Dunes City Planning Commission ~ Special Session

Thursday, December 12, 2024 ~ 6:00 pm

If Agenda items are not completed, the meeting will continue on a date to be announced. Please sign in on the "Request for Recognition" form, if you wish to address the Commission or present testimony at a Public Hearing.

AGENDA

1. **Call to Order** ..... **Chair/Vice Chair**
2. **Roll Call** ..... **City Staff**
3. **Pledge of Allegiance** ..... **Participants**
4. **Consideration of the Agenda** ..... **Action Item**
5. **Consideration of the Consent Agenda** ..... **Action Item**
   1) Planning Commission Minutes from November 21, 2024, Special Session
6. **Announcements / Correspondence**
   1) City Council Regular Session Minutes from November 20, 2024 meeting
   2) Oregon Department of Land Conservation & Development
7. **Citizen Input**

   Maximum time is 20 minutes. Each speaker is allowed three (3) minutes.
   If there are more than seven speakers, each speaker's time may be reduced to fit within the 20 minutes.
8. **New Business**
   1) Schedule Next Planning Commission Meeting ..... **Discussion/Action Item**
9. **Unfinished / Old Business**
   1) Chapter 155 Remand from City Council (Continued) ..... **Discussion/Action Item**
      Follow up on Multi-Family Housing
      Follow up on Accessory Dwelling Unit
      Follow up on Building an Outbuilding Before a Home
      Follow up on Density
10. **Unscheduled Items Not Listed on the Agenda / For the Good of the Order**
11. **Adjournment**

PLANNING COMMISSION MEETING MINUTES ~ DRAFT

SPECIAL SESSION NOVEMBER 21, 2024 AT 6:00 PM

City Hall ~ 82877 Spruce St. Westlake, OR

These proceedings of the Dunes City Council were recorded and are on file at Dunes City Hall. Upon approval by the City Council, these minutes will be available online at www.DunesCity.gov

1. CALL TO ORDER

Chair Rapunzel Oberholtzer called the Thursday, November 21, 2024 Special Session of the Dunes City Planning Commission meeting to order at 6:00 p.m.

2. ROLL CALL

City Administrator Lila Timmons called the roll.

Present: Chair Rapunzel Oberholtzer, Vice Chair Ken Pesnell, Commissioner Gail Nichols, and Commissioner Jamie Gorder.

Commissioner Sean Grundon was absent.

Also Present: City Administrator Lila Timmons, and Jeanne Jackson.

3. PLEDGE OF ALLEGIANCE TO THE FLAG

All who were present stood for the Pledge of Allegiance.

4. CONSIDERATION OF THE AGENDA

Chair Rapunzel Oberholtzer asked if there were any questions or comments regarding the agenda. There were none.

Commissioner Gail Nichols made a motion to approve the Agenda. Commissioner Jamie Gorder seconded the motion. The motion passed unanimously.

5. CONSIDERATION OF THE CONSENT AGENDA

Chair Rapunzel Oberholtzer asked if there were any questions or comments.
Chair Rapunzel Oberholtzer stated that she had a few corrections to the Planning Commission minutes.
Vice Chair Ken Pesnell also had a change for the Planning Commission minutes.

Vice Chair Ken Pesnell made a motion to approved the amended consent agenda. Commissioner Gail Nichols seconded the motion. The motion passed unanimously.

6. ANNOUNCEMENTS / CORRESPONDENCE

A. City Council Regular Session minutes from November 6, 2024 meeting

Chair Rapunzel Oberholtzer asked if there were any questions regarding the City Council meeting minutes.
Vice Chair Ken Pesnell asked if the Clean Rivers proposal was for a property. It was confirmed that it was for a property.
City Administrator Lila Timmons stated that in January, Hui Rodomsky, the South Coast Regional Representative, planned to come to a Planning Commission meeting.
City Administrator Lila Timmons also stated that she had heard from the City Attorney regarding numbering Ordinances and that it was a best practice to number Ordinances sequentially. The City Administrator had also asked the attorney about a possible HIPAA violation in Chapter 155. The City Attorney felt that it was not a HIPAA violation since Dunes City is not a healthcare provider.

7. CITIZEN INPUT

Citizen Geneva Jackson stated that Lane County allows mother-in-law units and that Dunes City should consider allowing those as well. She further stated that she has not felt welcome at meetings in the past.
Citizen Jeanne Jackson stated that she too has felt unwelcome at meetings.

8. NEW BUSINESS

A. Schedule Next Planning Commission Meeting.
December 12, 2024
Chair Rapunzel Oberholtzer stated that Planning Commission packets are also on the website.

9. UNFINISHED/OLD BUSINESS

A. Chapter 155 Remand from City Council (Continued)
Follow up on Multi-Family Housing
Follow up on Accessory Dwelling Unit
Follow up on Building an Outbuilding Before a Home

Chair Rapunzel Oberholtzer stated that DLCD has suggested that multi-family housing should not be a Conditional Use Permit and it has been suggested that multi-family housing should be moved to Special Standards.

Chair Rapunzel Oberholtzer stated that on page 21, there were definitions of Multi-Family Housing and Multi-Family Dwelling and asked if any changes were proposed. Chair Rapunzel Oberholtzer stated that no changes were to be made.

On page 45, in the table of contents, Chair Rapunzel Oberholtzer asked if the Commission wanted to change any references from Guest Houses to ADU's or Multi-Family. It was decided that Guest Houses change to Multi-Family and that Bed and Breakfasts change to ADU's. It was decided that these changes would also apply to page 50. Vice Chair asked if Short-Term Rentals would be addressed. Chair Rapunzel Oberholtzer stated that Short-Term Rentals are addressed in the Ordinance.

Chair Rapunzel Oberholtzer stated that also on page 50, in paragraph A-1 in 155.2.1.110, the current code states the "One single family dwelling per lot" needs to be changed but asked what the correct language should be. It was decided is should be "Maximum of 4 dwelling units per lot".

Chair Rapunzel Oberholtzer stated that the definitions on page 21 should be addressed. Vice Chair Ken Pesnell suggested that Multi-Family Dwelling should be changed to "A building in which 2-4 residential units…". Chair Rapunzel Oberholtzer suggested that Multi-Family Housing should read, "Multi-family housing is housing that provides for up to 4 separate dwelling units on a single legal lot and shares courtyard, playground, parking area, or other communal areas. It was then decided to leave those definitions for a later date.

Chair Rapunzel Oberholtzer suggested the Commissioners look at the definition of dwelling on page 13 and its possible deletion. Vice Chair Ken Pesnell suggested deleting Dwelling, Dwelling-Single Family, Dwelling-Two Family and adding to Dwelling Unit to say, "but excluding hotels, motels, mobile homes, camping vehicles and travel trailers." All Commissioners agreed.

Chair Rapunzel Oberholtzer stated that on page 51, Multi-Family, Guest Houses, and Bed & Breakfast should be deleted from the list. All Commissioners agreed.

Chair Rapunzel Oberholtzer asked if "Structure Height" needed to be adjusted. Vice Chair Ken Pesnell stated that it shouldn't be different than any other building. All Commissioners agreed.

Chair Rapunzel Oberholtzer asked about the last sentence regarding density. This was not decided upon and is being delayed for further discussion.

10. UNSCHEDULED ITEMS NOT LISTED ON THE AGENDA/FOR THE GOOD OF THE ORDER

Chair Rapunzel Oberholtzer asked the Planning Commissioners if anyone had anything. Vice Chair Ken Pesnell stated that there was a comment in the Dunes City code in question 9 of the survey that has already been changed by the Planning Commission.

11. ADJOURNMENT

Commissioner Gail Nichols made a motion to adjourn the meeting. Commissioner Jamie Gorder seconded the motion. The motion passed unanimously.

Chair Rapunzel Oberholtzer adjourned the meeting at 7:57 pm.

APPROVED BY THE DUNES CITY PLANNING COMMISSION ON THE 12th DAY OF DECEMBER, 2024.

