HPAC Committee Agenda

Note: Anyone wishing to speak at any HPAC meeting is encouraged to do so. If you wish to speak, please rise and, after you have been recognized by the Chair, give your name and complete address for the record. You will then be allowed to speak. Please note the public testimony may be limited by the Chair. Times noted for each item are approximate…

January 8, 2025

AGENDA

(4:00) CALL TO ORDER: Meeting held in person at 51 Winburn Way and via Zoom at:

READING OF LAND ACKNOWLEDGEMENT

"We acknowledge and honor the aboriginal people on whose ancestral homelands we live, —the Ikirakutsum Band of the Shasta Nation, including the original past indigenous inhabitants, as well as the diverse Native communities who make their home here today. We also recognize and acknowledge the Shasta village of K'wakhakha — "Where the Crow lights"—that is now the Ashland City Plaza."

I. (4:05) APPROVAL OF AGENDA

II. (4:10) APPROVAL OF MINUTES
Minutes of December 4, 2024

III. (4:15) PUBLIC FORUM

IV. (4:30) LIASON REPORTS
A. Council Liaison - Jeff Dahle
B. Community Center Management Advisory Committee – Dale Shostrom
C. Staff Liaison – Derek Severson

V. (4:45) DISCUSSION ITEMS
A. Review Board Assignments – February
B. Discussion of the Preservation Plan with updates added by Severson.

VI. (6:00) ADJOURNMENT

HPAC Committee Minutes (Draft)

December 4, 2024

4:00PM – 6:00PM

Community Development/Engineering Services Building – 51 Winburn Way

4:00PM CALL TO ORDER

Scharen called the meeting to order at 4:00

Commissioners Present:	Council Liaison:
Shostrom	Jeff Dahle
Skibby -Zoom	**Staff Present:**
Emery	Derek Severson; Planning Manager
Repp - Left meeting at 5PM	Regan Trapp; Admin Support
Scharen	
Whitford	
Bonetti	
Committee members absent:	Brouillard

READING OF LAND ACKNOWLEDGEMENT

The Land Acknowledgement was read Scharen.

"We acknowledge and honor the aboriginal people on whose ancestral homelands we live, —the Ikirakutsum Band of the Shasta Nation, including the original past indigenous inhabitants, as well as the diverse Native communities who make their home here today. We also recognize and acknowledge the Shasta village of K'wakhakha — "Where the Crow lights"—that is now the Ashland City Plaza."

(4:05) APPROVAL OF AGENDA (5 min)

- Committee suggested amendments to Agenda.
    - There were no suggested amendments to the agenda.

(4:10) APPROVAL OF MINUTES (5 min)

- Historic Committee meeting of November 6, 2024.

Repp/Whitford m/s to approve the minutes of November 6, 2024. ALL AYES. Motion passed.

(4:15) PUBLIC FORUM (15 min)

There was no one in the audience wishing to speak.

HPAC Committee Minutes (Draft)

(4:30) LIAISON REPORTS (5 min)

Councilor Dahle gave the Council liaison report.

- The 2nd reading of the Commission and Committee ordinance was completed.
- Electrical Master Plan updates are starting to come together.
- Croman Mill has yet to submit their application to the planning department, but they expect it soon.
- The City has received funding for 'Rural Energy Savings Program (RESP)' on-bill financing where any utility customers will be able to fund energy efficiency upgrades with a loan repaid through their utility bills
- Reminder that Monday Dec 16th at 5:30 at Council Chambers is the Commission/Committee appreciation event. Question/answer time with Council and Mayor for the first hour and then food and drinks provided after.

Shostrom gave the liaison report for the Community Center Management Advisory Committee.

Severson noted that the Community Center project has been bumped to the December 17th Council meeting.

The 4-person committee made up of architects, contractors and engineers, would like to simplify the presentation to the council so that it is understood. They are working towards remodeling and fixing what is there and they want to get information out to the public on the importance of going the remodel path and not destroying the building. Shostrom stated that there is a lot of misinformation in regards to the building integrity and they want to get it cleared up.

Severson gave the staff report.

The new committee and commission ordinance is moving forward, and staff are working on developing a handbook for all members. Sabrina Cotta will be attending the upcoming March 5th meeting to present the new ordinance to the Committee.

(4:45) DISCUSSION ITEMS (10 min)

A. Review Board Assignments - January

B. Discussion of the Preservation Plan.

The Committee members discussed what was important to them as a group and what absolutely needs to be updated. The plan has not been updated since 2008.

a) Getting education out to the Community in the following ways:

- Survey to the community -How can we provide resources to them?

- Website updates
- Brochures
- Promotion of the Historic Preservation Awards

b) Lots of changes have happened since 2008. Middle housing land division, covid and interest rates have substantially changed the duties of this Committee. What does "forward looking" look like?

c) Severson to update section of "Types of reviews" and code references to what is current.

d) Severson to update staff list on the plan.

e) Severson to update Historic District design standards.

f) All should review preservation plan to gain new input from new committee members.

g) Severson to investigate what state incentives are still in place. Has that changed?

h) Committee to look at questions in appendix.

Severson to present a mark-up in the packets for edits and further discussion at The next meeting.

<u>ADJOURNMENT</u>

Next meeting is scheduled for January 8, 2025, at 4:00pm at, 51 Winburn Way
There being no other items to discuss, the meeting adjourned at 5:23 pm
Respectfully submitted by Regan Trapp

Jan 2025

HPAC Review Board

Meet at 3:00pm - Lithia Room

Every other week

Staff to email if there is anything to review on the off weeks

DATE	COMMITTEE MEMBERS ATTENDING		
Jan 9th	Repp	Emery	Shostrom
Jan 23rd	Whitford	Bonetti	Scharen

*Call 541-488-5305 to verify there are items on the agenda to review

Better Together

Feb 2025

HPAC Review Board

Meet at 3:00pm - Lithia Room

Every other week

Staff to email if there is anything to review on the off weeks

DATE	COMMITTEE MEMBERS ATTENDING		
Feb 6th			
Feb 20th			

*Call 541-488-5305 to verify there are items on the agenda to review

Memo

DATE: January 8, 2025
TO: Historic Preservation Advisory Committee (HPAC)
FROM: Derek Severson, Planning Manager & Community Development Staff Liaison
RE: Ashland Historic Preservation Plan Review

Staff have begun making edits to the first 20 pages of the Preservation Plan based on last month's discussion. Those edits are attached with changes highlighted in red, and those items requiring further attention in green.

Accessory Units/Duplexes

One issue that came to mind in describing the changes in state law and their impact to what HPAC can review was whether there are things that could be done to try to encourage compatible design for accessory residential units and duplexes. Are there educational materials that could be prepared and distributed? Webinars that could be presented or made available on-line? Could HPAC include an award during Preservation Week for a compatible accessory unit or duplex? I just wanted to raise that issue to be further considered.

Senate Bill 1537

Another item that came up in adding narrative was that on January 1, new state legislation allowing for up to ten "adjustments" per project took effect. If the project is providing housing, they can request adjustments to not comply with a number of standards (including a number of historic district development standards), and these adjustments would not be a land use decision or subject to standard variance or exception criteria. Staff had expected some guidance from the state to be issued prior to the effective date of the legislation, but so far there has been nothing. Ashland will be seeking an exemption from the new legislation based on our history of approving exceptions and variance where merited, and will keep HPAC updated.

NEXT STEPS

The next section of the Preservation Plan (pages 21-38) have been provided for your review. Please review them prior to the meeting and come prepared to discuss what needs to be updated or what changes you would like to see.

REFERENCES & ATTACHMENTS

Preservation Plan pp. 1-20 with preliminary edits
Preservation Plan pp. 21-38 for review and discussion
Senate Bill 1537 *(Housing Land Use Adjustments begin on page 18)*

COMMUNITY DEVELOPMENT DEPARTMENT

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Enrolled
Senate Bill 1537

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with presession filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Tina Kotek for Office of the Governor)

CHAPTER ....

AN ACT

Relating to housing; creating new provisions; amending ORS 183.471, 197.015, 197.195, 197.335, 197.843, 215.427, 227.178 and 455.770; and prescribing an effective date.

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

HOUSING ACCOUNTABILITY AND PRODUCTION OFFICE

SECTION 1. Housing Accountability and Production Office. (1) The Department of Land Conservation and Development and the Department of Consumer and Business Services shall enter into an interagency agreement to establish and administer the Housing Accountability and Production Office.

(2) The Housing Accountability and Production Office shall:

(a) Provide technical assistance, including assistance through grants, to local governments to:

(A) Comply with housing laws;

(B) Reduce permitting and land use barriers to housing production; and

(C) Support reliable and effective implementation of local procedures and standards relating to the approval of residential development projects.

(b) Serve as a resource, which includes providing responses to requests for technical assistance with complying with housing laws, to:

(A) Local governments, as defined in ORS 174.116; and

(B) Applicants for land use and building permits for residential development who are experiencing permitting and land use barriers related to housing production.

(c) Investigate and respond to complaints of violations of housing laws under section 2 of this 2024 Act.

(d) Establish best practices related to model codes, typical drawings and specifications as described in ORS 455.062, procedures and practices by which local governments may comply with housing laws.

(e) Provide optional mediation of active disputes relating to housing laws between a local government and applicants for land use and building permits for residential development, including mediation under ORS 197.860.

(f) Coordinate agencies that are involved in the housing development process, including, but not limited to, the Department of Land Conservation and Development, Department of

Consumer and Business Services, Housing and Community Services Department and Oregon Business Development Department, to enable the agencies to support local governments and applicants for land use and building permits for residential development by identifying state agency technical and financial resources that can address identified housing development and feasibility barriers.

(g) Establish policy and funding priorities for state agency resources and programs for the purpose of addressing barriers to housing production, including, but not limited to, making recommendations for moneys needed for the purposes of section 35 of this 2024 Act.

(3) The Land Conservation and Development Commission and the Department of Consumer and Business Services shall coordinate in adopting, amending or repealing rules for:

(a) Carrying out the respective responsibilities of the departments and the office under sections 1 to 5 of this 2024 Act.

(b) Model codes, development plans, procedures and practices by which local governments may comply with housing laws.

(c) Establishing standards by which complaints are investigated and pursued.

(4) The office shall prioritize assisting local governments in voluntarily undertaking changes to come into compliance with housing laws.

(5) As used in sections 1 to 5 of this 2024 Act:

(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 and 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.

(b) "Residential" includes mixed-use residential development.

SECTION 2. Office responses to violations of housing laws. (1) The Housing Accountability and Production Office shall establish a form or format through which the office receives allegations of local governments' violations of housing laws that impact housing production. For complaints that relate to a specific development project, the office may receive complaints only from the project applicant. For complaints not related to a specific development project, the office may receive complaints from any person within the local government's jurisdiction or the Department of Land Conservation and Development or the Department of Consumer and Business Services.

(2)(a) Except as provided in paragraph (c) of this subsection, the office shall investigate suspected violations of housing laws or violations credibly alleged under subsection (1) of this section.

(b) The office shall develop consistent procedures to evaluate and determine the credibility of alleged violations of housing laws.

(c) If a complainant has filed a notice of appeal with the Land Use Board of Appeals or has initiated private litigation regarding any aspect of the application decision that was alleged to have been the subject of the housing law violation, the office may not further participate in the specific complaint or its appeal, except for:

(A) Providing agency briefs, including briefs under ORS 197.830 (8), to the board or the court;

(B) Providing technical assistance to the local government unrelated to the resolution of the specific complaint; or

(C) Mediation at the request of the local government and complainant, including mediation under ORS 197.860.

(3)(a) If the office has a reasonable basis to conclude that a violation was or is being committed, the office shall deliver written warning notice to the local government specifying

the violation and any authority under this section that the office intends to invoke if the violation continues or is not remedied. The notice must include an invitation to address or remedy the suspected violation through mediation, the execution of a compliance agreement to voluntarily remedy the situation, the adoption of suitable model codes developed by the office under section 1 (3)(b) of this 2024 Act or other remedies suitable to the specific violation.

(b) The office shall prioritize technical assistance funding to local governments that agree to comply with housing laws under this subsection.

(c) A determination by the office is not a legislative, judicial or quasi-judicial decision.

(4) No earlier than 60 days after a warning notice is delivered under subsection (3) of this section, the office may:

(a) Initiate a request for an enforcement order of the Land Conservation and Development Commission by delivering a notice of request under section 3 (3) of this 2024 Act.

(b) Seek a court order against a local government as described under ORS 455.160 (3) without being adversely affected or serving the demand as described in ORS 455.160 (2).

(c) Notwithstanding ORS 197.090 (2)(b) to (e), participate in and seek review of a matter under ORS 197.090 (2)(a) that pertains to housing laws without the notice or consent of the commission. No less than once every two years, the office shall report to the commission on the matters in which the office participated under this paragraph.

(d) Except regarding matters under the exclusive jurisdiction of the Land Use Board of Appeals, apply to a circuit court for an order compelling compliance with any housing law. If the court finds that the defendant is not complying with a housing law, the court may grant an injunction requiring compliance.

(5) The office may not, in the name of the office, exercise the authority of the Department of Land Conservation and Development under ORS 197A.130.

(6) The office shall send notice to each complainant under subsection (1) of this section at the time that the office:

(a) Takes any action under subsection (3) or (4) of this section; or

(b) Has determined that it will not take further actions or make further investigations.

(7) The actions authorized of the office under this section are in addition to and may be exercised in conjunction with any other investigative or enforcement authority that may be exercised by the Department of Land Conservation and Development, the Land Conservation and Development Commission or the Department of Consumer and Business Services.

(8) Nothing in this section:

(a) Amends the jurisdiction of the Land Use Board of Appeals or of a circuit court;

(b) Creates a new cause of action; or

(c) Tolls or extends:

(A) The statute of limitations for any claim; or

(B) The deadline for any appeal or other action.

<u>SECTION 3.</u> <u>Office enforcement orders.</u> (1) The Housing Accountability and Production Office may request an enforcement order under section 2 (4)(a) of this 2024 Act requiring that a local government take action necessary to bring its comprehensive plan, land use regulation, limited land use decisions or other land use decisions or actions into compliance with a housing law, except for a housing law that pertains to the state building code or the administration of the code.

(2) Except as otherwise provided in this section, a request for an enforcement order by the office is subject to the applicable provisions of ORS 197.335 and ORS chapter 183 and is not subject to ORS 197.319, 197.324 or 197.328.

(3) The office shall make a request for an enforcement order under this section by delivering a notice to the local government that states the grounds for initiation and summarizes the procedures for the enforcement order proceeding along with a copy of the notice

to the Land Conservation and Development Commission. A decision of the office to initiate an enforcement order is not subject to appeal.

(4) After receiving notice of an enforcement order request under subsection (3) of this section, the local government shall deliver a notice to an affected applicant, if any, in substantially the following form:

NOTICE: The Housing Accountability and Production Office has found good cause for an enforcement proceeding against ____________________ (name of local government). An enforcement order may be adopted that could limit, prohibit or require the application of specified criteria to any action authorized by this decision but not applied for until after the adoption of the enforcement order. Future applications for building permits or time extensions may be affected.

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(5) Within 14 days after receipt by the commission of the notice under subsection (3) of this section, the Director of the Department of Land Conservation and Development shall assign the enforcement order proceedings to a hearings officer who is:

(a) An administrative law judge assigned under ORS 183.635; or

(b) A hearings officer randomly selected from a pool of officers appointed by the commission to review proceedings initiated under this section.

(6) The hearings officer shall schedule a contested case hearing within 60 days of the delivery of the notice to the commission under subsection (3) of this section.

