use planning goals relating to:

(i) Natural disasters and hazards; or

(ii) Natural resources, including air, water, land or natural areas, but not including open spaces or historic resources.

[(e)] (d) [Does] Do apply to property described in paragraph [(d)(C)] (c)(C) and (D)(i) of this subsection if more than 60 percent of the lands within the urban growth boundary that the property is within are located within a tsunami inundation zone or if more than 30 percent of the lands within the urban growth boundary that the property is within are located within a 100-year floodplain.

(5) The development of housing under subsection (2) of this section may occur only:

(a) Within an urban growth boundary; and

(b) On lands zoned to allow for industrial uses only if the property is:

(A) Publicly owned;

(B) Adjacent to lands zoned for residential uses or schools; and

(C) Not specifically designated for heavy industrial uses.

(6) The development of housing under subsection (3) of this section:

(a) Applies only within an urban growth boundary of a city with a population of 10,000 or greater;

(b) May not occur on lands zoned to allow industrial uses;

(c) May require the payment of a system development charge as defined in ORS 223.299 only if:

(A) The charge is calculated pursuant to a specific adopted policy for commercial to residential conversions adopted on or before December 31, 2023; or

(B) The charge is for water or wastewater and includes an offset for at least 100 percent of the water or wastewater system development charges paid when the building was originally constructed; and

(d) May not be subject to enforcement of any land use regulation that establishes a minimum number of parking spaces that is greater than the lesser of:

(A) The amount that may be required for the existing commercial use; or

(B) The amount that may be required in lands zoned for residential uses that would allow the converted development.

[(4)] (7) The development of housing allowed under subsection [(3)(e)] (4)(d) of this section may only occur:

(a) Within an urban growth boundary located no more than 10 miles from the Pacific Ocean;

(b) In areas that require compliance with minimum federal regulations under the National Flood Insurance Program or with local floodplain development regulations adopted by the applicable local government, provided that the local regulations are equal to or more stringent than the minimum federal regulations;

(c) In locations that do not include floodways or other areas with higher risks of greater water velocity and debris flow;

(d) In communities with emergency response, evacuation and post-disaster plans that have been updated for the housing development; and

(e) In areas that are not public parks.

[(5)] (8) A local government may prohibit affordable housing or require a zone change or conditional use permit to develop affordable housing in areas described in subsection [(3)(e)] (4)(d) of this section.

[(6)] (9) A local government shall approve an application at an authorized density level and authorized height level, as defined in ORS 227.175 (4), for the development of affordable housing, at the greater of:

(a) Any local density bonus for affordable housing; or

(b) Without consideration of any local density bonus for affordable housing:

(A) For property with existing maximum density of 16 or fewer units per acre, 200 percent of the existing density and 12 additional feet;

(B) For property with existing maximum density of 17 or more units per acre and 45 or fewer units per acre, 150 percent of the existing density and 24 additional feet; or

(C) For property with existing maximum density of 46 or more units per acre, 125 percent of the existing density and 36 additional feet.

[(7)(a)] (10)(a) Subsection [(6)] (9) of this section does not apply to housing allowed under subsection (2) of this section in areas that are not zoned for residential uses.

(b) A local government may reduce the density or height of the density bonus allowed under subsection [(6)] (9) of this section as necessary to address a health, safety or habitability issue, including fire safety, or to comply with a protective measure adopted pursuant to a statewide land use planning goal. Notwithstanding ORS 197.350, the local government must adopt findings supported by substantial evidence demonstrating the necessity of this reduction.

Passed by House March 28, 2023

Received by Governor:

Repassed by House June 23, 2023

.....M.,....., 2023

Approved:

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Timothy G. Sekerak, Chief Clerk of House

.....M.,....., 2023

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Dan Rayfield, Speaker of House

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Tina Kotek, Governor

Passed by Senate June 21, 2023

Filed in Office of Secretary of State:

.....M.,....., 2023

.....
Rob Wagner, President of Senate

.....
Secretary of State

City of St. Helens
RESOLUTION NO. 1999

A RESOLUTION ADOPTING A POLICY REGARDING SYSTEM
DEVELOPMENT CHARGES FOR CONVERSION OF BUILDINGS FROM
COMMERCIAL TO RESIDENTIAL USE IN NON-INDUSTRIAL ZONES

WHEREAS, the Oregon Legislature adopted House Bill (HB) 2984 in the 2023 legislative session amending ORS 197.308 to allow the conversion of buildings from commercial to residential use within Urban Growth Boundaries of cities with a population of 10,000 or greater, under certain conditions; and

WHEREAS, HB 2984, Section 1(6)(c) [ORS 197.308(6)(c)] permits cities to assess System Development Charges (SDCs) for such building conversions if (A) "the charge is calculated pursuant to a specific adopted policy for commercial to residential conversions adopted on or before December 31, 2023," or (B) "the charge is for water or wastewater and includes an offset for at least 100 percent of the water or wastewater SDCs paid when the building was originally constructed;" and

WHEREAS, the City of St. Helens' population exceeds 10,000; and

WHEREAS, the City does not have "a specific adopted policy for *commercial to residential* conversions." When a building or portion thereof is converted from *any* use to *any other* use, the City's current Systems Development Charge (SDC) regulations require payment of SDCs, but a credit for the existing use is applicable to reduce or eliminate the SDC charges pursuant to St. Helens Municipal Code 13.24.130; and

WHEREAS, the City Council desires to preserve the City's full local authority to assess SDCs for the conversion of commercial buildings and finds that Chapter 13.24 of the St. Helens Municipal Code, as now drafted and hereafter amended, will sufficiently address all SDC methodology, rates, and other applicable terms and conditions needed to calculate SDC charges for commercial to residential building conversions pursuant to HB 2984.

NOW, THEREFORE, THE CITY OF ST. HELENS RESOLVES AS FOLLOWS:

Section 1. The City Council hereby adopts Chapter 13.24 of the St. Helens Municipal Code, as currently in effect and as may be amended from time to time, as the City's specific policy for SDC calculations in connection with all residential development, including commercial to residential conversions pursuant to HB 2984.

Section 2. This Resolution shall become effective immediately upon its passage by the City Council.

Approved and adopted by the City Council on December 20, 2023, by the following vote:

Ayes: Chilton, Sundeen, Gundersen, Hubbard, Scholl

Nays: None


Rick Scholl, Mayor

ATTEST:


Kathy Payne, City Recorder