_____

Rapunzel Oberholtzer, Planning Commission Chair

ATTEST:

_____

Lila Timmons, City Administrator/Recorder

DUNES CITY, OREGON
CITY COUNCIL
MEETING MINUTES

REGULAR MEETING
November 20. 2024
CITY HALL

Call to Order	The meeting was called to order at 6:00 pm by Council President Susan Snow.
Pledge of Allegiance to the Flag	Council President Susan Snow led the meeting in the Pledge of Allegiance.
Roll Call	Council President Susan Snow stated that all Councilors were present except Mayor McGuire and Councilor Rich Olson. Also present were other various citizens.
Agenda	City Administrator Lila Timmons stated that the Agenda had been amended due to Mr. Claycomb asking for a continuance until January for his appeal. MOTION MADE BY: Chris Clemons MOTION: To approve the amended agenda for November 20, 2024 Regular Session Agenda. SECONDED: Councilor Joe Giammona IN FAVOR: Unanimous OPPOSED: None Motion Passed
Announcements/Correspondence	City Administrator Lila stated that she had no announcements or correspondence.
Citizen Input	Geneva Jackson read a letter. Jeanne Jackson said she would comment about the water ordinance at that part of the meeting.
Reports	Mayor Report Council President Susan Snow stated that the Mayor had not given her anything to report. Permit Report Council President Susan Snow went over the Permit Report by Permit Technician Pam Palmer.

	City Administrator, Lila Timmons mentioned that the 2 new Short-Term Rentals had been previously counted for therefore the number of Short-Term Rentals stays at 29.
Public Hearing	Public Hearing Continued until 1/15/2025 at 6 pm.
Old Business	Deliberation and Discussion: Water Ordinance MOTION MADE BY: Councilor Melissa Stinson MOTION: That this Ordinance be continued until the Water Master can be present to answer questions. SECONDED: Councilor Tom Mallen IN FAVOR: Unanimous OPPOSED: None Motion Passed
New Business	Short-Term Rental Resolution Council President Susan Snow asked if the Councilors had any questions and to make sure it was discussed at previous meeting. MOTION MADE BY: Councilor Tom Mallen MOTION: To pass Ordinance Number 10, regarding Short-Term Rental fees, non-compliance fees, and the total number of Short-Term Rentals allowed in Dunes City. SECONDED: Councilor Joe Giammona IN FAVOR: Unanimous OPPOSED: None Motion Passed
Executive Session	There was none.
For the Good of the Order	Councilor Joe Giammona stated that he had intended to ask Councilor Rich Olson about the Siltcoos Lake water level.
Adjournment	MOTION MADE BY: Councilor Melissa Stinson MOTION: To adjourn. SECONDED: Councilor Tom Mallen IN FAVOR: Unanimous OPPOSED: None Motion Passed Meeting adjourned at 6:18 pm.

APPROVED BY THE DUNES CITY COUNCIL ON THE 4TH DAY OF December, 2024.

_____

Ed McGuire, Mayor

ATTEST:

_____

Lila Timmons, City Administrator

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Senate Bill 1537 Guidance

(Updated June 12, 2024)

Senate Bill 1537 Background

Senate Bill 1537 (SB 1537 or the bill) was adopted by the Oregon State Legislature in 2024 and signed into law on May 6, 2024. The bill offers a menu of tools that will provide the support needed to ease Oregon's housing and homelessness crisis and help communities thrive. In conjunction with other bills (the package) and investments made during the 2024 legislative session, the bill will make meaningful progress in addressing the current housing shortage while preserving Oregon's land use system and ensuring strong environmental protections. The package establishes the Housing Accountability and Production Office (HAPO or the office), which will be run by the Department of Land Conservation and Development (DLCD) and Department of Consumer and Business Services (DCBS) Building Codes Division (BCD). The office will facilitate and support housing production by assisting local governments and housing developers in understanding and applying state housing laws related to land use, the state building code, and related permitting. Additionally, the office will coordinate state agencies involved in housing development to overcome housing production barriers. This office must be operational by July 1, 2025.

In addition to the HAPO, the bill includes policies and investments to boost housing production statewide, including:

1. Reducing regulatory and procedural barriers to housing production through a mix of limited duration and permanent measures.
2. Providing qualifying local governments a one-time option to add or exchange land to an urban growth boundary through an expedited process to build affordable and market-rate housing.
3. Allocating funding and loans to support housing focused infrastructure development, land acquisition for housing development, and low- and moderate-income housing development.

Guidance

DLCD staff have received a significant number of questions regarding SB 1537, such as how cities can best prepare to comply with the law and take advantage of options available. Below are answers to commonly asked questions that fall under the purview of DLCD.

If you find that you have a question that has not been addressed in this document, please reach out to DLCD staff at housing.dlcd@dlcd.oregon.gov. To stay apprised of updates pertaining to HAPO or funding availability, please sign up to DLCD's Housing GovDelivery. Please note that this document is not intended to serve as HAPO guidance, as the office has not yet been established.

Additionally, the guidance provided in this document represents DLCD staff's best understanding of statute and is not intended to provide definitive legal interpretation, advice, or guidance. For such questions, DLCD advises consulting legal counsel.

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Sections 1 – 7, Housing Accountability and Production Office (HAPO)

Effective date: June 7, 2024 | Operative date: July 1, 2025 | Sunset date: N/A

Question 1: What is the Housing Accountability and Production Office?

Answer: *The Housing Accountability and Production Office is a joint office between the Department of Land Conservation and Development and the Building Codes Division of the Department of Consumer and Business Services. SB 1537 directs DLCD and BCD to establish a joint office that is operational by July 1, 2025. More information on HAPO is available for review on DLCD's website.*

Question 2: What is HAPO's function and duties?

Answer: *HAPO's specific duties are outlined in Section 1 (2) of SB 1537, which breaks down to three primary functions. The office:*

1. *Serves as a resource for local governments and housing developers in complying with state housing laws and reducing barriers to the development of housing. This includes technical and financial assistance, guidance, mediation, and investigation of complaints submitted to the office. The office may pursue an enforcement action on a found violation of state housing law where voluntary remedies to identified violations are not taken.*
2. *Coordinates various state agency policies, programs, and funding related to housing production.*
3. *Produces studies, research, guidance, and best practices to reduce barriers to housing production. This includes studies on relevant state and local barriers to production, the provision of model codes, and the development of 'ready-build' plans.*

Question 3: *What are "housing laws"?*

Answer: *SB 1537 defines specific statutes as "housing laws" under the authority of HAPO in Section 1 (5)(a). In short, 'housing laws' are a subset of land use and building code statutes and associated administrative rules that apply to local governments and relate to housing development or the permitting or division of land for housing. DLCD will prepare a more comprehensive overview of "housing laws" related to land use planning (not including state building code) in the coming months.*

"Housing laws" do not comprehensively include all laws related to housing. As an example, long-range planning responsibilities under Goal 10 and Goal 14, including the Oregon Housing Needs Analysis, are not encompassed under the definition of "housing law" but remain a local statutory obligation. Other examples of laws related to housing that are not encompassed in this definition include landlord/tenant law, fair housing law, condominium law, or affordable housing financing.

"(a) 'Housing law' means ORS chapter 197A and ORS 92.010 to 92.192, 92.830 to 92.845, 197.360 to 197.380, 197.475 to 197.493, 197.505 to 197.540, 197.660 to 197.670, 197.748, 215.402 to 215.438, 227.160 to 227.186, 455.148, 455.150, 455.152, 455.153, 455.156, 455.157, 455.165, 455.170, 455.175, 455.180, 455.185 to 455.198, 455.200, 455.202 to 455.208, 455.210, 455.220, 455.465, 455.467, and administrative rules implementing those laws, to the extent that the law or rule imposes a mandatory duty on a local government or its officers, employees or agents and the application of the law or rule applies to residential development or pertains to a permit for a residential use or a division of land for residential purposes."

Question 4: Will HAPO take enforcement actions against cities that violate state housing laws?