(7)(a) The hearings officer shall prepare a proposed enforcement order or order of dismissal, including recommended findings and conclusions of law.

(b) A proposed enforcement order may require the local government to take any necessary action to comply with housing laws that is suitable to address the basis for the proposed enforcement order, including requiring the adoption or application of suitable models that have been developed by the office under section 1 (3)(b) of this 2024 Act.

(c) The hearings officer must issue and serve the proposed enforcement order on the office and all parties to the hearing within 30 days of the date the record closed.

(8)(a) The proposed enforcement order becomes a final order of the commission 14 days after service on the office and all parties to the hearing, unless the office or a party to the hearing appeals the proposed enforcement order to the commission prior to the proposed enforcement order becoming final.

(b) If the proposed enforcement order is appealed, the commission shall consider the matter at:

(A) Its next regularly scheduled meeting; or

(B) If the appeal is made 45 or fewer days prior to the next regularly scheduled meeting, at the following regularly scheduled meeting or a special meeting held earlier.

(9) The commission shall affirm, affirm with modifications or reverse the proposed enforcement order. The commission shall issue a final order no later than 30 days after the meeting at which it considered the matter.

(10) The commission may adopt rules administering this section, including rules related to standing, preserving issues for commission review or other provisions concerning the commission's scope and standard for review of proposed enforcement orders under this section.

<u>SECTION 4.</u> <u>Housing Accountability and Production Office Fund.</u> (1) The Housing Accountability and Production Office Fund is established in the State Treasury, separate and distinct from the General Fund.

(2) The Housing Accountability and Production Office Fund consists of moneys appropriated, allocated, deposited or transferred to the fund by the Legislative Assembly or otherwise.

(3) Interest earned by the fund shall be credited to the fund.

(4) Moneys in the fund are continuously appropriated to the Department of Land Conservation and Development to administer the fund, to operate the Housing Accountability and Production Office and to implement sections 1 to 5 of this 2024 Act.

SECTION 5. Reporting. On or before September 15, 2026, the Housing Accountability and Production Office shall:

(1) Contract with one or more organizations possessing relevant expertise to produce a report identifying improvements in the local building plan review approval, design review approval, land use, zoning and permitting processes, including but not limited to plan review approval timelines, process efficiency, local best practices and other ways to accelerate and improve the efficiency of the development process for construction, with a focus on increasing housing production.

(2) Produce a report based on a study by the office of state and local timelines and standards related to public works and building permit application review and develop recommendations for changes to reduce complexity, delay or costs that inhibit housing production, including an evaluation of their effect on the feasibility of varying housing types and affordability levels.

(3) Produce a report summarizing state agency plans, policies and programs related to reducing or eliminating regulatory barriers to the production of housing. The report must also include recommendations on how state agencies may prioritize resources and programs to increase housing production.

(4) Provide the reports under subsections (1) to (3) of this section to one or more appropriate interim committees of the Legislative Assembly in the manner provided in ORS 192.245.

SECTION 6. Sunset. Section 5 of this 2024 Act is repealed on January 2, 2027.

SECTION 7. Operative and applicable dates. (1) Sections 2 and 3 of this 2024 Act become operative on July 1, 2025.

(2) Sections 2 and 3 of this 2024 Act apply only to violations of housing laws occurring on or after July 1, 2025.

(3) The Department of Land Conservation and Development and Department of Consumer and Business Services may take any action before the operative date specified in subsection (1) of this section that is necessary for the departments or the Housing Accountability and Production Office to exercise, on and after the operative date, all of the duties, functions and powers conferred by sections 1 to 5, 35, 39 and 46 of this 2024 Act.

OPTING IN TO AMENDED HOUSING REGULATIONS

SECTION 8. ORS 215.427 is amended to read:

215.427. (1) Except as provided in subsections (3), (5) and (10) of this section, for land within an urban growth boundary and applications for mineral aggregate extraction, the governing body of a county or its designee shall take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 215.422, within 120 days after the application is deemed complete. The governing body of a county or its designee shall take final action on all other applications for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 215.422, within 150 days after the application is deemed complete, except as provided in subsections (3), (5) and (10) of this section.

(2) If an application for a permit, limited land use decision or zone change is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing

information. The application shall be deemed complete for the purpose of subsection (1) of this section and ORS 197A.470 upon receipt by the governing body or its designee of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

(3)(a) If the application was complete when first submitted or the applicant submits additional information[*, as described in subsection (2) of this section,*] within 180 days of the date the application was first submitted [*and the county has a comprehensive plan and land use regulations acknowledged under ORS 197.251*], approval or denial of the application [*shall be based*] **must be based:**

(A) Upon the standards and criteria that were applicable at the time the application was first submitted[.]**; or**

(B) For an application relating to development of housing, upon the request of the applicant, those standards and criteria that are operative at the time of the request.

(b) If an applicant requests review under different standards as provided in paragraph (a)(B) of this subsection:

(A) For the purposes of this section, any applicable timelines for completeness review and final decisions restart as if a new application were submitted on the date of the request;

(B) For the purposes of this section and ORS 197A.470 the application is not deemed complete until:

(i) The county determines that additional information is not required under subsection (2) of this section; or

(ii) The applicant makes a submission under subsection (2) of this section in response to a county's request;

(C) A county may deny a request under paragraph (a)(B) of this subsection if:

(i) The county has issued a public notice of the application; or

(ii) A request under paragraph (a)(B) of this subsection was previously made; and

(D) The county may not require that the applicant:

(i) Pay a fee, except to cover additional costs incurred by the county to accommodate the request;

(ii) Submit a new application or duplicative information, unless information resubmittal is required because the request affects or changes information in other locations in the application or additional narrative is required to understand the request in context; or

(iii) Repeat redundant processes or hearings that are inapplicable to the change in standards or criteria.

[*(b) If the application is for industrial or traded sector development of a site identified under section 12, chapter 800, Oregon Laws 2003, and proposes an amendment to the comprehensive plan, approval or denial of the application must be based upon the standards and criteria that were applicable at the time the application was first submitted, provided the application complies with paragraph (a) of this subsection.*]

(4) On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection (2) of this section and has not submitted:

(a) All of the missing information;

(b) Some of the missing information and written notice that no other information will be provided; or

(c) Written notice that none of the missing information will be provided.

(5) The period set in subsection (1) of this section or the 100-day period set in ORS 197A.470 may be extended for a specified period of time at the written request of the applicant. The total of all extensions, except as provided in subsection (10) of this section for mediation, may not exceed 215 days.

(6) The period set in subsection (1) of this section applies:

(a) Only to decisions wholly within the authority and control of the governing body of the county; and

(b) Unless the parties have agreed to mediation as described in subsection (10) of this section or ORS 197.319 (2)(b).

(7) Notwithstanding subsection (6) of this section, the period set in subsection (1) of this section and the 100-day period set in ORS 197A.470 do not apply to:

(a) A decision of the county making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610; or

(b) A decision of a county involving an application for the development of residential structures within an urban growth boundary, where the county has tentatively approved the application and extends these periods by no more than seven days in order to assure the sufficiency of its final order.

(8) Except when an applicant requests an extension under subsection (5) of this section, if the governing body of the county or its designee does not take final action on an application for a permit, limited land use decision or zone change within 120 days or 150 days, as applicable, after the application is deemed complete, the county shall refund to the applicant either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.

(9) A county may not compel an applicant to waive the period set in subsection (1) of this section or to waive the provisions of subsection (8) of this section or ORS 197A.470 or 215.429 as a condition for taking any action on an application for a permit, limited land use decision or zone change except when such applications are filed concurrently and considered jointly with a plan amendment.

(10) The periods set forth in subsections (1) and (5) of this section and ORS 197A.470 may be extended by up to 90 additional days, if the applicant and the county agree that a dispute concerning the application will be mediated.

SECTION 9. ORS 227.178 is amended to read:

227.178. (1) Except as provided in subsections (3), (5) and (11) of this section, the governing body of a city or its designee shall take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 227.180, within 120 days after the application is deemed complete.

(2) If an application for a permit, limited land use decision or zone change is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of subsection (1) of this section or ORS 197A.470 upon receipt by the governing body or its designee of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

(3)(a) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted [*and the city has a comprehensive plan and land use regulations acknowledged under ORS 197.251*], approval or denial of the application [*shall*] **must** be based**:**

(A) Upon the standards and criteria that were applicable at the time the application was first submitted[.]**; or**

(B) For an application relating to development of housing, upon the request of the applicant, those standards and criteria that are operative at the time of the request.

(b) If an applicant requests review under different standards as provided in paragraph (a)(B) of this subsection:

(A) For the purposes of this section, any applicable timelines for completeness review and final decisions restart as if a new application were submitted on the date of the request;

(B) For the purposes of this section and ORS 197A.470 the application is not deemed complete until:

(i) The city determines that additional information is not required under subsection (2) of this section; or

(ii) The applicant makes a submission under subsection (2) of this section in response to a city's request;

(C) A city may deny a request under paragraph (a)(B) of this subsection if:

(i) The city has issued a public notice of the application; or

(ii) A request under paragraph (a)(B) of this subsection was previously made; and

(D) The city may not require that the applicant:

(i) Pay a fee, except to cover additional costs incurred by the city to accommodate the request;

(ii) Submit a new application or duplicative information, unless information resubmittal is required because the request affects or changes information in other locations in the application or additional narrative is required to understand the request in context; or

(iii) Repeat redundant processes or hearings that are inapplicable to the change in standards or criteria.

[*(b) If the application is for industrial or traded sector development of a site identified under section 12, chapter 800, Oregon Laws 2003, and proposes an amendment to the comprehensive plan, approval or denial of the application must be based upon the standards and criteria that were applicable at the time the application was first submitted, provided the application complies with paragraph (a) of this subsection.*]

(4) On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection (2) of this section and has not submitted:

(a) All of the missing information;

(b) Some of the missing information and written notice that no other information will be provided; or

(c) Written notice that none of the missing information will be provided.

(5) The 120-day period set in subsection (1) of this section or the 100-day period set in ORS 197A.470 may be extended for a specified period of time at the written request of the applicant. The total of all extensions, except as provided in subsection (11) of this section for mediation, may not exceed 245 days.

(6) The 120-day period set in subsection (1) of this section applies:

(a) Only to decisions wholly within the authority and control of the governing body of the city; and

(b) Unless the parties have agreed to mediation as described in subsection (11) of this section or ORS 197.319 (2)(b).

(7) Notwithstanding subsection (6) of this section, the 120-day period set in subsection (1) of this section and the 100-day period set in ORS 197A.470 do not apply to:

(a) A decision of the city making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610; or

(b) A decision of a city involving an application for the development of residential structures within an urban growth boundary, where the city has tentatively approved the application and extends these periods by no more than seven days in order to assure the sufficiency of its final order.

(8) Except when an applicant requests an extension under subsection (5) of this section, if the governing body of the city or its designee does not take final action on an application for a permit,

limited land use decision or zone change within 120 days after the application is deemed complete, the city shall refund to the applicant, subject to the provisions of subsection (9) of this section, either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.

(9)(a) To obtain a refund under subsection (8) of this section, the applicant may either:

(A) Submit a written request for payment, either by mail or in person, to the city or its designee; or

(B) Include the amount claimed in a mandamus petition filed under ORS 227.179. The court shall award an amount owed under this section in its final order on the petition.

(b) Within seven calendar days of receiving a request for a refund, the city or its designee shall determine the amount of any refund owed. Payment, or notice that no payment is due, shall be made to the applicant within 30 calendar days of receiving the request. Any amount due and not paid within 30 calendar days of receipt of the request shall be subject to interest charges at the rate of one percent per month, or a portion thereof.

(c) If payment due under paragraph (b) of this subsection is not paid within 120 days after the city or its designee receives the refund request, the applicant may file an action for recovery of the unpaid refund. In an action brought by a person under this paragraph, the court shall award to a prevailing applicant, in addition to the relief provided in this section, reasonable attorney fees and costs at trial and on appeal. If the city or its designee prevails, the court shall award reasonable attorney fees and costs at trial and on appeal if the court finds the petition to be frivolous.

(10) A city may not compel an applicant to waive the 120-day period set in subsection (1) of this section or to waive the provisions of subsection (8) of this section or ORS 197A.470 or 227.179 as a condition for taking any action on an application for a permit, limited land use decision or zone change except when such applications are filed concurrently and considered jointly with a plan amendment.

(11) The periods set forth in subsections (1) and (5) of this section and ORS 197A.470 may be extended by up to 90 additional days, if the applicant and the city agree that a dispute concerning the application will be mediated.

ATTORNEY FEES FOR NEEDED HOUSING CHALLENGES

SECTION 10. ORS 197.843 is amended to read:

197.843. (1) The Land Use Board of Appeals shall award attorney fees to**:**

(a) An applicant whose application is only for the development of affordable housing[*, as defined in ORS 197A.445, or publicly supported housing, as defined in ORS 456.250*], if the board [*affirms a quasi-judicial land use decision approving the application or*] reverses a quasi-judicial land use decision denying the application[*.*]**;**

(b) An applicant whose application is only for the development of housing and was approved by the local government, if the board affirms the decision; and

(c) The local government that approved a quasi-judicial land use decision described in paragraph (b) of this subsection.

(2) For housing other than affordable housing, the attorney fees specified in subsection (1)(b) and (c) of this section apply only within urban growth boundaries.

[*(2)*] **(3)** A party who was awarded attorney fees under this section or ORS 197.850 shall repay the fees plus any interest from the time of the judgment if the property upon which the fees are based is developed for a use other than [*affordable*] **the proposed** housing.

[*(3)*] **(4)** As used in this section:

[*(a) "Applicant" includes:*]

[*(A) An applicant with a funding reservation agreement with a public funder for the purpose of developing publicly supported housing;*]

[*(B) A housing authority, as defined in ORS 456.005;*]

[*(C) A qualified housing sponsor, as defined in ORS 456.548;*]

[*(D) A religious nonprofit corporation;*]

[*(E) A public benefit nonprofit corporation whose primary purpose is the development of affordable housing; and*]

[*(F) A local government that approved the application of an applicant described in this paragraph.*]

(a) "Affordable housing" means affordable housing, as defined in ORS 197A.445, or publicly supported housing, as defined in ORS 456.250.

(b) "Attorney fees" includes prelitigation legal expenses, including preparing **and processing** the application and supporting the application in local land use hearings or proceedings.

SECTION 11. Operative and applicable dates. (1) The amendments to ORS 197.843 by section 10 of this 2024 Act become operative on January 1, 2025.

(2) The amendments to ORS 197.843 by section 10 of this 2024 Act apply to decisions for which a notice of intent to appeal under ORS 197.830 is filed on or after January 1, 2025.

INFRASTRUCTURE SUPPORTING HOUSING PRODUCTION

SECTION 12. Sections 13 and 14 of this 2024 Act are added to and made a part of ORS chapter 285A.

SECTION 13. Capacity and support for infrastructure planning. The Oregon Business Development Department shall provide capacity and support for infrastructure planning to municipalities to enable them to plan and finance infrastructure for water, sewers and sanitation, stormwater and transportation consistent with opportunities to produce housing units at densities defined in section 55 (3)(a)(C) of this 2024 Act. "Capacity and support" includes assistance with local financing opportunities, state and federal grant navigation, writing, review and administration, resource sharing, regional collaboration support and technical support, including engineering and design assistance and other capacity or support as the department may designate by rule.

SECTION 14. Housing Infrastructure Support Fund. (1) The Housing Infrastructure Support Fund is established in the State Treasury, separate and distinct from the General Fund.

(2) The Housing Infrastructure Support Fund consists of moneys appropriated, allocated, deposited or transferred to the fund by the Legislative Assembly or otherwise.