Answer: *HAPO is directed to prioritize providing technical assistance, mediation, and remedies to support and incentivize voluntary local compliance with state housing laws. The office is also authorized and directed to utilize certain enforcement tools where a violation is identified and after a local government does not take action to remedy the violation. DLCD is committed to developing consistent internal procedures in coordination with local governments to ensure the use of enforcement tools are clear and consistent.*

Where HAPO is authorized to pursue an enforcement-related action, the office may:

1. *Initiate a request for an enforcement order of the Land Conservation and Development Commission.*
2. *Seek a court order against a local government under ORS 455.160 (3) related to timely building code inspections and plan reviews.*
3. *Participate in and seek review of a land use decision that pertains to housing laws*
4. *Apply to a circuit court for an order compelling compliance with any housing law, except for matters under the exclusive jurisdiction of the Land Use Board of Appeals.*

Question 5: When will HAPO be operational and reviewing local development ordinances?

Answer: *HAPO is required to be operative and ready to review complaints of potential violations on July 1, 2025. BCD and DLCD are allowed under the bill to take actions before the operative date necessary to set up the office, such as hiring staff, procurement of services, convening implementing partners, internal and operational work, or distributing technical assistance funding to local governments.*

Question 6: What types of resources will HAPO provide?

Answer: *The office is directed to provide a range of financial and technical assistance to local governments and housing developers, including:*

1. *Financial and consultant support to support local compliance with state housing laws.*
2. *Guidance to local staff on the applicability of housing laws to the development process.*
3. *Technical and best practices resources to reduce barriers to housing production, such as model land use codes, ready-build plans, and research.*
4. *Coordination with other state agencies to identify and direct policies, programs, and funding to reduce barriers to housing production.*

Question 7: If a local government identifies a housing-related code issue, are there funding resources available to help fix it?

Answer: *Yes. HAPO – through DLCD – was appropriated $4 million in local planning assistance funding to support any needed land use or zoning code work. This money is appropriated to a distinct fund that extends beyond the current biennium, past June 30, 2025, if necessary. The department will be requesting additional resources to recapitalize this fund for the 2025-2027 biennium. DLCD is currently working with its procurement team to establish a process where local governments can formally request funding for code work. To stay apprised of future updates on funding availability, please keep in touch with your DLCD Regional Representative.*

Question 8: Will HAPO develop and distribute resources other than technical and funding assistance, such as model codes?

Answer: *Yes, HAPO has general direction to develop model land use codes and "ready-build" plans to support local implementation of housing laws. Additionally, DLCD has direction and appropriation to develop specific model ordinances under a separate bill – which must be complete by January 1, 2026.*

Question 9: What is the role of the Building Codes Division (BCD) in the HAPO office?

Answer: *BCD will staff the office by providing expertise and customer service in the administration of building code as it relates to housing development. Additionally, BCD will coordinate with DLCD via HAPO on issues where land use and building codes intersect, such as in the development of "ready-build" housing plans.*

Question 10: Does HAPO review local Goal 10 requirements, including Housing Capacity Analyses (HCAs) and Housing Production Strategies (HPS)?

Answer: *No. HAPO's directed focus is on the application of housing laws to the development of housing. In relationship to land use planning, the office will primarily focus on local development review and its relationship with statute and administrative rule. The Land Conservation and Development Commission (LCDC) and the DLCD Housing Division maintain authority over Goal 10 implementation, including Housing Capacity Analyses and Housing Production Strategies*

Question 11: Will HAPO refer or audit cities that are referred into the housing acceleration program[1] under the Oregon Housing Needs Analysis policy (HB 2001/2889; 2023 Session)?

Answer: *No. HAPO is statutorily prohibited from utilizing the authority of DLCD in implementing the Housing Acceleration Program. While HAPO may be able to provide code support and expertise where warranted, the responsibility for conducting audits under the Housing Acceleration Program will remain the responsibility of the DLCD Housing Division.*

[1] To learn more about the housing acceleration program, please visit DLCD's House Bill 2001 Rulemaking webpage.

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Sections 8 – 9, Opting into Amended Housing Regulations – the "Goal-Post Rule"

Operative date: June 7, 2024 | Sunset date: N/A

Question 12: What is the "goal-post rule"?

Answer: *State law sets parameters and timelines on the local review of housing. ORS 227.178 for cities and ORS 215.427 for counties outline the requirements and timelines that cities and counties must follow when reviewing applications for permits, limited land use decisions, or zone changes. One component of this statute is the goal-post rule, which clarifies that the city or county must apply the standards and criteria that were applicable when an application was first submitted.*

Question 13: How does SB 1537 change the goal-post rule?

Answer: *SB 1537 amends the goal-post rule to enable an applicant for the development of housing to "opt in" to new standards adopted by a city or county that were adopted after the applicant submitted an application. This enables an applicant to apply a city or county's new development standards and criteria if they choose to, without having to withdraw and resubmit their application.*

The goal-post rule is otherwise unchanged by SB 1537.

Question 14: What types of applications does this change apply to? Does it apply to building permits?

Answer: *This change applies to all permits and zone changes under ORS 227.175 and 215.427. It does not apply to building permits or other types of applications that are unaffected by the goal-post and 120-day rules set forth by these statutes.*

Question 15: How does this change affect statutory timelines for reviewing land use applications?

Answer: *An applicant may submit a request to apply newly adopted standards to a land use application any time after application submittal up to the issuance of public notice of the application. If an applicant requests to opt into newly adopted standards, the application would be deemed automatically incomplete and the timelines for completeness review and final decisions restart as if a new application were submitted.*

Question 16: What additional information would an applicant need to provide for completeness under the new criteria?

Answer: *The city or county determines what additional information, if any, is necessary to review the application under the newly applicable criteria. This process follows the typical completeness process, in which a city or county either deems an application complete or notifies the applicant in writing what information is missing and needed to render a decision.*

Question 17: Can a city or county deny this request?

Answer: *A city or county may deny this request if the city has issued public notice of the application or if the applicant had previously requested to opt into newly applicable standards for a given application. Otherwise, a city or county is required to accommodate the request.*

Question 18: Can the city or county charge the applicant a second fee if they make a request?

Answer: *The city or county may not require the applicant to pay a fee, except to cover additional costs incurred by the city to accommodate the request. This means a city or county can charge for additional*

staff time or resources spent reviewing the application under the new standards but would not be permitted to simply charge the same fee twice if that did not reflect the cost incurred for review.

Question 19: Can the city or county require the applicant submit new application submittal materials?

Answer: *The city or county may require the applicant to provide additional information needed to render a decision under the new standards. This could include information resubmittal if the change affects the entire application, or the information is needed to understand the change in context. However, the city may not otherwise require the applicant submit an entirely new application or duplicative information.*

Question 20: If the city or county requires certain processes or hearings for a given application, can they require these to be repeated by the applicant?

Answer: *The city or county may not require an applicant to repeat processes or hearings that are inapplicable to the change in standards or criteria.*

Question 21: Does a city or county need to notify an applicant of a change in regulations applied during the pendency of their application?

Answer: *There is nothing in the statute requiring nor prohibiting notification to the applicant. The only notification requirements that would apply are those that apply to land use regulations generally (e.g., Measure 56).*

Section 10, Attorney Fees

Operative date: June 7, 2024 | Sunset date: N/A

Question 22: What are attorney fees under SB 1537?

Answer: *Attorney fees are costs awarded to a prevailing party or parties on appeal. Attorney fees include legal costs incurred by the party or parties. This includes prelitigation legal expenses incurred by the prevailing party or parties, including land use application preparation and processing expenses as well as costs to support the application in local land use hearings or proceedings.*

Prior to SB 1537, state law required the Land Use Board of Appeals (LUBA) to award attorney fees to applicants of affordable housing development, if that applicant appealed a denial by a local government and LUBA reversed the decision. SB 1537 expands this to award attorney fees to both applicants of housing development and to local governments in certain circumstances.

Question 23: Who awards, who is awarded, and who pays attorney fees under SB 1537?

Answer: *SB 1537 requires LUBA to award attorney fees to the following parties:*

1. (Existing policy) – Applicants for the development of affordable or publicly-supported housing, if LUBA reverses a local quasi-judicial land use decision denying the application. The local government would pay the attorney fees to the applicant.
2. (New under SB 1537) – Applicants for the development of housing that was approved by a local government if LUBA affirms the decision. The petitioner would pay the attorney fees to the applicant.
3. (New under SB 1537) – The local government that approves a quasi-judicial land use decision for the development of housing if LUBA affirms the decision. The petitioner would pay the attorney fees to the local government.

Note: LUBA is directed to award attorney fees for both affordable and non-affordable housing within urban growth boundaries (UGBs). Only affordable housing is eligible for attorney fees outside of a UGB. LUBA would not award attorney fees for other kinds of housing outside of a UGB.

LUBA procedure for appeals (OAR 661-010-0075) outlines the process and parameters for awarding attorney fees.

Question 24: Would a local government be required to pay attorney fees to an applicant for housing under SB 1537?

Answer: *SB 1537 does not introduce new requirements for local governments to pay attorney fees to an applicant for housing. Under existing state law prior to SB 1537, local governments can be required to pay attorney fees to an applicant for the development of affordable or publicly-supported housing if the local government denies the application and the applicant prevails on appeal.*

Local governments would not be required to pay attorney fees to applicants for non-affordable housing if the local government denies the application and the applicant prevails on appeal. Attorney fees would only be awarded to both the applicant and local government if the local government approves the application, the decision is appealed, and LUBA affirms the decision.

Sections 37 – 43, Housing Land Use Adjustments

Operative date: January 1, 2025 | Sunset date: January 2, 2032

Question 25: What is an adjustment?

Answer: *An adjustment is a deviation from an existing land use regulation.*

An adjustment does not include:

1. *Use of a property that is otherwise not allowed in a zone.*
2. *Deviations to standards related to:*

Accessibility	*Local tree codes*
Affordability	*Hazardous/contaminated site clean-up*
Fire ingress/egress	*Wildlife protection*
Safety	

Statewide land use planning goals related to natural resources, natural hazards, the Willamette River Greenway, estuarine resources, coastal shorelands, beaches and dunes, or ocean resources

3. *A complete waiver of land use regulations or changes beyond explicitly requested and allowed adjustments.*
4. *Deviations to requirements related to fire or building codes, federal or state air, water quality or surface, ground or stormwater requirements, or requirements of any federal, state or local law other than a land use regulation.*

Question 26: What does SB 1537 require related to adjustments?

Answer: *SB 1537 requires local governments grant adjustments to specific development and design standards applied to the development of housing if the application meets certain conditions.*

Question 27: What types of housing applications are eligible for adjustments?

Answer: *Section 38 (2) (a) through (g) outline all of the conditions that must be met to be eligible for an adjustment:*

(a) The application is for a building permit or quasi-judicial, limited, or ministerial land use decision
(b) The development is on lands zoned to allow for residential or mixed-use residential uses
(c) The development meets minimum net densities articulated in Section 55 (3)(a)(C):
  (A) 17 du/ac in the Metro UGB
  (B) 10 du/ac in cities of 30,000 population or more (not in the Metro UGB)
  (C) 6 du/ac in cities of 2,500 population or more (not in the Metro UGB)
  (D) 5 du/ac in cities less than 2,500 population (not in the Metro UGB)
(d) The development is within an urban growth boundary, not including unincorporated lands
(e) The development is of net new housing units, including single-family, multifamily, mixed-use, manufactured home parks, accessory dwellings, or middle housing
(f) The application requests no more than 10 distinct adjustments, and
(g) The application states how at least one of the following criteria applies:
  (A) The adjustment makes housing development feasible when it otherwise would not be
  (B) The adjustment reduces the sale/rental price per unit
  (C) The adjustment will increase the number of units in the application
  (D) All units are subject to an affordable housing covenant to be affordable to moderate income (80-120% Median Family Income) households for at least 30 years

(E) 20% of units are subject to an affordable housing covenant to be affordable to low-income households (≤80% Median Family Income) for at least 60 years

(F) The adjustment enables the provision of accessibility or visitability features that would not otherwise be feasible

(G) The units are subject to a zero equity, limited equity, or shared equity ownership model making them affordable to moderate income households for 90 years.

Question 28: Are counties required to grant adjustments on unincorporated lands?

Answer: *No. Applications are only eligible for adjustments on lands within a UGB and annexed to a city.*

Question 29: What procedure must a local government use to process adjustment requests?

Answer: *Adjustments made under this statute are limited land use decisions (see Limited Land Use Decision section below on page 16 for more detail). A city may use an existing process or develop and apply a new process that complies with the requirements of statute.*

Question 30: What counts as a distinct adjustment?

Answer: *A distinct adjustment is an adjustment to one of the development or design standards listed in Section 58 (4) or (5) where each discrete adjustment to a listed development or design standard that includes multiple component standards must be counted as an individual adjustment.*

For example, if an applicant requested an adjustment to "roof forms and materials" (Section 38 (5)(c)), including an adjustment to both the form and the material the roof, that adjustment would count as one distinct adjustment.

As another illustrating example, if an applicant requested an adjustment to "Side or rear setbacks, for an adjustment of not more than 10 percent" (Section 38 (4)(a)) for multiple lots in a subdivision, this would count as one distinct adjustment.

Question 31: Is "net residential density" defined?

Answer: *Yes. The bill requires a specific number of "units per net residential acre" to qualify for an adjustment based on city population size. A "net residential acre" means an acre of residentially designated buildable land, not including rights of way for streets, roads or utilities or areas not designated for development due to natural resource protections or environmental constraints.*

Question 32: What evidence must be submitted to demonstrate Section (2) (a) through (g) are met? How would a local government verify the conditions in the statute sufficient for an approval or denial?

Answer: *The applicant must submit information demonstrating that the criteria in Section (2) (a) through (g) are met. If the applicant fails to include this information, a local government may deny the request for adjustment, with findings related to how the criteria are or are not met. For the following standards, this includes:*

(a) A narrative confirmation that the application is for a building permit or a quasi-judicial, limited or ministerial land use decision.

(b) A narrative confirmation that the development is on lands zoned to allow for residential uses, including mixed-use residential uses.

(c) A narrative and corroborating site information demonstrating that the development proposal, in total on the site, meets the minimum net residential densities of Section 55 (3)(a)(C).

(d) A narrative confirming that the development is both within an urban growth boundary and annexed to a city.

(e) A narrative and corroborating site information confirming that the development will create net new housing units that include:

- *(A) Single-family or multifamily*
- *(B) Mixed-use residential where at least 75 percent of the developed floor area will be used for residential uses*
- *(C) Manufactured dwelling parks*
- *(D) Accessory dwelling units, or*
- *(E) Middle housing as defined in ORS 197A.420*

(f) A narrative confirming that the total requested adjustments do not exceed 10 distinct adjustments (see question above for what counts as a 'distinct adjustment')

(g) A narrative that states how one of the following criteria apply:

- *(A) The adjustment makes housing development feasible when it otherwise would not be*
- *(B) The adjustment reduces the sale/rental price per unit*
- *(C) The adjustment will increase the number of units in the application*
- *(D) All units are subject to an affordable housing covenant to be affordable to moderate income (80-120% Median Family Income) households for at least 30 years*
- *(E) 20% of units are subject to an affordable housing covenant to be affordable to low-income households (≤80% Median Family Income) for at least 60 years*
- *(F) The adjustment enables the provision of accessibility or visitability features that would not otherwise be feasible, or*
- *(G) The units are subject to a zero equity, limited equity, or shared equity ownership model making them affordable to moderate income households for 90 years.*

Question 33: Can a local government apply a condition(s) of approval to ensure that the requirements of Section 38 (a) through (g) (outlined in question 27) are met?

Answer: *There is nothing in statute prohibiting a local government from applying conditions of approval under the mandatory adjustment section necessary to ensure the development proposal complies with the conditions outlined in Section 38 (a) through (g) that qualify an application for adjustments.*

With that said, a local government is limited in requiring anything beyond what is authorized in statute. Additionally, any condition of approval must be clear and objective, similar to any other condition of approval applied to the development of housing.

Question 34: Does a local government need to amend their development codes to incorporate these provisions? Is adoption by reference sufficient?