(3) Interest earned by the fund shall be credited to the fund.

(4) Moneys in the fund are continuously appropriated to the Oregon Business Development Department to administer the fund and to implement section 13 of this 2024 Act.

SECTION 15. Sunset. (1) Sections 13 and 14 of this 2024 Act are repealed on January 2, 2030.

(2) Any unobligated moneys in the Housing Infrastructure Support Fund on January 2, 2030, must be transferred to the General Fund for general governmental purposes.

SECTION 16. Infrastructure recommendation and reporting. (1) On or before December 31, 2024, the Department of Land Conservation and Development, in consultation with the Housing and Community Services Department, the Oregon Business Development Department and other agencies that fund and support local infrastructure projects, shall submit a report to an appropriate interim committee of the Legislative Assembly in the manner provided in ORS 192.245 that includes a list of key considerations and metrics the Legislative Assembly could use to evaluate, screen and prioritize proposed local infrastructure projects that facilitate and support housing within an urban growth boundary.

(2) The Department of Land Conservation and Development shall facilitate an engagement process with local governments, tribal nations, the development community, housing advocates, conservation groups, property owners, community partners and other interested parties to inform the list of key considerations and metrics.

NOTE: Sections 17 through 23 were deleted by amendment. Subsequent sections were not renumbered.

HOUSING PROJECT REVOLVING LOANS

SECTION 24. As used in sections 24 to 35 of this 2024 Act:

(1) "Assessor," "tax collector" and "treasurer" mean the individual filling that county office so named or any county officer performing the functions of the office under another name.

(2) "County tax officers" and "tax officers" mean the assessor, tax collector and treasurer of a county.

(3) "Eligible costs" means the following costs associated with an eligible housing project:

(a) Infrastructure costs, including, but not limited to, system development charges;

(b) Predevelopment costs;

(c) Construction costs; and

(d) Land write-downs.

(4) "Eligible housing project" means a project to construct housing, or to convert a building from a nonresidential use to housing, that is:

(a) Affordable to households with low income or moderate income as those terms are defined in ORS 458.610;

(b) If for-sale property, a single-family dwelling, middle housing as defined in ORS 197A.420 or a multifamily dwelling that is affordable as described in paragraph (a) of this subsection continuously from initial sale for a period, to be established by the Housing and Community Services Department and the sponsoring jurisdiction, of not less than the term of the loan related to the for-sale property; or

(c) If rental property:

(A)(i) Middle housing as defined in ORS 197A.420;

(ii) A multifamily dwelling;

(iii) An accessory dwelling unit as defined in ORS 215.501; or

(iv) Any other form of affordable housing or moderate income housing; and

(B) Rented at a monthly rate that is affordable to households with an annual income not greater than 120 percent of the area median income, such affordability to be maintained for a period, to be established by the department and the sponsoring jurisdiction, of not less than the term of the loan related to the rental property.

(5) "Eligible housing project property" means the taxable real and personal property constituting the improvements of an eligible housing project.

(6) "Fee payer" means, for any property tax year, the person responsible for paying ad valorem property taxes on eligible housing project property to which a grant awarded under section 29 of this 2024 Act relates.

(7) "Fire district taxes" means property taxes levied by fire districts within whose territory all or a portion of eligible housing project property is located.

(8) "Nonexempt property" means property other than eligible housing project property in the tax account that includes eligible housing project property.

(9) "Nonexempt taxes" means the ad valorem property taxes assessed on nonexempt property.

(10) "Sponsoring jurisdiction" means:

(a)(A) A city with respect to eligible housing projects located within the city boundaries; or

(B) A county with respect to eligible housing projects located in urban unincorporated areas of the county; or

(b) The governing body of a city or county described in paragraph (a) of this subsection.

SECTION 25. (1)(a) A sponsoring jurisdiction may adopt by ordinance or resolution a program under which the sponsoring jurisdiction awards grants to developers for eligible costs.

(b) Before adopting the program, the sponsoring jurisdiction shall consult with the governing body of any city or county with territory inside the boundaries of the sponsoring jurisdiction.

(2) The ordinance or resolution shall set forth:

(a) The kinds of eligible housing projects for which a developer may seek a grant under the program; and

(b) Any eligibility requirements to be imposed on projects and developers in addition to those required under sections 24 to 35 of this 2024 Act.

(3) A grant award:

(a) Shall be in the amount determined under section 26 (3) of this 2024 Act; and

(b) May include reimbursement for eligible costs incurred for up to 12 months preceding the date on which the eligible housing project received local site approval.

(4) Eligible housing project property for which a developer receives a grant for eligible costs may not be granted any exemption, partial exemption or special assessment of ad valorem property taxes other than the exemption granted under section 30 of this 2024 Act.

(5) A sponsoring jurisdiction may amend an ordinance or resolution adopted pursuant to this section at any time. The amendments shall apply only to applications submitted under section 26 of this 2024 Act on or after the effective date of the ordinance or resolution.

SECTION 26. (1)(a) A sponsoring jurisdiction that adopts a grant program pursuant to section 25 of this 2024 Act shall prescribe an application process, including forms and deadlines, by which a developer may apply for a grant with respect to an eligible housing project.

(b) An application for a grant must include, at a minimum:

(A) A description of the eligible housing project;

(B) A detailed explanation of the affordability of the eligible housing project;

(C) An itemized description of the eligible costs for which the grant is sought;

(D) The proposed schedule for completion of the eligible housing project;

(E) A project pro forma demonstrating that the project would not be economically feasible but for receipt of the grant moneys; and

(F) Any other information, documentation or attestation that the sponsoring jurisdiction considers necessary or convenient for the application review process.

(c)(A) The project pro forma under paragraph (b)(E) of this subsection shall be on a form provided to the sponsoring jurisdiction by the Housing and Community Services Department and made available to grant applicants.

(B) The department may enter into an agreement with a third party to develop the project pro forma template.

(2)(a) The review of an application under this section shall be completed within 90 days following the receipt of the application by the sponsoring jurisdiction.

(b) Notwithstanding paragraph (a) of this subsection:

(A) The sponsoring jurisdiction may in its sole discretion extend the review process beyond 90 days if the volume of applications would make timely completion of the review process unlikely.

(B) The sponsoring jurisdiction may consult with a developer about the developer's application, and the developer, after the consultation, may amend the application on or before a deadline set by the sponsoring jurisdiction.

(3) The sponsoring jurisdiction shall:

(a) Review each application;

(b) Request that the county tax officers provide to the sponsoring jurisdiction the amounts determined under section 27 of this 2024 Act;

(c) Set the term of the loan that will fund the grant award for a period not to exceed the greater of:

(A) Ten years following July 1 of the first property tax year for which the completed eligible housing project property is estimated to be taken into account; or

(B) If agreed upon by the sponsoring jurisdiction and the department, the period required for the loan principal and fees to be repaid in full;

(d) Set the amount of the grant that may be awarded to the developer under section 29 (2) of this 2024 Act by multiplying the increment determined under section 27 (1)(c) of this 2024 Act by the term of the loan; and

(e)(A) Provisionally approve the application as submitted;

(B) Provisionally approve the application on terms other than those requested in the application; or

(C) Reject the application.

(4)(a) The sponsoring jurisdiction shall forward provisionally approved applications to the Housing and Community Services Department.

(b) The department shall review the provisionally approved applications for completeness, including, but not limited to, the completeness of the project pro forma submitted with the application under subsection (1)(b)(E) of this section and the amounts computed under section 27 (1) of this 2024 Act and notify the sponsoring jurisdiction of its determination.

(5)(a) If the department has determined that a provisionally approved application is incomplete, the sponsoring jurisdiction may:

(A) Consult with the applicant developer and reconsider the provisionally approved application after the applicant revises it; or

(B) Reject the provisionally approved application.

(b) If the department has determined that a provisionally approved application is complete, the approval shall be final.

(c) The sponsoring jurisdiction shall notify each applicant and the department of the final approval or rejection of an application and the amount of the grant award.

(d) The rejection of an application and the amount of a grant award may not be appealed, but a developer may reapply for a grant at any time within the applicable deadlines of the grant program for the same or another eligible housing project.

(6) Upon request by a sponsoring jurisdiction, the department may assist the sponsoring jurisdiction with, or perform on behalf of the sponsoring jurisdiction, any duty required under this section.

SECTION 27. (1) Upon request of the sponsoring jurisdiction under section 26 (3)(b) of this 2024 Act, the assessor of the county in which is located the eligible housing project to which an application being reviewed under section 26 of this 2024 Act relates shall:

(a) Using the last certified assessment roll for the property tax year in which the application is received under section 26 of this 2024 Act:

(A) Determine the amount of property taxes assessed against all tax accounts that include the eligible housing project property; and

(B) Subtract the amount of operating taxes as defined in ORS 310.055 and local option taxes as defined in ORS 310.202 levied by fire districts from the amount determined under subparagraph (A) of this paragraph.

(b) For the first property tax year for which the completed eligible housing project property is estimated to be taken into account:

(A) Determine the estimated amount of property taxes that will be assessed against all tax accounts that include the eligible housing project property; and

(B) Subtract the estimated amount of operating taxes and local option taxes levied by fire districts from the amount determined under subparagraph (A) of this paragraph.

(c) Determine the amount of the increment that results from subtracting the amount determined under subsection (1)(a) of this section from the amount determined under subsection (1)(b) of this section.

(2) As soon as practicable after determining amounts under this section, the county tax officers shall provide written notice to the sponsoring jurisdiction of the amounts.

SECTION 28. **(1)(a) The Housing and Community Services Department shall develop a program to make loans to sponsoring jurisdictions to fund grants awarded under the sponsoring jurisdiction's grant program adopted pursuant to section 25 of this 2024 Act.**

(b) The loans shall be interest free for the term set by the sponsoring jurisdiction under section 26 (3)(c) of this 2024 Act.

(2) For each application approved under section 26 (5)(b) of this 2024 Act, the Housing and Community Services Department shall:

(a) Enter into a loan agreement with the sponsoring jurisdiction for a payment in an amount equal to the total of:

(A) Loan proceeds in an amount equal to the grant award for the application set under section 26 (3)(d) of this 2024 Act; and

(B) The administrative costs set forth in subsection (3) of this section; and

(b) Pay to the sponsoring jurisdiction the total amount set forth in paragraph (a) of this subsection out of the Housing Project Revolving Loan Fund established under section 35 of this 2024 Act.

(3) The administrative costs referred to in subsection (2)(a)(B) of this section are:

(a) An amount not greater than five percent of the loan proceeds to reimburse the sponsoring jurisdiction for the costs of administering the grant program, other than the costs of tax administration; and

(b) An amount equal to one percent of the loan proceeds to be transferred to the county in which the sponsoring jurisdiction is situated to reimburse the county for the costs of the tax administration of the grant program by the county tax officers.

(4) The Housing and Community Services Department may assign any and all loan amounts made under this section to the Department of Revenue for collection as provided in ORS 293.250.

(5) The Housing and Community Services Department may:

(a) Consult with the Oregon Business Development Department about any of the powers and duties conferred on the Housing and Community Services Department by sections 24 to 35 of this 2024 Act; and

(b) Adopt any rule it considers necessary or convenient for the administration of sections 24 to 35 of this 2024 Act by the Housing and Community Services Department.

SECTION 29. **(1) Upon entering into a loan agreement with the Housing and Community Services Department under section 28 of this 2024 Act, a sponsoring jurisdiction shall offer a grant agreement to each developer whose application was approved under section 26 (5)(b) of this 2024 Act.**

(2) The grant agreement shall:

(a) Include a grant award in the amount set under section 26 (3)(d) of this 2024 Act; and

(b) Contain terms that:

(A) Are required under sections 24 to 35 of this 2024 Act or the ordinance or resolution adopted by the sponsoring jurisdiction pursuant to section 25 of this 2024 Act.

(B) Do not conflict with sections 24 to 35 of this 2024 Act or the ordinance or resolution adopted by the sponsoring jurisdiction pursuant to section 25 of this 2024 Act.

(3) Upon entering into a grant agreement with a developer, a sponsoring jurisdiction shall adopt an ordinance or resolution setting forth the details of the eligible housing project that is the subject of the agreement, including but not limited to:

(a) A description of the eligible housing project;

(b) An itemized description of the eligible costs;

(c) The amount and terms of the grant award;

(d) Written notice that the eligible housing project property is exempt from property taxation in accordance with section 30 of this 2024 Act; and

(e) A statement declaring that the grant has been awarded in response to the housing needs of communities within the sponsoring jurisdiction.

(4) Unless otherwise specified in the grant agreement, as soon as practicable after the ordinance or resolution required under subsection (3) of this section becomes effective, the sponsoring jurisdiction shall distribute the loan proceeds received from the department under section 28 (2)(a)(A) of this 2024 Act to the developer as the grant moneys awarded under this section.

(5) The sponsoring jurisdiction shall forward to the tax officers of the county in which the eligible housing project is located a copy of the grant agreement, the ordinance or resolution and any other material the sponsoring jurisdiction considers necessary for the tax officers to perform their duties under sections 24 to 35 of this 2024 Act or the ordinance or resolution.

(6) Upon request, the department may assist the sponsoring jurisdiction with, or perform on behalf of the sponsoring jurisdiction, any duty required under this section.

SECTION 30. **(1) Upon receipt of the copy of a grant agreement and ordinance or resolution from the sponsoring jurisdiction under section 29 (5) of this 2024 Act, the assessor of the county in which eligible housing project property is located shall:**

(a) Exempt the eligible housing project property in accordance with this section;

(b) Assess and tax the nonexempt property in the tax account as other similar property is assessed and taxed; and

(c) Submit a written report to the sponsoring jurisdiction setting forth the assessor's estimate of the amount of:

(A) The real market value of the exempt eligible housing project property; and

(B) The property taxes on the exempt eligible housing project property that would have been collected if the property were not exempt.

(2)(a) The exemption shall first apply to the first property tax year that begins after completion of the eligible housing project to which the grant relates.

(b) The eligible housing project property shall be disqualified from the exemption on the earliest of:

(A) July 1 of the property tax year immediately succeeding the date on which the fee payment obligation under section 32 of this 2024 Act that relates to the eligible housing project is repaid in full;

(B) The date on which the annual fee imposed on the fee payer under section 32 of this 2024 Act becomes delinquent;

(C) The date on which foreclosure proceedings are commenced as provided by law for delinquent nonexempt taxes assessed with respect to the tax account that includes the eligible housing project; or

(D) The date on which a condition specified in section 33 (1) of this 2024 Act occurs.

(c) After the eligible housing project property has been disqualified from the exemption under this subsection, the property shall be assessed and taxed as other similar property is assessed and taxed.

(3) For each tax year that the eligible housing project property is exempt from taxation, the assessor shall enter a notation on the assessment roll stating:

(a) That the property is exempt under this section; and

(b) The presumptive number of property tax years for which the exemption is granted, which shall be the term of the loan agreement relating to the eligible housing project set under section 26 (3)(c) of this 2024 Act.

SECTION 31. (1) Repayment of loans made under section 28 of this 2024 Act shall begin, in accordance with section 32 of this 2024 Act, after completion of the eligible housing project funded by the grant to which the loan relates.

(2)(a) The sponsoring jurisdiction shall determine the date of completion of an eligible housing project.

(b)(A) If an eligible housing project is completed before July 1 of the assessment year, repayment shall begin with the property tax year that begins on July 1 of the assessment year.

(B) If an eligible housing project is completed on or after July 1 of the assessment year, repayment shall begin with the property tax year that begins on July 1 of the succeeding assessment year.