***Answer**: A local government may adopt conforming amendments to implement Section 38 by reference or apply the statute directly for adjustment requests. DLCD does not recommend updating codes implementing this section, given that the provision will sunset in 2032.*

Question 35: Will HAPO prepare a model code or set of standards local governments can apply to implement Section 38?

Answer: *There are no specific plans yet for HAPO to produce a model set of standards. This may change once HAPO staff are onboarded.*

Question 36: Is there a process for requesting an exemption to Section 38?

Answer: *Yes, the statute enables HAPO to grant an exemption to this section if a local government meets certain requirements. The local government must demonstrate:*

1. *The local government has a process or processes by which all of the listed development and design adjustments may be granted, and*
2. *The local government either:*
    a. *Has granted 90% of all requested adjustments in the last 5 years, or*
    b. *Has a flexible development process that can accommodate specific project needs, as demonstrated by housing developer testimonials*

HAPO must open a public comment period for at least 45 days and provide a final decision on an exemption within 120 days of receiving the application from a local government. This decision may not be appealed. This decision may include specific conditions of approval necessary to conform with the statutory requirements and may be revoked if HAPO finds that the local government is violating the terms of the exemption or otherwise engaging in a pattern or practice of creating unreasonable cost or delay to housing production.

Question 37: How would a local government prepare & submit an application? Is there a guidance document available for this?

Answer: *DLCD will prepare a guidance document with instructions for local governments seeking to apply for exemptions or time extensions for both limited land use decisions and housing land use adjustments. DLCD anticipates this guidance document will be available to the public in late 2024, once DLCD has onboarded new HAPO staff to prepare these materials. To stay apprised, please sign up to DLCD's Housing GovDelivery for updates pertaining to HAPO.*

Question 38: When can a local government submit an application for an exemption?

Answer: *While HAPO is the reviewing entity for applications, the statute enables DLCD to review and approve applications before January 1, 2025. DLCD will publish formal guidance on how to submit an application for exemption to this process and recommends that local governments interested in an exemption wait until the publication of that guidance document, which will be later this year (2024).*

Question 39: Will a local government be required to grant adjustments through the state process until the exemption decision is made?

Answer: *During the pendency of an exemption application submitted to HAPO, the adjustment requirements of SB 1537 do not apply to a local government.*

Questions about specific adjustments in Section 38 (4) and (5)

Question 40: What specific development and design standards can an applicant request an adjustment to?

Answer: *Section 58 (4) & (5) outline the specific development and design standards that local governments must grant adjustments to. For convenience, they are copied below in* ***bold text****. Questions about specific development & design standards are included with the standards.*

Development Standards – Section 38 (4)

(4) A local government shall grant an adjustment to the following development standards:

(a) Side or rear setbacks, for an adjustment of not more than 10 percent.

Question 41: How are adjustments reconciled with middle housing dimensional standards, set forth in Chapter 660, Division 046?

Answer: *Local governments are required to grant adjustments to the dimensional standard adjustments included in Sections (4) and (5) to middle housing. The statute supersedes administrative rule parameters related to dimensional standards for middle housing.*

(b) For an individual development project, the common area, open space or area that must be landscaped on the same lot or parcel as the proposed housing, for a reduction of not more than 25 percent.

Question 42: Our city applies multiple types of common/landscape/open space standards. Can an applicant ask for a 25% adjustment for each? Does this count as one or multiple 'distinct adjustments'

Answer: *Yes, an applicant may request a 25% adjustment for each standard that falls under this category. It counts as one 'distinct adjustment'*

(c) Parking minimums.

Question 43: Does the parking adjustment have a specified level of adjustment?

Answer: *The statute enables a request for a full adjustment to minimum parking requirements.*

Question 44: Do parking minimums as a by-right adjustment also include the provisions for EV charging spaces?

Answer: *While this provision enables an adjustment to minimum required parking spaces, it does not enable an adjustment to a standard that requires a proportion of provided parking spaces to include EV charging capabilities.*

(d) Minimum lot sizes, not more than a 10 percent adjustment, and including not more than a 10 percent adjustment to lot widths or depths.

(e) Maximum lot sizes, not more than a 10 percent adjustment, including not more than a 10 percent adjustment to lot width or depths and only if the adjustment results in:

(A) More dwelling units than would be allowed without the adjustment; and

(B) No reduction in density below the minimum applicable density.

(f) Building lot coverage requirements for up to a 10 percent adjustment.

(g) For manufactured dwelling parks, middle housing as defined in ORS 197A.420, multifamily housing and mixed-use residential housing:

(A) Requirements for bicycle parking that establish:

(i) The minimum number of spaces for use by the residents of the project, provided the application includes at least one-half space per residential unit; or

(ii) The location of the spaces, provided that lockable, covered bicycle parking spaces are within or adjacent to the residential development;

(B) For uses other than cottage clusters, as defined in ORS 197A.420 (1)(c)(D), building height maximums that:

(i) Are in addition to existing applicable height bonuses, if any; and

(ii) Are not more than an increase of the greater of:

(I) One story; or

(II) A 20 percent increase to base zone height with rounding consistent with methodology outlined in city code, if any;

Question 45: If a local government applies a height bonus, an applicant requests a height adjustment in addition to this bonus, and the combined results in an increase greater than one story, is that acceptable?

Answer: *It can be if the height does not result in more than a 20% increase to the base zone height. If the request results in a height that exceeds both an increase of one story or 20%, it would not be eligible for an adjustment.*

(C) Unit density maximums, not more than an amount necessary to account for other adjustments under this section; and

Question 46: What does 'not more than an amount necessary to account for other adjustments' mean? Provide an example.

Answer*: This means that maximum densities cannot be fully waived, but they can be adjusted to accommodate other adjustments herein that increase density. For example, if an applicant requests an adjustment to minimum lot size that increase the density of the proposal, the applicant may also request an adjustment to unit density maximums to accommodate that change, if the unit density would otherwise prohibit the adjusted lot sizes.*

(D) Prohibitions, for the ground floor of a mixed-use building, against:

(i) Residential uses except for one face of the building that faces the street and is within 20 feet of the street; and

(ii) Nonresidential active uses that support the residential uses of the building, including lobbies, day care, passenger loading, community rooms, exercise facilities, offices, activity spaces or live-work spaces, except for active uses in specifically and clearly defined mixed use areas or commercial corridors designated by local governments.

Question 47: Our mixed-use zone requires that X% of the ground floor of a mixed-use building must be commercial. Does this provision enable an adjustment to this standard?

Answer: *Yes. These provisions enable an adjustment to allow either residential uses or nonresidential active uses on the ground floor instead of commercial uses, with limitations outlined in the statutory language above.*

Question 48: What areas are included in "specifically and clearly defined mixed use areas or commercial corridors designated by local governments"?

Answer: *These include mixed use main streets, centers, and corridors designated by local governments in a comprehensive plan, zoning district, or overlay zone. Examples include Centers and Corridors in Metro's Regional Framework Plan, Climate-Friendly Areas, or 'Main Streets'/'Downtown'-type zones and areas included in a local government's comprehensive plan.*

Question 49: Does (D)(ii) exempt Metro Regional Centers from adjustments to prohibitions on residential or nonresidential active uses?

Answer: *Local governments do not need to grant adjustments to restrictions on nonresidential active uses supporting residential uses in Metro Regional Centers and Corridors. They would still need to grant adjustments to prohibitions for ground floor residential uses, except for one face of a mixed use building that faces the street and is within 20 feet of the street, within these areas, as described in (D)(i).*

Design Standards – Section 38 (5)

(5) A local government shall grant an adjustment to design standards that regulate:

(a) Facade materials, color or pattern.

(b) Facade articulation.

(c) Roof forms and materials.

(d) Entry and garage door materials.

(e) Garage door orientation, unless the building is adjacent to or across from a school or public park.

Question 50: What does "orientation" include? Does it distinguish between the direction a garage faces or the proportion of facade that comprises a garage?