(c) After determining the date of completion under paragraph (a) of this subsection, the sponsoring jurisdiction shall notify the Housing and Community Services Department and the county tax officers of the determination.

(3) A loan shall remain outstanding until repaid in full.

SECTION 32. (1) The fee payer for eligible housing project property that has been granted exemption under section 30 of this 2024 Act shall pay an annual fee for the term that shall be the presumptive number of years for which the property is granted exemption under section 30 (3)(b) of this 2024 Act.

(2)(a) The amount of the fee for the first property tax year in which repayment of the loan is due under section 31 (1) of this 2024 Act shall equal the total of:

(A) The portion of the increment determined under section 27 (1)(c) of this 2024 Act that is attributable to the eligible housing project property to which the fee relates; and

(B) The administrative costs described in section 28 (3) of this 2024 Act divided by the term of the grant agreement entered into under section 29 of this 2024 Act.

(b) For each subsequent property tax year, the amount of the fee shall be 103 percent of the amount of the fee for the preceding property tax year.

(3)(a) Not later than July 15 of each property tax year during the term of the fee obligation, the sponsoring jurisdiction shall certify to the assessor each fee amount that became due under this section on or after July 16 of the previous property tax year from fee payers with respect to eligible housing projects located in the sponsoring jurisdiction.

(b) The assessor shall place each fee amount on the assessment and tax rolls of the county and notify:

(A) The sponsoring jurisdiction of each fee amount and the aggregate of all fee amounts imposed with respect to eligible housing project property located in the sponsoring jurisdiction.

(B) The Housing and Community Services Department of each fee amount and the aggregate of all fee amounts with respect to all eligible housing project property located in the county.

(4)(a) The assessor shall include on the tax statement of each tax account that includes exempt eligible housing project property the amount of the fee imposed on the fee payer with respect to the eligible housing project property.

(b) The fee shall be collected and enforced in the same manner as ad valorem property taxes, including nonexempt taxes, are collected and enforced.

(5)(a) For each property tax year in which a fee is payable under this section, the treasurer shall:

(A) Estimate the amount of operating taxes as defined in ORS 310.055 and local option taxes as defined in ORS 310.202 levied by fire districts that would have been collected on eligible housing project property if the property were not exempt;

(B) Distribute out of the fee moneys the amounts determined under subparagraph (A) of this paragraph to the respective fire districts when other ad valorem property taxes are distributed under ORS 311.395; and

(C) Transfer the net fee moneys to the Housing and Community Services Department for deposit in the Housing Project Revolving Loan Fund established under section 35 of this 2024 Act in repayment of the loans to which the fees relate.

(b) Nonexempt taxes shall be distributed in the same manner as other ad valorem property taxes are distributed.

(6) Any person with an interest in the eligible housing project property on the date on which any fee amount becomes due shall be jointly and severally liable for payment of the fee amount.

(7) Any loan amounts that have not been repaid when the fee payer has discharged its obligations in full under this section remain the obligation of the sponsoring jurisdiction that obtained the loan from the department under section 28 of this 2024 Act.

(8) Any fee amounts collected in excess of the loan amount shall be distributed in the same manner as other ad valorem property taxes are distributed.

SECTION 33. (1)(a) A developer that received a grant award under section 29 of this 2024 Act shall become liable for immediate payment of any outstanding annual fee payments imposed under section 32 of this 2024 Act for the entire term of the fee if:

(A) The developer has not completed the eligible housing project within three years following the date on which the grant moneys were distributed to the developer;

(B) The eligible housing project changes substantially from the project for which the developer's application was approved such that the project would not have been eligible for the grant; or

(C) The developer has not complied with a requirement specified in the grant agreement.

(b) The sponsoring jurisdiction may, in its sole discretion, extend the date on which the eligible housing project must be completed.

(2) If the sponsoring jurisdiction discovers that a developer willfully made a false statement or misrepresentation or willfully failed to report a material fact to obtain a grant with respect to an eligible housing project, the sponsoring jurisdiction may impose on the developer a penalty not to exceed 20 percent of the amount of the grant so obtained, plus any applicable interest and fees associated with the costs of collection.

(3) Any amounts imposed under subsection (1) or (2) of this section shall be a lien on the eligible housing project property and the nonexempt property in the tax account.

(4) The sponsoring jurisdiction shall provide written notice of any amounts that become due under subsections (1) and (2) of this section to the county tax officers and the Housing and Community Services Department.

(5)(a) Any and all amounts required to be paid under this section shall be considered to be liquidated and delinquent, and the Housing and Community Services Department shall assign such amounts to the Department of Revenue for collection as provided in ORS 293.250.

(b) Amounts collected under this subsection shall be deposited, net of any collection charges, in the Housing Project Revolving Loan Fund established under section 35 of this 2024 Act.

SECTION 34. (1) Not later than June 30 of each year in which a grant agreement entered into under section 29 of this 2024 Act is in effect, a developer that is party to the agreement shall submit a report to the sponsoring jurisdiction in which the eligible housing project is located that contains:

(a) The status of the construction or conversion of the eligible housing project property, including an estimate of the date of completion;

(b) An itemized description of the uses of the grant moneys; and

(c) Any information the sponsoring jurisdiction considers important for evaluating the eligible housing project and the developer's performance under the terms of the grant agreement.

(2) Not later than August 15 of each year, each sponsoring jurisdiction shall submit to the Housing and Community Services Department a report containing such information re-

lating to eligible housing projects within the sponsoring jurisdiction as the department requires.

(3)(a) Not later than November 15 of each year, the department shall submit, in the manner required under ORS 192.245, a report to the interim committees of the Legislative Assembly related to housing.

(b) The report shall set forth in detail:

(A) The information received from sponsoring jurisdictions under subsection (2) of this section;

(B) The status of the repayment of all outstanding loans made under section 28 of this 2024 Act and of the payment of all fees imposed under section 32 of this 2024 Act and all amounts imposed under section 33 of this 2024 Act; and

(C) The cumulative experience of the program developed and implemented under sections 24 to 35 of this 2024 Act.

(c) The report may include recommendations for legislation.

<u>SECTION 35.</u> (1) The Housing Project Revolving Loan Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Housing Project Revolving Loan Fund shall be credited to the fund.

(2) Moneys in the fund may be invested as provided by ORS 293.701 to 293.857, and the earnings from the investments shall be credited to the fund.

(3) Moneys in the Housing Project Revolving Loan Fund shall consist of:

(a) Amounts appropriated or otherwise transferred or credited to the fund by the Legislative Assembly;

(b) Net fee moneys transferred under section 32 of this 2024 Act;

(c) Amounts deposited in the fund under section 33 of this 2024 Act;

(d) Interest and other earnings received on moneys in the fund; and

(e) Other moneys or proceeds of property from any public or private source that are transferred, donated or otherwise credited to the fund.

(4) Moneys in the Housing Project Revolving Loan Fund are continuously appropriated to the Housing and Community Services Department for the purpose of paying amounts determined under section 28 of this 2024 Act.

(5) Moneys in the Housing Project Revolving Loan Fund at the end of a biennium shall be retained in the fund and used for the purposes set forth in subsection (4) of this section.

<u>SECTION 36.</u> (1) The Housing and Community Services Department shall have developed and begun operating the loan program that the department is required to develop under section 28 of this 2024 Act, including regional trainings and outreach for jurisdictional partners, no later than June 30, 2025.

(2) In the first two years in which the loan program is operating, the department may not expend an amount in excess of two-thirds of the moneys appropriated to the department for the purpose under section 62 of this 2024 Act.

HOUSING LAND USE ADJUSTMENTS

<u>SECTION 37.</u> Sections 38 to 41 of this 2024 Act are added to and made a part of ORS chapter 197A.

<u>SECTION 38.</u> <u>Mandatory adjustment to housing development standards.</u> (1) As used in sections 38 to 41 of this 2024 Act:

(a) "Adjustment" means a deviation from an existing land use regulation.

(b) "Adjustment" does not include:

(A) A request to allow a use of property not otherwise permissible under applicable zoning requirements;

(B) Deviations from land use regulations or requirements related to accessibility, affordability, fire ingress or egress, safety, local tree codes, hazardous or contaminated site

clean-up, wildlife protection, or statewide land use planning goals relating to natural resources, natural hazards, the Willamette River Greenway, estuarine resources, coastal shorelands, beaches and dunes or ocean resources;

(C) A complete waiver of land use regulations or any changes beyond the explicitly requested and allowed adjustments; or

(D) Deviations to requirements related to the implementation of 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.

(2) Except as provided in section 39 of this 2024 Act, a local government shall grant a request for an adjustment in an application to develop housing as provided in this section. An application qualifies for an adjustment under this section only if the following conditions are met:

(a) The application is for a building permit or a quasi-judicial, limited or ministerial land use decision;

(b) The development is on lands zoned to allow for residential uses, including mixed-use residential;

(c) The residential development is for densities not less than those required under section 55 (3)(a)(C) of this 2024 Act;

(d) The development is within an urban growth boundary, not including lands that have not been annexed by a city;

(e) The development is of net new housing units in new construction projects, including:

(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) The application requests not more than 10 distinct adjustments to development standards as provided in this section. A "distinct adjustment" means:

(A) An adjustment to one of the development standards listed in subsection (4) of this section where each discrete adjustment to a listed development standard that includes multiple component standards must be counted as an individual adjustment; or

(B) An adjustment to one of the development standards listed in subsection (5) of this section where each discrete adjustment to a listed development standard that includes multiple component standards must be counted as an individual adjustment; and

(g) The application states how at least one of the following criteria apply:

(A) The adjustments will enable development of housing that is not otherwise feasible due to cost or delay resulting from the unadjusted land use regulations;

(B) The adjustments will enable development of housing that reduces the sale or rental prices per residential unit;

(C) The adjustments will increase the number of housing units within the application;

(D) All of the units in the application are subject to an affordable housing covenant as described in ORS 456.270 to 456.295, making them affordable to moderate income households as defined in ORS 456.270 for a minimum of 30 years;

(E) At least 20 percent of the units in the application are subject to an affordable housing covenant as described in ORS 456.270 to 456.295, making them affordable to low income households as defined in ORS 456.270 for a minimum of 60 years;

(F) The adjustments will enable the provision of accessibility or visitability features in housing units that are not otherwise feasible due to cost or delay resulting from the unadjusted land use regulations; or

(G) All of the units in the application are subject to a zero equity, limited equity, or shared equity ownership model including resident-owned cooperatives and community land

trusts making them affordable to moderate income households as described in ORS 456.270 to 456.295 for a period of 90 years.

(3) A decision on an application for an adjustment made under this section is a limited land use decision. Only the applicant may appeal the decision. No notice of the decision is required if the application is denied, other than notice to the applicant. In implementing this subsection, a local government may:

(a) Use an existing process, or develop and apply a new process, that complies with the requirements of this subsection; or

(b) Directly apply the process set forth in this subsection.

(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.

(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.

(c) Parking minimums.

(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;

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

(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.

(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.

(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.

(D) Requirements for recesses and offsets.

SECTION 39. Mandatory adjustments exemption process. (1) A local government may apply to the Housing Accountability and Production Office for an exemption to section 38 of this 2024 Act only as provided in this section. After the application is made, section 38 of this 2024 Act does not apply to the applicant until the office denies the application or revokes the exemption.

(2) To qualify for an exemption under this section, the local government must demonstrate that:

(a) The local government reviews requested design and development adjustments for all applications for the development of housing that are under the jurisdiction of that local government;

(b) All listed development and design adjustments under section 38 (4) and (5) of this 2024 Act are eligible for an adjustment under the local government's process; and

(c)(A) Within the previous 5 years the city has approved 90 percent of received adjustment requests; or

(B) The adjustment process is flexible and accommodates project needs as demonstrated by testimonials of housing developers who have utilized the adjustment process within the previous five years.

(3) Upon receipt of an application under this section, the office shall allow for public comment on the application for a period of no less than 45 days. The office shall enter a final order on the adjustment exemption within 120 days of receiving the application. The approval of an application may not be appealed.

(4) In approving an exemption, the office may establish conditions of approval requiring that the city demonstrate that it continues to meet the criteria under subsection (2) of this section.

(5) Local governments with an approved or pending exemption under this section shall clearly and consistently notify applicants, including prospective applicants seeking to request an adjustment, that are engaged in housing development:

(a) That the local government is employing a local process in lieu of section 38 of this 2024 Act;

(b) Of the development and design standards for which an applicant may request an adjustment in a housing development application; and

(c) Of the applicable criteria for the adjustment application.

(6) In response to a complaint and following an investigation, the office may issue an order revoking an exemption issued under this section if the office determines that the local government is:

(a) Not approving adjustments as required by the local process or the terms of the exemption;

(b) Engaging in a pattern or practice of violating housing-related statutes or implementing policies that create unreasonable cost or delays to housing production under ORS 197.320 (13)(a); or

(c) Failing to comply with conditions of approval adopted under subsection (4) of this section.

SECTION 40. Temporary exemption authority. Before January 1, 2025, notwithstanding section 39 of this 2024 Act:

(1) Cities may deliver applications for exemption under section 39 of this 2024 Act to the Department of Land Conservation and Development; and

(2) The Department of Land Conservation and Development may perform any action that the Housing Accountability and Production Office may take under section 39 of this 2024 Act. Decisions and actions of the department under this section are binding on the office.

SECTION 41. Reporting. (1) A city required to provide a report under ORS 197A.110 shall include as part of that report information reasonably requested from the Department of Land Conservation and Development on residential development produced through approvals of adjustments granted under section 38 of this 2024 Act. The department may not develop a separate process for collecting this data or otherwise place an undue burden on local governments.

(2) On or before September 15 of each even-numbered year, the department shall provide a report to an interim committee of the Legislative Assembly related to housing in the manner provided in ORS 192.245 on the data collected under subsection (1) of this section. The committee shall invite the League of Oregon Cities to provide feedback on the report and the efficacy of section 38 of this 2024 Act.

SECTION 42. Operative date. Sections 38 to 41 of this 2024 Act become operative on January 1, 2025.

SECTION 43. Sunset. Sections 38 to 41 of this 2024 Act are repealed on January 2, 2032.

LIMITED LAND USE DECISIONS

SECTION 44. ORS 197.015 is amended to read:

197.015. As used in ORS chapters 195, 196, 197 and 197A, unless the context requires otherwise:

(1) "Acknowledgment" means a commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the goals or certifies that Metro land use planning goals and objectives, Metro regional framework plan, amendments to Metro planning goals and objectives or amendments to the Metro regional framework plan comply with the goals.

(2) "Board" means the Land Use Board of Appeals.

(3) "Carport" means a stationary structure consisting of a roof with its supports and not more than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

(4) "Commission" means the Land Conservation and Development Commission.

(5) "Comprehensive plan" means a generalized, coordinated land use map and policy statement of the governing body of a local government that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational facilities, recreational facilities, and natural resources and air and water quality management programs. "Comprehensive" means all-inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the plan. "General nature" means a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is "coordinated" when the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible. "Land" includes water, both surface and subsurface, and the air.

(6) "Department" means the Department of Land Conservation and Development.

(7) "Director" means the Director of the Department of Land Conservation and Development.

(8) "Goals" means the mandatory statewide land use planning standards adopted by the commission pursuant to ORS chapters 195, 196, 197 and 197A.

(9) "Guidelines" means suggested approaches designed to aid cities and counties in preparation, adoption and implementation of comprehensive plans in compliance with goals and to aid state agencies and special districts in the preparation, adoption and implementation of plans, programs and regulations in compliance with goals. Guidelines are advisory and do not limit state agencies, cities, counties and special districts to a single approach.

(10) "Land use decision":

(a) Includes:

(A) A final decision or determination made by a local government or special district that concerns the adoption, amendment or application of:

(i) The goals;

(ii) A comprehensive plan provision;

(iii) A land use regulation; or

(iv) A new land use regulation;

(B) A final decision or determination of a state agency other than the commission with respect to which the agency is required to apply the goals; or

(C) A decision of a county planning commission made under ORS 433.763;

(b) Does not include a decision of a local government:

(A) That is made under land use standards that do not require interpretation or the exercise of policy or legal judgment;

(B) That approves or denies a building permit issued under clear and objective land use standards;

(C) That is a limited land use decision;

(D) That determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility that is otherwise authorized by and consistent with the comprehensive plan and land use regulations;

(E) That is an expedited land division as described in ORS 197.360;

(F) That approves, pursuant to ORS 480.450 (7), the siting, installation, maintenance or removal of a liquefied petroleum gas container or receptacle regulated exclusively by the State Fire Marshal under ORS 480.410 to 480.460;

(G) That approves or denies approval of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan; or

(H) That a proposed state agency action subject to ORS 197.180 (1) is compatible with the acknowledged comprehensive plan and land use regulations implementing the plan, if:

(i) The local government has already made a land use decision authorizing a use or activity that encompasses the proposed state agency action;

(ii) The use or activity that would be authorized, funded or undertaken by the proposed state agency action is allowed without review under the acknowledged comprehensive plan and land use regulations implementing the plan; or

(iii) The use or activity that would be authorized, funded or undertaken by the proposed state agency action requires a future land use review under the acknowledged comprehensive plan and land use regulations implementing the plan;

(c) Does not include a decision by a school district to close a school;

(d) Does not include, except as provided in ORS 215.213 (13)(c) or 215.283 (6)(c), authorization of an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period; and

(e) Does not include:

(A) A writ of mandamus issued by a circuit court in accordance with ORS 215.429 or 227.179;

(B) Any local decision or action taken on an application subject to ORS 215.427 or 227.178 after a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179; or

(C) A state agency action subject to ORS 197.180 (1), if:

(i) The local government with land use jurisdiction over a use or activity that would be authorized, funded or undertaken by the state agency as a result of the state agency action has already made a land use decision approving the use or activity; or

(ii) A use or activity that would be authorized, funded or undertaken by the state agency as a result of the state agency action is allowed without review under the acknowledged comprehensive plan and land use regulations implementing the plan.

(11) "Land use regulation" means any local government zoning ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for implementing a comprehensive plan.

(12)**(a)** "Limited land use decision"[*:*]

[*(a)*] means a final decision or determination made by a local government pertaining to a site within an urban growth boundary that concerns:

(A) The approval or denial of a tentative subdivision or partition plan, as described in ORS 92.040 (1).

(B) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review.

(C) The approval or denial of an application for a replat.

(D) The approval or denial of an application for a property line adjustment.

(E) The approval or denial of an application for an extension, alteration or expansion of a nonconforming use.

(b) **"Limited land use decision"** does not mean a final decision made by a local government pertaining to a site within an urban growth boundary that concerns approval or denial of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan.

(13) "Local government" means any city, county or Metro or an association of local governments performing land use planning functions under ORS 195.025.

(14) "Metro" means a metropolitan service district organized under ORS chapter 268.

(15) "Metro planning goals and objectives" means the land use goals and objectives that Metro may adopt under ORS 268.380 (1)(a). The goals and objectives do not constitute a comprehensive plan.

(16) "Metro regional framework plan" means the regional framework plan required by the 1992 Metro Charter or its separate components. Neither the regional framework plan nor its individual components constitute a comprehensive plan.

(17) "New land use regulation" means a land use regulation other than an amendment to an acknowledged land use regulation adopted by a local government that already has a comprehensive plan and land regulations acknowledged under ORS 197.251.

(18) "Person" means any individual, partnership, corporation, association, governmental subdivision or agency or public or private organization of any kind. The Land Conservation and Development Commission or its designee is considered a person for purposes of appeal under ORS chapters 195, 197 and 197A.

(19) "Special district" means any unit of local government, other than a city, county, Metro or an association of local governments performing land use planning functions under ORS 195.025, authorized and regulated by statute and includes but is not limited to water control districts, domestic water associations and water cooperatives, irrigation districts, port districts, regional air quality control authorities, fire districts, school districts, hospital districts, mass transit districts and sanitary districts.

(20) "Urban growth boundary" means an acknowledged urban growth boundary contained in a city or county comprehensive plan or adopted by Metro under ORS 268.390 (3).

(21) "Urban unincorporated community" means an area designated in a county's acknowledged comprehensive plan as an urban unincorporated community after December 5, 1994.

(22) "Voluntary association of local governments" means a regional planning agency in this state officially designated by the Governor pursuant to the federal Office of Management and Budget Circular A-95 as a regional clearinghouse.

(23) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration that are sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

SECTION 45. ORS 197.195 is amended to read:

197.195. (1) A limited land use decision shall be consistent with applicable provisions of city or county comprehensive plans and land use regulations. Such a decision may include conditions authorized by law. Within two years of September 29, 1991, cities and counties shall incorporate all comprehensive plan standards applicable to limited land use decisions into their land use regulations. A decision to incorporate all, some, or none of the applicable comprehensive plan standards into land use regulations shall be undertaken as a post-acknowledgment amendment under ORS 197.610 to 197.625. If a city or county does not incorporate its comprehensive plan provisions into its land use regulations, the comprehensive plan provisions may not be used as a basis for a decision by the city or county or on appeal from that decision.

(2) A limited land use decision is not subject to the requirements of ORS 197.797.

(3) A limited land use decision is subject to the requirements of paragraphs (a) to (c) of this subsection.

(a) In making a limited land use decision, the local government shall follow the applicable procedures contained within its acknowledged comprehensive plan and land use regulations and other applicable legal requirements.

(b) For limited land use decisions, the local government shall provide written notice to owners of property within 100 feet of the entire contiguous site for which the application is made. The list shall be compiled from the most recent property tax assessment roll. For purposes of review, this requirement shall be deemed met when the local government can provide an affidavit or other certification that such notice was given. Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(c) The notice and procedures used by local government shall:

(A) Provide a 14-day period for submission of written comments prior to the decision;

(B) State that issues which may provide the basis for an appeal to the Land Use Board of Appeals shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue;

(C) List, by commonly used citation, the applicable criteria for the decision;

(D) Set forth the street address or other easily understood geographical reference to the subject property;

(E) State the place, date and time that comments are due;

(F) State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;

(G) Include the name and phone number of a local government contact person;

(H) Provide notice of the decision to the applicant and any person who submits comments under subparagraph (A) of this paragraph. The notice of decision must include an explanation of appeal rights; and

(I) Briefly summarize the local decision making process for the limited land use decision being made.

(4) Approval or denial of a limited land use decision shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

(5) A local government may provide for a hearing before the local government on appeal of a limited land use decision under this section. The hearing may be limited to the record developed pursuant to the initial hearing under subsection (3) of this section or may allow for the introduction

of additional testimony or evidence. A hearing on appeal that allows the introduction of additional testimony or evidence shall comply with the requirements of ORS 197.797. Written notice of the decision rendered on appeal shall be given to all parties who appeared, either orally or in writing, before the hearing. The notice of decision shall include an explanation of the rights of each party to appeal the decision.

(6) A city shall apply the procedures in this section, and only the procedures in this section, to a limited land use decision, even if the city has not incorporated limited land use decisions into land use regulations, as required by ORS 197.646 (3), except that a limited land use decision that is made under land use standards that do not require interpretation or the exercise of policy or legal judgment may be made by city staff using a ministerial process.

SECTION 45a. Section 46 of this 2024 Act is added to and made a part of ORS chapter 197.

SECTION 46. Applicability of limited land use decision to housing development. (1) The Housing Accountability and Production Office may approve a hardship exemption or time extension to ORS 197.195 (6), during which time ORS 197.195 (6) does not apply to decisions by a local government.

(2) The office may grant an exemption or time extension only if the local government demonstrates that a substantial hardship would result from the increased costs or staff capacity needed to implement procedures as required under ORS 197.195 (6).

(3) The office shall review exemption or time extension requests under the deadlines provided in section 39 (3) of this 2024 Act.

SECTION 47. Sunset. Section 46 of this 2024 Act is repealed on January 2, 2032.

SECTION 47a. Operative date. Section 46 of this 2024 Act and the amendments to ORS 197.015 and 197.195 by sections 44 and 45 of this 2024 Act become operative on January 1, 2025.

ONE-TIME SITE ADDITIONS TO URBAN GROWTH BOUNDARIES

SECTION 48. Sections 49 to 59 of this 2024 Act are added to and made a part of ORS chapter 197A.

SECTION 49. Definitions. As used in sections 49 to 59 of this 2024 Act:

(1) "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.

(2) "Site" means a lot or parcel or contiguous lots or parcels, or both, with or without common ownership.

SECTION 50. City addition of sites outside of Metro. (1) Notwithstanding any other provision of ORS chapter 197A, a city outside of Metro may add a site to the city's urban growth boundary under sections 49 to 59 of this 2024 Act, if:

(a) The site is adjacent to the existing urban growth boundary of the city or is separated from the existing urban growth boundary by only a street or road;

(b) The site is:

(A) 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;

(B) Designated as nonresource land; or

(C) Subject to an acknowledged exception to a statewide land use planning goal relating to farmland or forestland;

(c) The city has not previously adopted an urban growth boundary amendment or exchange under sections 49 to 59 of this 2024 Act;

(d) The city has demonstrated a need for the addition under section 52 of this 2024 Act;

(e) The city has requested and received an application as required under sections 53 and 54 of this 2024 Act;

(f) The total acreage of the site:

(A) For a city with a population of 25,000 or greater, does not exceed 100 net residential acres; or

(B) For a city with a population of less than 25,000, does not exceed 50 net residential acres; and

(g)(A) The city has adopted a binding conceptual plan for the site that satisfies the requirements of section 55 of this 2024 Act; or

(B) The added site does not exceed 15 net residential acres and satisfies the requirements of section 56 of this 2024 Act.

(2) A county shall approve an amendment to an urban growth boundary made under this section that complies with sections 49 to 59 of this 2024 Act 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. The county's decision is not a land use decision.

(3) Notwithstanding ORS 197.626, an action by a local government under sections 49 to 59 of this 2024 Act is not a land use decision as defined in ORS 197.015.

SECTION 51. Petition for additions of sites to Metro urban growth boundary. (1) A city within Metro may petition Metro to add a site within the Metro urban growth boundary if the site:

(a) Satisfies the requirements of section 50 (1) of this 2024 Act; and

(b) Is designated as an urban reserve.

(2)(a) Within 120 days of receiving a petition under this section, Metro shall determine whether the site would substantially comply with the applicable provisions of sections 49 to 59 of this 2024 Act.

(b) If Metro determines that a petition does not substantially comply, Metro shall:

(A) Notify the city of deficiencies in the petition, specifying sufficient detail to allow the city to remedy any deficiency in a subsequent resubmittal; and

(B) Allow the city to amend its conceptual plan and resubmit it as a petition to Metro under this section.

(c) If Metro determines that a petition does comply, notwithstanding any other provision of ORS chapter 197A, Metro shall adopt amendments to its urban growth boundary to include the site in the petition, unless the amendment would result in more than 300 total net residential acres added under this subsection.

(3) If the net residential acres included in petitions that Metro determines are in compliance on or before July 1, 2025, total less than 300 net residential acres, Metro shall adopt amendments to its urban growth boundary under subsection (2)(c) of this section:

(a) On or before November 1, 2025, for all petitions deemed compliant on or before July 1, 2025; or

(b) Within 120 days after a petition is deemed compliant after July 1, 2025, in the order in which the petitions are received.

(4) If the net residential acres included in petitions that Metro determines are in compliance on or before July 1, 2025, total 300 or more net residential acres, on or before January 1, 2027, Metro shall adopt amendments to its urban growth boundary under subsection (2)(c) of this section to include the sites in those petitions that Metro determines will:

(a) Best comply with the provisions of section 55 of this 2024 Act; and

(b) Maximize the development of needed housing.

(5) Metro may not conduct a hearing to review or select petitions or adopt amendments to its urban growth boundary under this section.

SECTION 52. City demonstration of need. A city may not add, or petition to add, a site under sections 49 to 59 of this 2024 Act, unless:

(1) The city has demonstrated a need for additional land based on the following factors:

(a)(A) In the previous 20 years there have been no urban growth boundary expansions for residential use adopted by a city or by Metro in a location adjacent to the city; and

(B) The city does not have within the existing urban growth boundary an undeveloped, contiguous tract that is zoned for residential use that is larger than 20 net residential acres; or

(b) Within urban growth boundary expansion areas for residential use adopted by the city over the previous 20 years, or by Metro in locations adjacent to the city, 75 percent of the lands either:

(A) Are developed; or

(B) Have an acknowledged comprehensive plan with land use designations in preparation for annexation and have a public facilities plan and associated financing plan.

(2) The city has demonstrated a need for affordable housing, based on:

(a) Having a greater percentage of severely cost-burdened households than the average for this state based on the Comprehensive Housing Affordability Strategy data from the United States Department of Housing and Urban Development; or

(b) At least 25 percent of the renter households in the city being severely rent burdened as indicated under the most recent housing equity indicator data under ORS 456.602 (2)(g).

SECTION 53. City solicitation of site applications. (1) Before a city may select a site for inclusion within the city's or Metro's urban growth boundary under sections 49 to 59 of this 2024 Act, a city must provide public notice that includes:

(a) The city's intention to select a site for inclusion within the city's urban growth boundary.

(b) Each basis under which the city has determined that it qualifies to include a site under section 52 of this section.

(c) A deadline for submission of applications under this section that is at least 45 days following the date of the notice.

(d) A description of the information, form and format required of an application, including the requirements of section 55 (2) of this 2024 Act.

(2) A copy of the notice of intent under this section must be provided to:

(a) Each county in which the city resides;

(b) Each special district providing urban services within the city's urban growth boundary;

(c) The Department of Land Conservation and Development; and

(d) Metro, if the city is within Metro.

SECTION 54. City review of site applications. (1) After the deadline for submission of applications established under section 55 of this 2024 Act, the city shall:

(a) Review applications filed for compliance with sections 49 to 59 of this 2024 Act.

(b) For each completed application that complies with sections 49 to 59 of this 2024 Act, 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;

(B)(i) One meeting of the city's planning commission at which public testimony is considered;

(ii) One meeting of the city's council at which public testimony is considered; or

(iii) One public open house; and

(C) Notice on the city's website or published in a paper of record at least 14 days before:

(i) A meeting under subparagraph (B) of this paragraph; and

(ii) The beginning of a comment period under subparagraph (A) of this paragraph.

(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 services to the site; and

(D) Any public or private utility that provides utilities to the site.

(2) An application filed under this section must:

(a) Be completed for each property owner or group of property owners that are proposing an urban growth boundary amendment under sections 49 to 59 of this 2024 Act;

(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.

(3) If the city has received approval from all property owners of such lands, in writing in a form and format specified by the city, the governing body of the city may select an application and the city shall adopt a conceptual plan as described in section 55 of this 2024 Act for all or a portion of the lands contained within the application.

(4) A conceptual plan adopted under subsection (3) of this section must include findings identifying reasons for inclusion of lands within the conceptual plan and reasons why lands, if any, submitted as part of an application that was partially approved were not included within the conceptual plan.

SECTION 55. Conceptual plan for added sites. (1) As used in this section:

(a) "Affordable units" means residential units described in subsection (3)(f)(A) or (4) of this section.