Answer: *Garage door orientation includes any standard related to the physical position or direction of the garage. This includes directional requirements (e.g. street- or alley-facing requirements) and positional requirements (e.g. primary structure requirements). It would not encompass standards related to the proportion of a façade containing a garage.*

(f) Window materials, except for bird-safe glazing requirements.

(g) Total window area, for up to a 30 percent adjustment, provided the application includes at least 12 percent of the total facade as window area.

(h) For manufactured dwelling parks, middle housing as defined in ORS 197A.420, multifamily housing and mixed-use residential:

(A) Building orientation requirements, not including transit street orientation requirements.

(B) Building height transition requirements, not more than a 50 percent adjustment from the base zone.

(C) Requirements for balconies and porches.

Question 51: Our city's code requirements for balconies and porches relate to open space requirement (a balcony can satisfy a private open space requirement). How would adjustments work in this instance?

Answer: *An applicant could request a distinct adjustment to either the open space standard, the balcony/porch requirement, or both if the request does not exceed ten distinct adjustments.*

(D) Requirements for recesses and offsets.

Sections 44 – 47, Limited Land Use Decisions

Operative date: January 1, 2025 | Sunset date: January 2, 2032

Question 52: What are limited land use decisions?

Answer: *Limited land use decisions are a kind of land use decision that utilizes an administrative review process outlined by a local government within certain parameters outlined in ORS 197.195. Limited land use decisions provide notice and opportunity for written comments, and final decisions are accompanied with staff findings explaining the criteria or standards related to the decision. Local governments may provide for a local hearing on appeal of a limited land use decision. Often, local governments conform with limited land use decision statute by applying a "'Type II" or "administrative" process where the final decision is rendered at the staff level, with an opportunity to appeal to a hearings officer or planning commission.*

Question 53: How does SB 1537 change limited land use decisions?

Answer: *SB 1537 makes two substantive changes to the limited land use statute:*

1. *It adds three new types of applications to the statute: replats, property line adjustments, and extensions, alterations, or expansions of a nonconforming use.*
   Note: Tentative subdivision or partition plans and site/design review for outright permitted uses are already included as types of limited land use decisions.
2. *It requires cities to apply limited land use procedures to all of these application types, except a city may instead alternatively apply a ministerial process (e.g. Type I or plan check).*

Question 54: What is the legislative intent of this change?

Answer: *DLCD staff's understanding of the legislative intent of this provision is to process certain application types at the staff-level, instead of by a planning commission or hearings officer at a public hearing for application types that require minimal-to-no discretion, which includes the application types above. It does not affect application types that require more discretion, such as conditional use permits, planned unit developments, or historic or natural resource review.*

Question 55: How will this change affect local land use decisions?

Answer: *The effect of this change is that a city will be required to process the application types above (see question 53) as either a limited land use decision or a ministerial review process. This means if a city applied a "quasi-judicial" or "Type III" to any of these application types, they would be required to apply a limited land use decision process, sometimes referred to as an 'administrative' or "Type II" process.*

In addition to this, if a city does not have a procedure that conforms with the limited land use decision statute, they will be required to develop and apply one or apply the statute directly (discussed below).

The following types of applications would be unaffected:

1. *Any of the application types above (see question 53) where a city already applies either a limited land use decision or a ministerial review process.*
2. *Application types that are not encompassed in the limited land use statute, such as conditional use permits, planned unit developments, or historic or natural resource review.*

Question 56: Our city already applies an administrative process to these application types. Do we need to change anything?

Answer: *A city may continue applying either a process that conforms with the limited land use decision statute or a ministerial process. However, if a city requires a procedure type that is neither a limited land use nor ministerial decision, the city will be required to apply the limited land use decision statute. Generally, the most important consideration to assess is whether these application types are processed via more extensive review processes. For example, if a city required a public hearing in which review and approval of an application is made by a planning commission or hearings officer, that would not conform with limited land use decision statutory requirements.*

Question 57: When does this change to limited land use decisions apply? What happens after the effective date?

Answer: *This change is effectual on* ***January 1, 2025*** *and repealed on* ***January 2, 2032****, in which the statute reverts to its original, pre-SB 1537 state.*

Question 58: Our city does not have a procedure conforming to the limited land use statute. How do we apply the law?

Answer: *Under ORS 197.646 (3), if a local government has not adopted amendments to a comprehensive plan or land use regulations, they are required to apply the statute directly to land use decisions. SB 1537 clarifies that a city must apply the statute, even in instances where the city does not have a conforming procedure, consistent with ORS 197.646 (3).*

DLCD encourages any city seeking to conform with this requirement to apply to HAPO for funds to make any needed amendments to code to conform with the limited land use statute, once the office is operational and able to intake funding requests. To stay apprised of funding availability, please sign up to DLCD's Housing GovDelivery for updates pertaining to HAPO.

Question 59: Is there a process for requesting an exemption to this change?

Answer: *Yes, the statute enables HAPO to grant a limited exemption or time extension if a local government demonstrates a substantial hardship resulting from increased costs or staff capacity needed to implement the limited land use procedures in SB 1537.*

Question 60: How would a local government prepare and submit an application? Is there a guidance document available for this?

Answer: *DLCD will prepare a guidance document with instructions for local governments seeking to apply for exemptions or time extensions for both limited land use decisions and housing land use adjustments. DLCD anticipates that this guidance document will be available to the public later in 2024, once DLCD has onboarded new HAPO staff to prepare these materials. To stay up to date, please sign up to DLCD's Housing GovDelivery for updates pertaining to HAPO.*

Sections 48 – 60, One-time Site Additions to UGBs

Operative date: June 7, 2024 | Sunset date: January 2, 2033

Question 61: Which cities are eligible to utilize the option for a one-time expansion to a UGB? And how is eligibility determined?

Answer: *Cities are required to demonstrate a need for the addition in two distinct ways; 1) a need for additional land, and 2) a need for affordable housing. Both criteria must be met to determine eligibility based on the following:*

1a) Those cities that have not adopted any UGB expansions for residential use in the previous 20 years, or expansions by Metro in a location adjacent to the city, and do not have within the existing UGB an undeveloped contiguous tract that is zoned for residential use larger than 20 net acres are eligible; or

1b) Those cities that have adopted an UGB expansion over the previous 20 years, or expansions by Metro in a location adjacent to the city, must demonstrate that 75 percent of these lands are developed or have an acknowledged comprehensive plan with land use designations in preparation for annexation, and public facilities plan and associated financing plan.

AND

2a) Cities with a greater percentage of severely cost-burdened households than the average for Oregon based on the Comprehensive Housing Affordability Strategy data from the US Department of Housing and Urban Development are eligible; or

2b) Cities with at least 25 percent of renter households being severely rent burdened based on the most recent housing equity indicator data under ORS 456.602 (2)(g) are eligible.

Metro will review applications for substantial compliance with the applicable provisions of sections 49-59 of the SB 1537.

Question 62: What sites are eligible for addition to a UGB?

Answer: *Sites must be adjacent to the existing UGB or separated by only a street or road. In addition, sites must be:*

1. *Designated as an urban reserve under ORS 197A.230 to 197A.250, including a site whose designation is adopted under ORS 197.652 to 197.658*
2. *Designated as non-resource land, or*
3. *Subject to an acknowledged exception to a statewide land use planning goal relating to farmland or forestland*

A city may only amend its UGB once under the options included in SB 1537. Cities within Metro may only petition to add a site within the Metro UGB if it is designated as an urban reserve.

Question 63: What is required of cities for soliciting potential sites to be included in the UGB?

Answer: *A city must provide public notice of their intention to expand the UGB, including the following information:*

1. *The city's intention to select a site for inclusion within the UGB*

2. *Each basis under which the city has determined its eligibility.*
3. *A deadline for submissions of applications that is at least 45 days following the date of notice, and*
4. *A description of the information, form and format required of an application, including the requirements for a binding conceptual plan per Section 55 of the bill.*

A copy of this notice must be provided to each county in which the city resides, and each special district providing urban services within the city's UGB, and Metro, if the city is within the Metro UGB.

Question 64: What must be included in the conceptual plan for added sites?