(b) "Market rate units" means residential units other than affordable units.

(2) Before adopting an urban growth boundary amendment under section 50 of this 2024 Act or petitioning Metro under section 51 of this 2024 Act, for a site larger than 15 net residential acres, a city shall adopt a binding conceptual plan as an amendment to its comprehensive plan.

(3) 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; and

(C) The development will be built at net residential densities not less than:

(i) Seventeen dwelling units per net residential acre if sited within the Metro urban growth boundary;

(ii) Ten units per net residential acre if sited in a city with a population of 30,000 or greater;

(iii) Six units per net residential acre if sited in a city with a population of 2,500 or greater and less than 30,000; or

(iv) Five units per net residential acre if sited in a city with a population less than 2,500;

(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:

(i) Primarily serve the immediate surrounding housing;

(ii) Provide goods and services at a smaller scale than provided on typical lands zoned for commercial use; and

(iii) Are provided at the minimum amount necessary to support and integrate viable commercial and residential uses;

(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 statewide land use planning goals for:

(A) Open spaces, scenic and historic areas or natural resources;

(B) Air, water and land resources quality;

(C) Areas subject to natural hazards;

(D) The Willamette River Greenway;

(E) Estuarine resources;

(F) Coast shorelands; or

(G) Beaches and dunes;

(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 ORS 195.060, 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) Include requirements that ensure that:

(A) At least 30 percent of the residential units are subject to affordability restrictions, including but not limited to affordable housing covenants, as described in ORS 456.270 to 456.295, that require for a period of not less than 60 years that the units be:

(i) Available for rent, with or without government assistance, by households with an income of 80 percent or less of the area median income as defined in ORS 456.270; or

(ii) Available for purchase, with or without government assistance, by households with an income of 130 percent or less of the area median income;

(B) The construction of all affordable units has commenced before the city issues certificates of occupancy to the last 15 percent of market rate units;

(C) All common areas and amenities are equally available to residents of affordable units and of market rate units and properties designated for affordable units are dispersed throughout the site; and

(D) The requirement for affordable housing units is recorded before the building permits are issued for any property within the site, and the requirements contain financial penalties for noncompliance.

(4) A city may require greater affordability requirements for residential units than are required under subsection (3)(f)(A) of this section, provided that the city significantly and proportionally offsets development costs related to:

(a) Permits or fees;

(b) System development charges;

(c) Property taxes; or

(d) Land acquisition and predevelopment costs.

SECTION 56. Alternative for small additions. (1) A city that intends to add 15 net residential acres or less is not required to adopt a conceptual plan under section 55 of this 2024 Act if the city has entered into:

(a) 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 section 55 (3)(f) of this 2024 Act; and

(b) 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.

(2) This section does not apply to a city within Metro.

SECTION 57. Department approval of site additions. (1) Within 21 days after the adoption of an amendment to an urban growth boundary or the adoption or amendment of a conceptual plan under sections 49 to 59 of this 2024 Act, and the approval by a county if required

under section 50 (2) of this 2024 Act, the conceptual plan or amendment must be submitted to the Department of Land Conservation and Development for review. The submission must be made by:

(a) The city, for an amendment under section 50 or 58 of this 2024 Act; or

(b) Metro, for an amendment under section 51 or 58 of this 2024 Act.

(2) Within 60 days after receiving a submittal under subsection (1) of this section, the department shall:

(a) Review the submittal for compliance with the provisions of sections 49 to 59 of this 2024 Act.

(b)(A) If the submittal substantially complies with the provisions of sections 49 to 59 of this 2024 Act, issue an order approving the submittal; or

(B) If the submittal does not substantially comply with the provisions of sections 49 to 59 of this 2024 Act, issue an order remanding the submittal to the city or to Metro with a specific determination of deficiencies in the submittal and with sufficient detail to identify a specific remedy for any deficiency in a subsequent resubmittal.

(3) If a conceptual plan is remanded to Metro under subsection (2)(b) of this section:

(a) The department shall notify the city; and

(b) The city may amend its conceptual plan and resubmit a petition to Metro under section 51 of this 2024 Act.

(4) Judicial review of the department's order:

(a) Must be as a review of orders other than a contested case under ORS 183.484; and

(b) May be initiated only by the city or an owner of a proposed site.

(5) Following the approval of a submittal under this section, a local government must include the added lands in any future inventory of buildable lands or determination of housing capacity under ORS 197A.270, 197A.280, 197A.335 or 197A.350.

<u>SECTION 58.</u> <u>Alternative urban growth boundary land exchange.</u> (1) In lieu of amending its urban growth boundary under any other process provided by sections 49 to 59 of this 2024 Act, Metro or a city outside of Metro may amend its urban growth boundary to add one or more sites described in section 51 (1)(a) and (b) of this 2024 Act to the urban growth boundary and to remove one or more tracts of land from the urban growth boundary as provided in this section.

(2) The acreage of the added site and removed lands must be roughly equivalent.

(3) The removed lands must have been zoned for residential uses.

(4) The added site must be zoned for residential uses at the same or greater density than the removed lands.

(5)(a) Except as provided in paragraph (b) of this subsection, land may be removed from an urban growth boundary under this section without landowner consent.

(b) A landowner may not appeal the removal of the landowner's land from an urban growth boundary under this section unless the landowner agrees to enter into a recorded agreement with Metro or the city in which the landowner would consent to annexation and development of the land within 20 years if the land remains in the urban growth boundary.

(6) Review of an exchange of lands made under this section may only be made by:

(a) For cities outside of Metro, the county as provided in section 50 (2) of this 2024 Act and by the Department of Land Conservation and Development, subject to judicial review, as provided in section 57 of this 2024 Act; or

(b) For Metro, the Department of Land Conservation and Development, subject to judicial review, as provided in section 57 of this 2024 Act.

(7) Sections 50 (1)(d) to (g), 52, 53, 54, 55 and 56 of this 2024 Act do not apply to a site addition made under this section.

<u>SECTION 59.</u> <u>Reporting on added sites.</u> A city for which an amendment was made to an urban growth boundary and approved under sections 49 to 59 of this 2024 Act shall submit a

report describing the status of development within the included area to the Department of Land Conservation and Development every two years until:

(1) January 2, 2033; or

(2) The city determines that development consistent with the acknowledged conceptual plan is deemed complete.

SECTION 60. Sunset. Sections 49 to 59 of this 2024 Act are repealed on January 2, 2033.

APPROPRIATIONS

SECTION 61. Appropriation and expenditure limitation to Department of Land Conservation and Development. (1) In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Land Conservation and Development, for the biennium ending June 30, 2025, out of the General Fund, the amount of $5,629,017, for deposit into the Housing Accountability and Production Office Fund, established under section 4 of this 2024 Act, to take any action to implement sections 1 to 5, 16, 38 to 41, 46 and 49 to 59 of this 2024 Act and the amendments to ORS 183.471, 197.015, 197.195, 197.335, 215.427 and 227.178 by sections 8, 9, 44, 45, 64 and 65 of this 2024 Act.

(2) In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Land Conservation and Development, for the biennium ending June 30, 2025, out of the General Fund, the amount of $5,000,000, for deposit into the Housing Accountability and Production Office Fund, established under section 4 of this 2024 Act, for the Housing Accountability and Production Office, established under section 1 of this 2024 Act, to provide technical assistance, including grants, under section 1 (2) of this 2024 Act and to provide required studies under section 5 of this 2024 Act.

(3) Notwithstanding any other law limiting expenditures, the amount of $10,629,017 is established for the biennium ending June 30, 2025, as the maximum amount for payment of expenses by the Department of Land Conservation and Development from the Housing Accountability and Production Office Fund established under section 4 of this 2024 Act.

SECTION 62. Appropriation and expenditure limitation to Housing and Community Services Department. (1) In addition to and not in lieu of any other appropriation, there is appropriated to the Housing and Community Services Department, for the biennium ending June 30, 2025, out of the General Fund, the amount of $75,000,000, for deposit into the Housing Project Revolving Loan Fund established under section 35 of this 2024 Act.

(2) Notwithstanding any other provision of law, the General Fund appropriation made to the Housing and Community Services Department by section 1, chapter 390, Oregon Laws 2023, for the biennium ending June 30, 2025, is increased by $878,071 for administrative expenses related to the Housing Project Revolving Loan Fund established under section 35 of this 2024 Act.

(3) Notwithstanding any other law limiting expenditures, the amount of $24,750,000 is established for the biennium ending June 30, 2025, as the maximum amount for payment of expenses by the Housing and Community Services Department from the Housing Project Revolving Loan Fund established under section 35 of this 2024 Act.

SECTION 63. Appropriation and expenditure limitation to Oregon Business Development Department. (1) In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Business Development Department, for the biennium ending June 30, 2025, out of the General Fund, the amount of $3,000,000, for deposit into the Housing Infrastructure Support Fund established under section 14 of this 2024 Act.

(2) Notwithstanding any other law limiting expenditures, the amount of $3,000,000 is established for the biennium ending June 30, 2025, as the maximum amount for payment of expenses by the Oregon Business Development Department from the Housing Infrastructure Support Fund established under section 14 of this 2024 Act.

__SECTION 63a.__ __Expenditure limitation to Department of Consumer and Business Services.__ Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1 (6), chapter 354, Oregon Laws 2023, for the biennium ending June 30, 2025, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Department of Consumer and Business Services, for Building Codes Division, is increased by $296,944, to support operations of the Housing Accountability and Production Office established under section 1 of this 2024 Act.

CONFORMING AMENDMENTS

__SECTION 64.__ ORS 197.335, as amended by section 17, chapter 13, Oregon Laws 2023, is amended to read:

197.335. (1) [*An order issued under ORS 197.328 and the copy of the order mailed*] **The Land Conservation and Development Commission shall mail a copy of an enforcement order** to the local government, state agency or special district**. An order** must set forth:

(a) The nature of the noncompliance, including, but not limited to, the contents of the comprehensive plan or land use regulation, if any, of a local government that do not comply with the goals or the contents of a plan, program or regulation affecting land use adopted by a state agency or special district that do not comply with the goals. In the case of a pattern or practice of decision-making, the order must specify the decision-making that constitutes the pattern or practice, including specific provisions the [*Land Conservation and Development*] commission believes are being misapplied.

(b) The specific lands, if any, within a local government for which the existing plan or land use regulation, if any, does not comply with the goals.

(c) The corrective action decided upon by the commission, including the specific requirements, with which the local government, state agency or special district must comply. In the case of a pattern or practice of decision-making, the commission may require revisions to the comprehensive plan, land use regulations or local procedures which the commission believes are necessary to correct the pattern or practice. Notwithstanding the provisions of this section, except as provided in subsection (3)(c) of this section, an enforcement order does not affect:

(A) Land use applications filed with a local government prior to the date of adoption of the enforcement order unless specifically identified by the order;

(B) Land use approvals issued by a local government prior to the date of adoption of the enforcement order; or

(C) The time limit for exercising land use approvals issued by a local government prior to the date of adoption of the enforcement order.

(2) Judicial review of a final order of the commission is governed by the provisions of ORS chapter 183 applicable to contested cases except as otherwise stated in this section. The commission's final order must include a clear statement of findings which set forth the basis for the order. Where a petition to review the order has been filed in the Court of Appeals, the commission shall transmit to the court the entire administrative record of the proceeding under review. Notwithstanding ORS 183.482 (3) relating to a stay of enforcement of an agency order, an appellate court, before it may stay an order of the commission, shall give due consideration to the public interest in the continued enforcement of the commission's order and may consider testimony or affidavits thereon. Upon review, an appellate court may affirm, reverse, modify or remand the order. The court shall reverse, modify or remand the order only if it finds:

(a) The order to be unlawful in substance or procedure, but an error in procedure is not cause for reversal, modification or remand unless the court finds that substantial rights of any party were prejudiced thereby;

(b) The order to be unconstitutional;

(c) The order is invalid because it exceeds the statutory authority of the agency; or

(d) The order is not supported by substantial evidence in the whole record.

(3)(a) If the commission finds that in the interim period during which a local government, state agency or special district would be bringing itself into compliance with the commission's order [*under ORS 197.320 or subsection (2) of this section*] it would be contrary to the public interest in the conservation or sound development of land to allow the continuation of some or all categories of land use decisions or limited land use decisions, it shall, as part of its order, limit, prohibit or require the approval by the local government of applications for subdivisions, partitions, building permits, limited land use decisions or land use decisions until the plan, land use regulation or subsequent land use decisions and limited land use decisions are brought into compliance. The commission may issue an order that requires review of local decisions by a hearings officer or the Department of Land Conservation and Development before the local decision becomes final.

(b) Any requirement under this subsection may be imposed only if the commission finds that the activity, if continued, aggravates the goal, comprehensive plan or land use regulation violation and that the requirement is necessary to correct the violation.

(c) The limitations on enforcement orders under subsection (1)(c)(B) of this section do not affect the commission's authority to limit, prohibit or require application of specified criteria to subsequent land use decisions involving land use approvals issued by a local government prior to the date of adoption of the enforcement order.

(4) As part of its order [*under ORS 197.320 or subsection (2) of this section*], the commission may withhold grant funds from the local government to which the order is directed. As part of an order issued under this section, the commission may notify the officer responsible for disbursing state-shared revenues to withhold that portion of state-shared revenues to which the local government is entitled under ORS 221.770, 323.455, 366.762 and 366.800 and ORS chapter 471 which represents the amount of state planning grant moneys previously provided the local government by the commission. The officer responsible for disbursing state-shared revenues shall withhold state-shared revenues as outlined in this section and shall release funds to the local government or department when notified to so do by the commission or its designee. The commission may retain a portion of the withheld revenues to cover costs of providing services incurred under the order, including use of a hearings officer or staff resources to monitor land use decisions and limited land use decisions or conduct hearings. The remainder of the funds withheld under this provision shall be released to the local government upon completion of requirements of the [*commission*] **enforcement** order.

(5)(a) As part of its order under this section, the commission may notify the officer responsible for disbursing funds from any grant or loan made by a state agency to withhold such funds from a special district to which the order is directed. The officer responsible for disbursing funds shall withhold funds as outlined in this section and shall release funds to the special district or department when notified to do so by the commission.

(b) The commission may retain a portion of the funds withheld to cover costs of providing services incurred under the order, including use of a hearings officer or staff resources to monitor land use decisions and limited land use decisions or conduct hearings. The remainder of the funds withheld under this provision shall be released to the special district upon completion of the requirements of the commission order.

(6) As part of its order under this section, upon finding a city failed to comply with ORS 197.320 (13), the commission may, consistent with the principles in ORS 197A.130 (1), require the city to:

(a) Comply with the housing acceleration agreement under ORS 197A.130 (6).

(b) Take specific actions that are part of the city's housing production strategy under ORS 197A.100.

(c) Impose appropriate models that have been developed by department, including model ordinances, procedures, actions or anti-displacement measures.

(d) Reduce maximum timelines for review of needed housing or specific types of housing or affordability levels, [*including*] through ministerial approval or any other expedited existing approval process.

(e) Take specific actions to waive or amend local ordinances.

(f) Forfeit grant funds under subsection (4) of this section.

(7) The commission may institute actions or proceedings for legal or equitable remedies in the Circuit Court for Marion County or in the circuit court for the county to which the [*commission's*] order is directed or within which all or a portion of the applicable city is located to enforce compliance with the provisions of any order issued under this section or to restrain violations thereof. Such actions or proceedings may be instituted without the necessity of prior agency notice, hearing [*and*] **or** order on an alleged violation.

(8) As used in this section, "enforcement order" or "order" means an order issued under ORS 197.320 or section 3 of this 2024 Act as may be modified on appeal under subsection (2) of this section.

SECTION 65. ORS 183.471 is amended to read:

183.471. (1) When an agency issues a final order in a contested case, the agency shall maintain the final order in a digital format that:

(a) Identifies the final order by the date it was issued;

(b) Is suitable for indexing and searching; and

(c) Preserves the textual attributes of the document, including the manner in which the document is paginated and any boldfaced, italicized or underlined writing in the document.

(2) The Oregon State Bar may request that an agency provide the Oregon State Bar, or its designee, with electronic copies of final orders issued by the agency in contested cases. The request must be in writing. No later than 30 days after receiving the request, the agency, subject to ORS 192.338, 192.345 and 192.355, shall provide the Oregon State Bar, or its designee, with an electronic copy of all final orders identified in the request.

(3) Notwithstanding ORS 192.324, an agency may not charge a fee for the first two requests submitted under this section in a calendar year. For any subsequent request, an agency may impose a fee in accordance with ORS 192.324 to reimburse the agency for the actual costs of complying with the request.

(4) For purposes of this section, a final order entered in a contested case by an administrative law judge under ORS 183.625 (3) is a final order issued by the agency that authorized the administrative law judge to conduct the hearing.

(5) This section does not apply to final orders by default issued under ORS 183.417 (3) or to final orders issued in contested cases by:

(a) The Department of Revenue;

(b) The State Board of Parole and Post-Prison Supervision;

(c) The Department of Corrections;

(d) The Employment Relations Board;

(e) The Public Utility Commission of Oregon;

(f) The Oregon Health Authority;

(g) The Land Conservation and Development Commission**, except for enforcement orders under section 3 of this 2024 Act**;

(h) The Land Use Board of Appeals;

(i) The Division of Child Support of the Department of Justice;

(j) The Department of Transportation, if the final order relates to the suspension, revocation or cancellation of identification cards, vehicle registrations, vehicle titles or driving privileges or to the assessment of taxes or stipulated settlements in the regulation of vehicle related businesses;

(k) The Employment Department or the Employment Appeals Board, if the final order relates to benefits as defined in ORS 657.010;

(L) The Employment Department, if the final order relates to an assessment of unemployment tax for which a hearing was not held;

(m) The Employment Department, if the final order relates to:

(A) Benefits, as defined in ORS 657B.010;

(B) Employer and employee contributions under ORS 657B.150 for which a hearing was not held;

(C) Employer-offered benefit plans approved under ORS 657B.210 or terminated under ORS 657B.220; or

(D) Employer assistance grants under ORS 657B.200; or

(n) The Department of Human Services, if the final order was not related to licensing or certification.

SECTION 66. ORS 455.770 is amended to read:

455.770. (1) In addition to any other authority and power granted to the Director of the Department of Consumer and Business Services under ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.995 and 480.510 to 480.670 and this chapter and ORS chapters 447, 460 and 693 **and sections 1 to 5 of this 2024 Act**, with respect to municipalities, building officials and inspectors, if the director has reason to believe that there is a failure to enforce or a violation of any provision of the state building code or ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.995 or 480.510 to 480.670 or this chapter or ORS chapter 447, 460 or 693 or any rule adopted under those statutes, the director may:

(a) Examine building code activities of the municipality;

(b) Take sworn testimony; and

(c) With the authorization of the Office of the Attorney General, subpoena persons and records to obtain testimony on official actions that were taken or omitted or to obtain documents otherwise subject to public inspection under ORS 192.311 to 192.478.

(2) The investigative authority authorized in subsection (1) of this section covers the violation or omission by a municipality related to enforcement of codes or administrative rules, certification of inspectors or financial transactions dealing with permit fees and surcharges under any of the following circumstances when:

(a) The duties are clearly established by law, rule or agreement;

(b) The duty involves procedures for which the means and methods are clearly established by law, rule or agreement; or

(c) The duty is described by clear performance standards.

(3) Prior to starting an investigation under subsection (1) of this section, the director shall notify the municipality in writing setting forth the allegation and the rules or statutes pertaining to the allegation and give the municipality 30 days to respond to the allegation. If the municipality does not satisfy the director's concerns, the director may then commence an investigation.

(4) If the Department of Consumer and Business Services or the director directs corrective action[*, the following shall be done*]:

(a) The corrective action [*shall*] **must** be in writing and served on the building official and the chief executive officers of all municipalities affected;

(b) The corrective action [*shall*] **must** identify the facts and law relied upon for the required action; and

(c) A reasonable time [*shall*] **must** be provided to the municipality for compliance.

(5) The director may revoke any authority of the municipality to administer any part of the state building code or ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.995 or 480.510 to 480.670 or this chapter or ORS chapter 447, 460 or 693 or any rule adopted under those statutes if the director determines after a hearing conducted under ORS 183.413 to 183.497 that:

(a) All of the requirements of this section and ORS 455.775 and 455.895 were met; and

(b) The municipality did not comply with the corrective action required.

CAPTIONS

SECTION 67. The unit and section captions used in this 2024 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2024 Act.

EFFECTIVE DATE

SECTION 68. This 2024 Act takes effect on the 91st day after the date on which the 2024 regular session of the Eighty-second Legislative Assembly adjourns sine die.

Passed by Senate February 29, 2024

....
Obadiah Rutledge, Secretary of Senate

....
Rob Wagner, President of Senate

Passed by House March 4, 2024

....
Dan Rayfield, Speaker of House

Received by Governor:

........................M.,.., 2024

Approved:

........................M.,.., 2024

....
Tina Kotek, Governor

Filed in Office of Secretary of State:

........................M.,.., 2024

....
LaVonne Griffin-Valade, Secretary of State

ASHLAND
PRESERVATION PLAN
2024-2030

ASHLAND OREGON
2008

The 2009-2018 Preservation Plan was funded with the assistance of a matching grant-in-aid from the Oregon State Historic Preservation Office and the National Park Service. Regulations of the U.S. Department of the Interior strictly prohibit unlawful discrimination on the basis of race, color, national origin, age or handicap. Any person who believes he or she has been discriminated against in any program, activity, or facility operated by a recipient of Federal assistance should write to: Office of Equal Opportunity, National Park Service, 1849 C Street, NW, Washington, D.C. 20240. This document is a "light update" of the 2009-2018 Preservation Plan.

Credits

~~My deepest appreciation to all the helpful staff with the City of Ashland, especially Angela Barry and Maria Harris. I'm especially grateful to the Historic Commission for supporting this project. Special thanks to all of the historic property owners and Ashland residents who participated and provided valuable input. It has been a privilege to work with your community.~~

~~Kimberli Fitzgerald, Fall 2008~~

~~Consultant:~~

~~Kimberli Fitzgerald, MCP/CHP, Historic Preservation Consultant~~

Historic Preservation Advisory Committee:

Shelby Scharen, Chair
Dale Shostrom, Vice Chair
Sam Whitford
Bill Emery
Terry Skibby
Katie Repp
Eric Bonetti
Mark Brouillard

Staff:

Brandon Goldman, Community Development Director
Derek Severson, Planning Manager
Aaron Anderson, Senior Planner
Veronica Allen, Associate Planner
April Lucas, Development Services Coordinator
Michael Sullivan, Executive Assistant
Regan Trapp, Permit Technician II/Building Inspector/Plans Examiner
Kendall Escuin, Building Technician I
Lisa Evans, Code Compliance Specialist

Purpose

The Preservation Plan is intended to provide the City and the Historic Preservation Advisory Committee (HPAC) with a strategic roadmap for implementing preservation related projects in Ashland. This plan is based upon what the community has identified as important in the area of historic preservation and includes five general program areas where needs were identified. Specific projects and a ##-year implementation plan to implement these projects has been provided to assist the Historic Preservation Advisory Committee and city staff in applying for funding, and deciding where to dedicate valuable city resources for historic preservation related projects.

Methodology

In the absence of consultant services or grant funding, the HPAC began by reviewing the 2009-2018 Preservation Plan as a recurring agenda item at monthly meetings beginning in late 2024 with the hope of creating a "light update" to the prior plan. The HPAC considered the previously adopted plan in light of the existing conditions related to historic preservation in 2024-25. New questionnaires based on those used in the previous plan's preparation were distributed to both city staff and members of the HPAC.

Needs were then evaluated relating to historic preservation within the community. In order to understand these needs, we contacted owners of historic properties as well as contractors and developers, inviting them to participate in the online survey. A notice was also placed on the City of Ashland website and in the local newspaper, the *Ashland Daily Tidings*.

Based upon input from these surveys and questionnaires, needs were identified in five different program areas. Recommendations for code changes and alternative projects to address these needs were presented to the Historic Commission for their input. After careful consideration and discussion, the Historic Commission identified their priorities for projects to accomplish in the next ten years within each program area, and an implementation plan was prepared.

Historic Overview

Ashland, Oregon, is a thriving cultural center in southern Oregon. Located in the upper Bear Creek region of the Rogue River Valley, Ashland is cradled by the Siskiyou Mountains on the city's southern and western border and beautiful valleys extending toward the north. With over 21,000 residents, Ashland maintains the feel of a small community while providing economic and cultural opportunities available in large cities.

Ashland sits on a portion of the original Applegate Trail that carried industrious and hopeful pioneers north from California to the Oregon Territory starting in 1846. With the Donation Land Claim Act of 1850, people were looking for arable land and temperate climates, and found both in the valleys of southern Oregon. As the population of the region grew, Jackson County was designated by the Territorial legislature on January 12, 1852.

Soon after, a group of men from California, including Abel Helman and Eber Emery, traveled north and stopped at Ashland Creek. They decided to capitalize on the available water power, building a sawmill, and later a flourmill. As more settlers arrived and took land claims nearby, the area around the flourmill became a popular meeting spot, as farmers would exchange wheat for flour. A permanent road was built to provide access to the flourmill, and the town became known as Ashland Mills.

Ashland's development was steady in the early years. The economy was largely based around farming until the 1880s. In addition to wheat, farmers produced fruit and raised livestock. The first fruit nursery in Jackson County was built by Ashland resident Orlando Coolidge in the late 1860s. Ashland Woolen Mills was constructed in 1867, using local fleece to produce wool clothing and blankets. Residential growth accompanied the area's economic growth, with residents constructing houses around the downtown Plaza and extending outward. In response to Ashland's development, the Oregon State Legislature granted the town a charter on October 13, 1874.

The 1880s brought railroad development and significant change to Ashland's economic and residential development. Southern Pacific Railroad was constructing the Oregon and California Railroad to provide continuous service between Portland, Oregon, and San Francisco, California. Ashland was slated to be the meeting point of the northern and southern construction efforts. In anticipation of growth to come, a Railroad Addition plat that doubled the size of the town was recorded February 26, 1884. It was located north of Ashland's downtown and provided space for residential and commercial development. In May of 1884 the first passenger train connected Portland and Ashland, and on December 17, 1887, a golden spike was driven into the railroad in Ashland, announcing the completion of the North-South line.

The affect of the railroad on Ashland was remarkable. In addition to providing freight services that opened Ashland's economy to outside markets, the passenger trains brought tourism to the town as well. Between 1880 and 1890, Ashland's population rose from 842 to 1,784. In response to this growth and to better provide public services, Ashland was incorporated as a city in 1885. Ten new additions were platted in 1888 due to a continuous housing shortage for the rail workers, entrepreneurs, and new families that flooded the area. Providing quality education was a concern, too, leading to the reopening of the defunct Ashland Academy that had closed in 1879. In 1882 it became a state school, and is now known as Southern Oregon University. A Chautauqua, or educational and entertainment show, was established ten years later by local Methodists, providing education and amusement for Ashland's citizens and visitors.

Despite a short depression in the early 1890s, and another during World War I, the city thrived. Industry was growing strong, with orchards now selling Ashland fruit nationwide. Population grew steadily (5,020 in 1910), as did the city infrastructure. In 1910 the city paved roads near the central Plaza and purchased land around the dismantled flour mill and near the Chautauqua site to create what eventually became Lithia Park. A Carnegie Library was built in 1912 and construction continued in neighborhoods around the city. Construction also began on the Pacific Highway over the Siskiyou Mountains in 1913, including Ashland's East Main and North Main Streets as part of the route.

Significant changes occurred in the late 1920s and 1930s causing Ashland's economic growth to slow drastically. Southern Pacific opted to reroute their rail service through the Natron Cut-off and halted continuous trains through Ashland in 1927. This combined with the 1929 stock market crash to create hardships for Ashland citizens. Railroad employees were forced to leave town, houses were left vacant, and tourism halted.

The onset of World War II brought a revival to Ashland. The U.S. Army built Camp White just north of Medford in 1942. Nearly 110,000 soldiers were trained there and often visited Ashland on their free time. Homes were remodeled to provide space for renters, applications for building permits increased, and the rise in auto traffic brought alterations to Ashland's roadways. In the post-war years, the city's economy was boosted as sawmill operations became very successful. Entertainment and cultural exposure returned as plays resumed on the Chautauqua site in 1947. The Oregon Shakespeare Festival constructed their outdoor Elizabethan Theater in 1959 within the foundation wall of the original Chautauqua building.

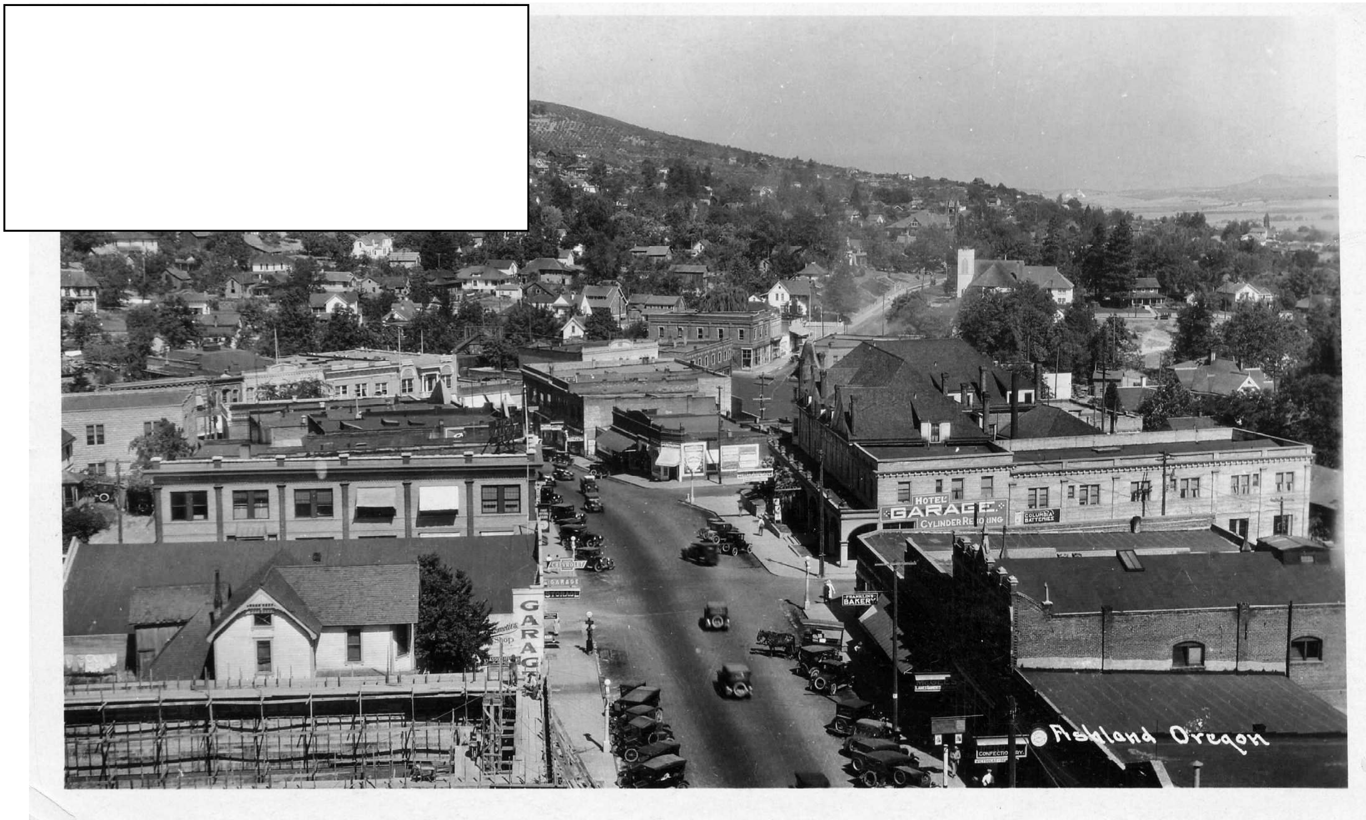
Ashland continued to grow and develop in the coming years. Interstate 5 opened in 1964, relieving traffic within the city. Ashland citizens began to petition for orderly, planned growth, resulting in the adoption of the city's first zoning ordinance that year. After increasing interest in historic preservation, Ashland's Historic Commission was established in 1975. The Commission established four areas of the city with significant historical resources, all of which were listed on the National Register of Historic Places between 1999 and 2002. They include the Ashland Railroad Addition Historic District, the Ashland Downtown Historic District, the Skidmore Academy Historic District, and the Siskiyou Hargadine Historic District.