Answer: *Before a city amends a UGB, or petitions Metro for a UGB amendment, a city shall adopt a binding conceptual plan as an amendment to its comprehensive plan. The conceptual plan must:*

(a) Establish the total net residential acres within the site and must require for those residential areas:
  (A) A diversity of housing types and sizes, including middle housing, accessible housing and other needed housing.
  (B) That the development will be on lands zoned for residential or mixed-use residential uses.
  (C) The development will be built at net residential densities specified depending on the city's population.
(b) Designate within the site:
  (A) Recreation and open space lands, and
  (B) Lands for commercial uses, either separate or as a mixed use, that meet the specified provisions of the bill.
(c) If the city has a population of 5,000 or greater, include a transportation network for the site that provides diverse transportation options, including walking, bicycling and transit use if public transit services are available, as well as sufficient connectivity to existing and planned transportation network facilities as shown in the local government's transportation system plan as defined in Land Conservation and Development Commission rules.
(d) Demonstrate that protective measures will be applied to the site consistent with the specified statewide land use planning goals.
(e) Include a binding agreement among the city, each owner within the site and any other necessary public or private utility provider, local government or district, as defined in ORS195.060, or combination of local governments and districts that the site will be served with all necessary urban services as defined in ORS 195.065, or an equivalent assurance, and
(f) At least 30 percent of the residential units are subject to affordability restrictions as specified under Section 55 (f) of the bill.

Question 65: What is required for each completed application submitted to a city?

Answer: *Each application filed for a city's review must:*

(a) Be completed for each property owner or group of property owners that are proposing an urban growth boundary amendment.
(b) Be in writing in a form and format as required by the city
(c) Specify the lots or parcels that are the subject of the application
(d) Be signed by all owners of lots or parcels included within the application, and
(e) Include each owner's signed consent to annexation of the properties if the site is added to the urban growth boundary.

Question 66: What requirements are specified for cities reviewing applications submitted for addition to a UGB?

Answer: *After the deadline for submission, the city shall review all applications for compliance with the applicable sections of the bill. In addition:*

(b) *For each completed application that complies with the applicable sections of the bill, the city shall provide notice to the residents of the proposed site area who were not signatories to the application.*
(c) *Provide opportunities for public participation in selecting a site, including, at least:*
  (A) *One public comment period, and*
  (B) *One meeting of the city's planning commission at which public testimony is considered, one meeting of the city's council at which public testimony is considered, or one public open house*
  (C) *Notice on the city's website or published paper of record at least 14 days before:*
    (i) *A meeting from the list above, and*
    (ii) *The beginning of the comment period specified above.*
(d) Consult with, request necessary information from, and provide the opportunity for written comment from:
  (A) The owners of each lot or parcel within the site.
  (B) If the city does not currently exercise land use jurisdiction over the entire site, the governing body of each county with land use jurisdiction over the site
  (C) Any special district that provides urban service to the site, and
  (D) Any public or private utility that provides utilities to the site.

Question 67: What limitations are specified for additions to a UGB?

Answer: *The total acreage of the site cannot exceed:*

1. 100 net residential acres for a city with a population of 25,000 or greater.
2. 50 net residential acres for a city with a population of less than 25,000.
3. Within *Metro, the total net residential acres included in site petitions cannot exceed 300 net residential acres added to the UGB.*

A city within Metro may petition Metro to add a site within the Metro UGB if the site satisfies requirements of section 50 (1) of the bill and is designated as an urban reserve. Metro will review applications for substantial compliance with the applicable provisions of sections 49-59 of the bill.

Question 68: What alternative UGB amendment options does the bill provide?

Answer: *The following two alternatives are provided within the bill:*

1. *Section 56: An alternative for a small addition of 15 net residential acres or less with the following requirements:*
   - *Enforceable and recordable agreements with each landowner of a property within the site to ensure that the site will comply with the affordability requirements described in the bill*
   - *A binding agreement with each owner within the site and any other necessary public or private utility provider, local government or district, as defined in ORS 195.060, or combination of local governments and districts to ensure that the site will be served with all necessary urban services as defined in ORS 195.065*
   - *This alternative does not apply to a city within Metro.*

2. *Section 58: An alternative to add one or more sites and remove one or more tracts of land from the UGB, provided:*
    - *The acreage of the added site and removed lands must be roughly equivalent.*
    - *The removed lands must have been zoned for residential uses.*
    - *The added site must be zoned for residential uses at the same or greater density than the removed lands.*

Under the first alternative, cities are required to demonstrate a need for the UGB amendment but are not required to prepare a concept plan. Under the second alternative, cities are not required to demonstrate a need for the UGB amendment, nor is concept planning required.

Question 69: What coordinating role does the county have for an amendment to a UGB under the options in this bill?

Answer: *For cities outside of Metro, the county shall approve an amendment to a UGB made under the options provided by the bill and shall cooperate with a city to facilitate the coordination of functions under ORS 195.020 to facilitate the city's annexation and the development of the site.*

MEMORANDUM

TO: Dunes City Planning Commission

FROM: Commissioner Rapunzel O

DATE: 21 November AND ~~13~~ DECEMBER 2024

RE: Chapter 155 Follow Up Discussion:
Miscellaneous Additional Notes/Comments for Final Discussions
Multifamily Housing
Guest Houses/ADUs

FOLLOW UP TO 7 NOVEMBER MEETING

I. MULTIFAMILY HOUSING

Page 21 of 268 from 155.1.3 Definitions @12/~~13~~ REVISIT THESE DEFINITIONS
(As amended) "Multi-Family Dwelling – A building in which three or more residential units each have space for eating, living and sleeping and permanent provisions for cooking and sanitation."

(As amended)"Multi-Family Housing – Multi-family housing is housing that provides for three (3) or more separate dwelling units on a single legal lot and sharing common walls, floors, ceilings, courtyard, playground, parking area, or other communal amenities."

NOTE DEFINITION OF DWELLING: A living facility that includes provisions for sleeping, eating, cooking and sanitation, as required by the uniform Building Code, for not more than one family, excluding hotels, motels, mobile homes, camping vehicles, and travel trailers.

Page 45 of 268 from 155.2 TOC
155.2.1.240 was Guest Houses, *could be Multifamily Housing*. **@11/21 PC OK TO CHANGE**

Page 50 of 268 from 155.2.1 Residential (R-1) Zone TOC
155.2.1.240 was Guest Houses, *could be Multifamily Housing*. **@11/21 PC OK TO CHANGE**

Page 50 of 268 from 155.2.1.110 Allowed Land Uses
(A)(1) "One single-family dwelling per lot, which may include site-built, pre-fabricated, or manufactured housing, which meets the requirements of applicable building codes and standards established by the State." **MAY NEED TO REVISIT CHANGE TO "A maximum of four dwelling units per lot"**

Look at definitions of "dwelling" on page 13 of 268. See also page 55 Residential Density language (below).

Page 51 of 268 from 155.2.1.~~111~~120 (A) Conditional Uses/Uses Subject to Review
Remove "Multifamily Housing" from list of uses requiring a CUP.
Renumber list. **@11/21 PC OK TO DELETE MULTIFAMILY AND GUEST HOUSES FROM LIST**

Page 54 of 268 from 155.2.1.~~122~~160 Specific Requirements Table
Structure Height. "Height from average grade" lesser of 32 feet or 2 ½ stories maximum.
Are there height restrictions in multifamily language that need to change? **@11/21PC OK TO KEEP AS IS**

Page 55 of 268 from 155.2.1.~~130~~180 Residential Density
"The following density standards apply to all new development. The standards are intended to ensure efficient use of buildable lands and provide for a range of needed housing, in conformance with the Comprehensive Plan.

"New land divisions and site developments shall provide for housing at a maximum density of no more than one (1) dwelling per acre."

Page 56 of 268 from 155.2.1.~~200~~190 Special Standards for Certain Uses
Model Development Code lists Multifamily Housing under similarly named subsection with this intro blurb:
"Special uses included in Chapter 2.3 are uses which, due to their effect on surrounding properties, must be developed in accordance with special conditions and standards. These special use standards may differ from the development standards established for other uses in the same zoning district."

Suggest replacing our existing second sentence, "They provide standards..." with the above from Model Code.

Page 57 of 268 from 155.2.1.240 was Guest Houses, *could* be Multifamily Housing
See Page 195, Paragraph B, for beginning of Multifamily Housing language under CUP to edit and move here
or replace with Model Dev Code.
See also Model Development Code Multifamily Development below.
INSERT NEW TEXT OR MODIFIED TEXT

Page 194 of 268 from 155.4.4.~~3~~120(H) Application Submission Requirements
Delete entire paragraph?

Page 194 of 268 from 155.4.4.4130(A) Criteria, Standards and Conditions of Approval
Suggest deleting "...including multifamily housing."

II. ACCESSORY DWELLING UNITS (ADU)

Page 7 of 168 from 155.1.3 Definitions
(As amended)"Accessory Dwelling Unit (ADU) – an interior, attached or detached residential structure that is used in connection with, or that is accessory to, a single-family dwelling."

Page 15 of 268 from 155.1.3 Definitions
(As amended)"Guest House – A subordinate residential structure that is accessory to, and dependent on, an existing primary dwellign located on the same lot or parcel as the guest house. A guest house shall be temporarily occupied solely by members of the family residng in the primary dwelling, their nonpaying guests, or by nonpaying employees who work on the premises. A Guest House is not an accessory dwelling unit (ADU).

Delete definition of guest house?

Page 45 of 268 from 155.2 TOC
155.2.1.220 was Bed and Breakfast, *could be Accessory Dwelling Units (ADU).*

Page 50 of 268 from 155.2.1 Residential (R-1) Zone TOC
155.2.1.220 was Bed and Breakfast, *could be Accessory Dwelling Units (ADU).*

Page 51 of 268 from 155.2.1.~~111~~120 (A) Conditional Uses/Uses Subject to Review
Remove "Guest Houses" from list? Unless ADUs should be Conditionally permitted, then adjust accordingly.
Renumber list.

Page 52 of 268 from 155.2.1.~~112~~130 Uses Not Allowed
"Accessory dwelling units, and all other uses not listed under Sections 155.2.1.110 and 155.2.1.~~111~~120 are not allowed."

Delete "Accessory dwelling units"?

Page 57 of 268 from 155.2.1.~~230~~220 was Bed and Breakfast *could be Accessory Dwelling Units (ADU)*
See Page 58 for existing "Guest House" text.
See also Accessory Dwellings Model Code from "ADU Guidance" 2018 below.
INSERT NEW TEXT

NOTE RE SEPTIC SYSTEMS
From DC ORD 256-B (Short Term Rentals)
Septic Expanded Use Approval. If the property is served by a private on-site septic system, the

property owner shall provide an approved On-Site Wastewater Authoriztion Notice from the Lane County Sanitarian that indicates the maximum number of people the septic system is able to accommodate.

Model Development Code 2015

2.3.080 Multifamily Development

User's Guide: The following provides clear and objective standards for multifamily housing, per state law. Local governments may apply discretionary standards or guidelines to what is defined as "needed housing" under ORS 197.303 only where their code also offers a clear and objective decision making option pursuant to ORS 197.307.

A. Purpose. The following standards are intended to ensure that multifamily developments are planned with adequate open space and are designed to prevent conflicts between residential uses, on-site recreation, and vehicle circulation and parking areas. The standards supplement the design standards of Article 3.

B. Applicability. This applies to new multifamily developments.

C. Standards.

1. Common Open Space and Landscaping. A minimum of *[15-20]* percent of the site area in the R districts and *[10]* percent of the site area in the CR district shall be designated and permanently reserved as common area or open space, in accordance with all of the following criteria:

a. "Site area" for the purposes of this section is defined as the subject lot or lots after subtracting any required dedication of street right-of-way.

b. The common area or open space shall contain one or more of the following: outdoor recreation area, tree grove (e.g., existing mature trees), turf play fields or playgrounds, sports courts, swim pool, walking fitness course, natural area with picnic benches, or similar open space amenities as appropriate for the intended residents.

c. In order to be counted as eligible toward the minimum open space area, such areas shall have dimensions of not less than 20 feet.

d. Open space and common areas not otherwise developed with recreational facilities shall be landscaped; alternatively, the *[City decision-making body]* may approve a tree preservation plan (retain mature tree groves) in lieu of landscaping.

2. Private Open Space. Private open space areas shall be required for dwelling units based on the following criteria:

a. A minimum of *[40]* percent of all ground-floor dwelling units shall have front or rear patios or decks containing at least *[48]* square feet of usable area. Ground floor housing means the housing unit entrance (front or rear) is within five feet of the finished ground elevation (i.e., after grading and landscaping).

b. A minimum of *[40]* percent of all upper-floor housing units shall have balconies or porches containing at least *[48]* square feet of usable area. Upper-floor housing means housing units that are more than five feet above the finished grade.

3. Access, Circulation, Landscaping, Parking, Public Facilities. The standards of Chapters 3.2 through 3.6 shall be met.

4. Trash Storage. Trash receptacles, recycling, and storage facilities shall be oriented away from building entrances, setback at least 10 feet from any public right-of-way and adjacent residences, and shall be screened with an evergreen hedge or solid fence or wall of not less than six feet in height. Receptacles must be accessible to trash pick-up trucks.

Accessory Dwellings (model code) 2018 ADU Guidance (DLCD)

Note: ORS 197.312 requires that at least one accessory dwelling be allowed per detached single-family dwelling in every zone that allows detached single-family dwellings. Accessory dwellings are an economical way to provide additional housing choices, particularly in communities with high land prices or a lack of investment in affordable housing. They provide an opportunity to increase housing supply in developed neighborhoods and can blend in well with single-family detached dwellings. Accessory dwelling regulations can be difficult to enforce when local codes specify who can own or occupy the homes. Requirements that accessory dwellings have separate connections to and pay system development charges for water and sewer services can pose barriers to development. Concerns about neighborhood compatibility, parking, and other factors should be considered and balanced against the need to address Oregon's housing shortage by removing barriers to development.
The model development code language below provides recommended language for accessory dwellings. The italicized sections in brackets indicate options to be selected or suggested numerical standards that communities can adjust to meet their needs. Local housing providers should be consulted when drafting standards for accessory dwellings, and the following standards should be tailored to fit the needs of your community.

Accessory dwellings, where allowed, are subject to review and approval through a Type I procedure*[, pursuant to Section _____,]* and shall conform to all of the following standards:

*[**A. One Unit.** A maximum of one Accessory Dwelling is allowed per legal single-family dwelling. The unit may be a detached building, in a portion of a detached accessory building (e.g., above a garage or workshop), or a unit attached or interior to the primary dwelling (e.g., an addition or the conversion of an existing floor).*
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***A. Two Units.** A maximum of two Accessory Dwellings are allowed per legal single-family dwelling. One unit must be a detached Accessory Dwelling, or in a portion of a detached accessory building (e.g., above a garage or workshop), and one unit must be attached or interior to the primary dwelling (e.g., an addition or the conversion of an existing floor).]*

***B.* Floor Area.**
1. A detached Accessory Dwelling shall not exceed *[800-900]* square feet of floor area, or *[75]* percent of the primary dwelling's floor area, whichever is smaller.

2. An attached or interior Accessory Dwelling shall not exceed *[800-900]* square feet of floor area, or *[75]* percent of the primary dwelling's floor area, whichever is smaller. However, Accessory Dwellings that result from the conversion of a level or floor (e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the Accessory Dwelling would be more than *[800-900]* square feet.

C. Other Development Standards. Accessory Dwellings shall meet all other development standards (e.g., height, setbacks, lot coverage, etc.) for buildings in the zoning district, except that:
1. Conversion of an existing legal non-conforming structure to an Accessory Dwelling is allowed, provided that the conversion does not increase the non-conformity; and

2. No off-street parking is required for an Accessory Dwelling.

Definition (This should be included in the "definitions" section of the zoning ordinance. It matches the definition for Accessory Dwelling found in ORS 197.312)
Accessory Dwelling – An interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a single-family dwelling.