Today Ashland is a popular destination city. The moderate climate that attracted settlers 160 years ago still draws people from around the globe. Over 350,000 people visit the city each year to attend the many plays of the Oregon Shakespeare Festival and participate in outdoor sports and sightseeing. Southern Oregon University is also a central part of the city's economy, and is a great resource for the community, serving approximately 5,000 students.

In 2008, Ashland was named as a Smart21 Community for the second consecutive year. This award is granted by the Intelligent Community Forum to 21 communities around the world who display signs of intelligent growth and development. It is a notable achievement and an honor for Ashland, as the City was among only five recipients from the United States.

In ####, state legislation (HB2001) was adopted requiring that cities allow the construction of accessory residential units and duplexes in any zone where detached single-family residences were allowed, and with no more land use process than was required for single family residences. Prior to this legislation, accessory residential units required Conditional Use Permit approval while duplexes required Site Design Review approval. Both of these land use processes required a demonstration of compliance with the Historic District Development Standards and included review and advice to the decision makers by the Historic Commission. With the local implementation of this new state legislation, accessory residential units and duplexes could be approved with the issuance of a building permit and the Commission was no longer empowered to provide advisory review for the majority of new residential construction within Ashland's historic districts. This legislation had the effect of substantially limiting the HPAC's role and effectiveness. [**DISCUSSION QUESTION FOR HPAC:** *In the absence of residential Site Design Review, are there ways that HPAC could constructively respond to these changes? Educational outreach with regard to ARU's/duplexes? Educational materials focused on ARU's/duplexes? A focus on ARU's/Duplexes in the annual awards ceremony to encourage compatible design?]*

[SPECIFIC TIMEFRAME] In early 2020, city offices closed to the public, city staff began working remotely, and many public meetings were shifted to on-line video tele-conferencing platforms like Zoom in response to the state of emergency declared due to the global COVID-19 pandemic. The HPAC began meeting via Zoom, and HPAC's Historic Design Review Board, which had met in person every week, ceased meeting for the duration of the emergency. Even as the city slowly came out of the state of emergency and returned to normal operations, the pandemic's continued impacts to the labor force and supply chains raised the cost of materials substantially, added months to delivery times, and made it exceedingly difficult to find reliable construction labor in the valley.



Existing Cultural Resource Management Program

Comprehensive Plan

Ashland has had an established program for protecting historic resources for many years. Included within Ashland's Comprehensive Plan adopted on November 2, 1982, there are policies and specific language relating to preservation, particularly in the Downtown and three residential districts which include the Railroad Addition, Siskiyou-Hargadine, and Skidmore Academy districts. While these areas of historic interest were identified early in the establishment of Ashland's program, and a map was produced by the City in the 1970s, these four historic interest areas were not formally delineated until 1984 when the City of Ashland asked the Oregon SHPO for an opinion regarding the eligibility of these four areas of historic interest in preparation for an extensive housing rehabilitation project. In 1984 and 1988-1990 surveys were completed of these areas. In 1999 the Railroad Addition District was listed on the National Register, and in 2000 the Ashland Downtown District was listed. The Skidmore Academy Historic District was listed in 2001, and the Siskiyou-Hargadine Historic District was listed in 2002.[1]

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[1] It should be noted that the boundaries for the four National Register Districts follow the boundaries of the locally-adopted historic interest areas generally, but as adopted by the National Park Service, the boundaries do not match exactly. The official Historic District Overlay map

The Historic Preservation component of the Ashland Comprehensive Plan includes nine policies related to historic preservation. Five of these policies are implemented through the land use process and identified in the Ashland Municipal Code.[2]

Development Code

The five-member Historic Preservation Committee was originally established in 1975. It became the Historic Commission in 19##. In ####, the Historic Commission was renamed the Historic Preservation Advisory Committee (HPAC) as part of a restructuring of committees and commissions city-wide. Currently the HPAC is a nine-member, advisory body that meets monthly. A subset of this Commission is the three-member Historic Design Review Board, which meets bi-weekly to review building permit applications and pre-applications within the historic districts. The HPAC is bound by the procedural requirements and criteria adopted by Ordinance #______ and set forth in ______ of the Ashland Municipal Code (AMC).[3]

Ministerial Review

Staff review & approval, with HPAC Review Board review.

Examples:
Building Permits with no associated Planning Action

Planning Actions

Type I

Review by the HPAC with recommendations to Staff; appeal to Planning Commission.

Examples:
Exterior alteration to a structure individually listed on the National Register; Site Review; Conditional Use; Variance; Historic Sign

Type II

Review by the HPAC with recommendations to Planning Commission; appeal to Council.

Examples:
Downtown Site Review over 2500 sq.ft., Conditional Use, Variance

Type III

Examples:
Zone Change, Comp. Plan/Map Change, Annexation

Legislative Amendments

Initiated by Council, Planning Commission or resident; review by Planning Commission recommendation to Council

Examples:
Amend text of Land Use Ordinance to better conform with Comprehensive Plan.

Table 1: Types of Review

Types of Review

Per AMC 18.5.1 there are three general types of procedures for land use actions:

1) Ministerial Actions; 2) Planning Actions and 3) Legislative Amendments. For projects located within one of the historic districts, either city staff, the Historic Design Review Board or the HPAC will review and comment on the proposal.

It is rare that the Historic Preservation Advisory Committee would be involved in a Legislative Amendment, unless the text of the proposed amendments would

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reflects the local boundaries, not the National Register District boundaries, and regulations apply within the adopted overlays.

[2] See Appendix # 1

[3] See Appendix # 2

directly affect the Historic Preservation Advisory Committee and its duties or directly affected one or more of the historic districts, as in potentially designating the Downtown as a Climate Friendly Area (CFA).

The Historic Design Review Board primarily reviews building permits, and is involved in ministerial reviews for projects located within the historic districts. Both the Historic Design Review Board and the HPAC review pre-applications. Normally sign and mechanical permits are considered ministerial reviews and are brought to the Historic Design Review Board only when staff identify issues worthy of consideration, however per AMC 18.4.7.130 the designation of Historic Signs is reviewed through a Type II procedure with review by the Historic Preservation Advisory Committee.

The Historic Preservation Advisory Committee primarily reviews planning actions for projects located within the local historic districts. In 2006, the Historic Commission reviewed a total of 15 projects, a majority of which were Conditional Uses, Site Design Reviews and Variances. Projects were both residential and commercial, with some new construction and some change of use and additions.[4]

In 2007 the Historic Commission reviewed a total of 14 projects, a majority of which were also Site Review, Variance and Conditional Uses. Projects included the construction of office and mixed use buildings as well as changes in use.

In 2008, to date, the Historic Commission has reviewed approximately 20 projects. Projects primarily include Site Design, Conditional Use and Variance like in years past. Projects include the construction of a new school as well as conversion of existing buildings to office use or travelers accommodations as well as change in use to allow the operation of an outdoor farmers market and the use of a school for artists workspaces and community events.

With revisions to section 18.5.2.020.A.4 of the Ashland Land Use Ordinance adopted in 20##, a requirement was codified that any exterior alteration to a contributing commercial building within a National Register Historic District requiring a building permit triggered Site Design Review and required review aby the Historic Preservation Advisory Committee. [**NOTE:** *In review of Ashland's ordinances and procedures in 2022, SHPO indicated that this could not be required without a separate local designation process and indicated that it needed to be removed from the code as written.*]

<u>*Site Design and Use Standards*</u>

The Site Design and Use Standards were originally adopted by Ashland City Council in 1986. In 1992 these standards were replaced and the Detail Site Review Standards were added. In 1998 the Downtown Design Standards were added. For new construction, applicable standards can be found primarily in

[4] See Appendix #3 for total number and types of reviews. While the Historic Commission reviews an average of 3 cases a month many of these reviews span more than one meeting, especially if the projects are large and have complex issues.

Section II, Basic Site Review Standards. These standards address orientation and scale, streetscape, landscaping, parking, designated creek protection, and noise and glare. Section II C-1g addresses the expansion of existing sites and buildings (ie if the building is to expand by 25%, then 25% of the site must be brought up to the standards outlined in this section). Certain properties within the downtown, on North Main Street, East Main Street and Siskiyou Boulevard also fall within the Detail Site Review zone and have additional requirements relating to orientation and scale, streetscape, parking, buffering and screening, lighting and building materials. Additional requirements relating to orientation and scale, public spaces, transit amenities, and recycling are included for larger scale projects (above 10,000 square feet). These are included in Section II-C-3.

Section IV-B Historic District Development includes eleven rehabilitation and remodel standards. Additionally, Section IV-C includes ten standards primarily relating to new development and renovation of existing structures within the historic districts. Criteria relating to height, scale, massing, setback, roof shapes, rhythm of openings, platforms, directional expression, sense of entry and imitation are included here. Illustrations, primarily demonstrating appropriate residential development, are utilized.

Section VI, Downtown Ashland, of the *Site Design and Use Standards* includes additional standards relating to commercial buildings in the downtown. Six approval criteria (VI-1 through VI-6) are related to guiding new development downtown. Additional standards VI-A through I address height, setback, width, openings, vertical rhythms, roof forms, materials, and awnings for new construction or redevelopment of existing buildings. Illustrations demonstrating appropriate commercial development are presented.

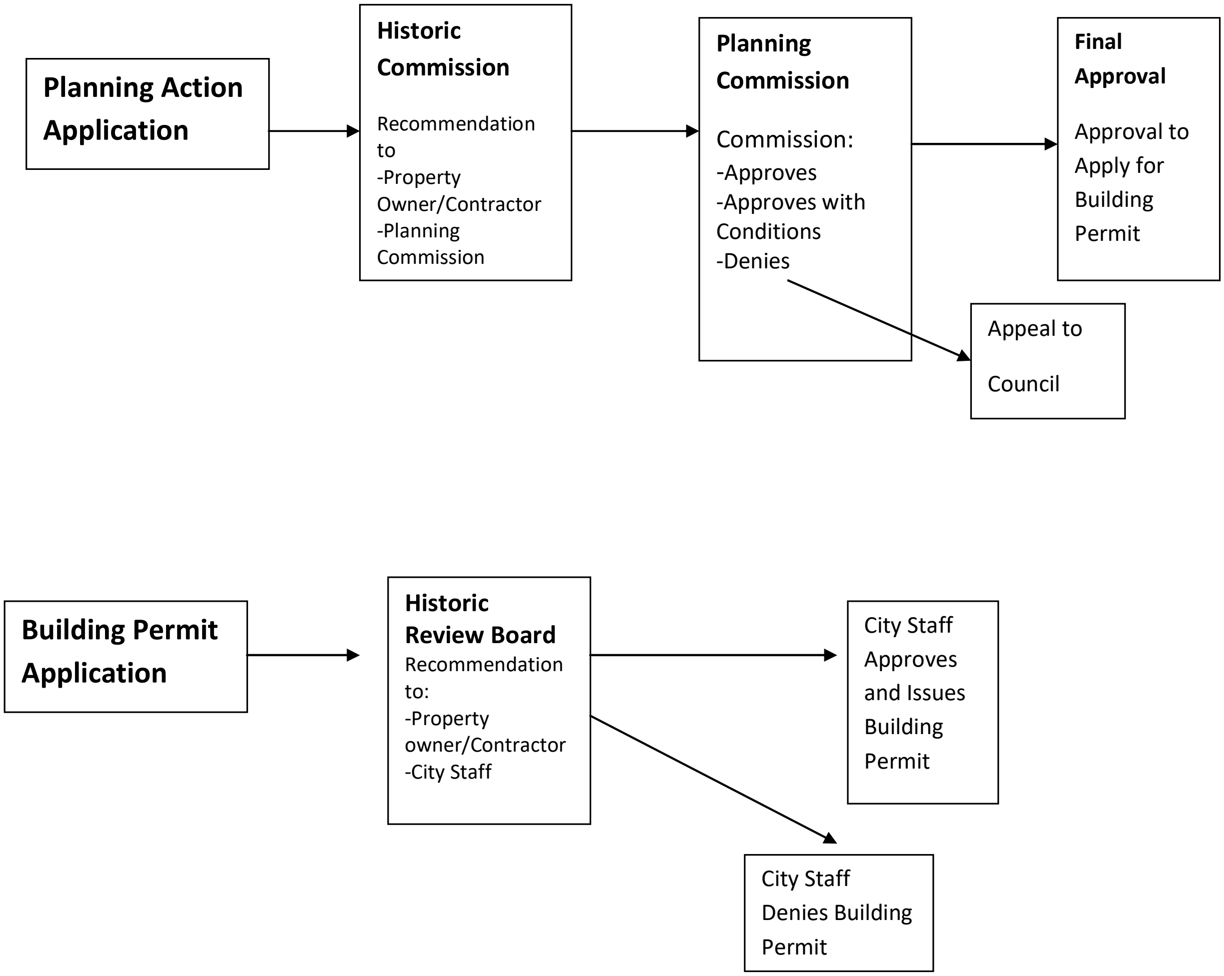
Several standards within this section specifically address the restoration or remodeling of existing structures. For example, Section VI-D-2 requires that the scale and proportion of altered or added building elements be compatible with the original architectural character of the building. Additionally, Section VI-J- 2 specifically requires that the visual integrity of the original building be maintained when altering or adding building elements. Section VI- J) 3) requires that restoration, rehabilitation or remodeling projects incorporate original design elements that were previously removed, remodeled or covered over.

Current Review Process

Historic Preservation Advisory Committee Review

Currently the HPAC reviews certain Planning Actions for projects located within the designated local districts (those areas identified by the Historic District Overlay Map included in AMC Figure 18.4.2.050). Typical reviews include Site Design Reviews, Conditional Uses, and Variances. After the HPAC makes a recommendation to the Planning Commission or Staff Advisor about a Planning Action, specifically if that Planning Action involves the exterior alteration of an existing structure or new construction, individual HPAC members are assigned to monitor that project through its completion. Sometimes conditions of approval are placed upon a project requiring the HPAC to review specifics of a design prior to issuance of the building permit.

Table 1: General Review Process for Projects within Local Historic Districts

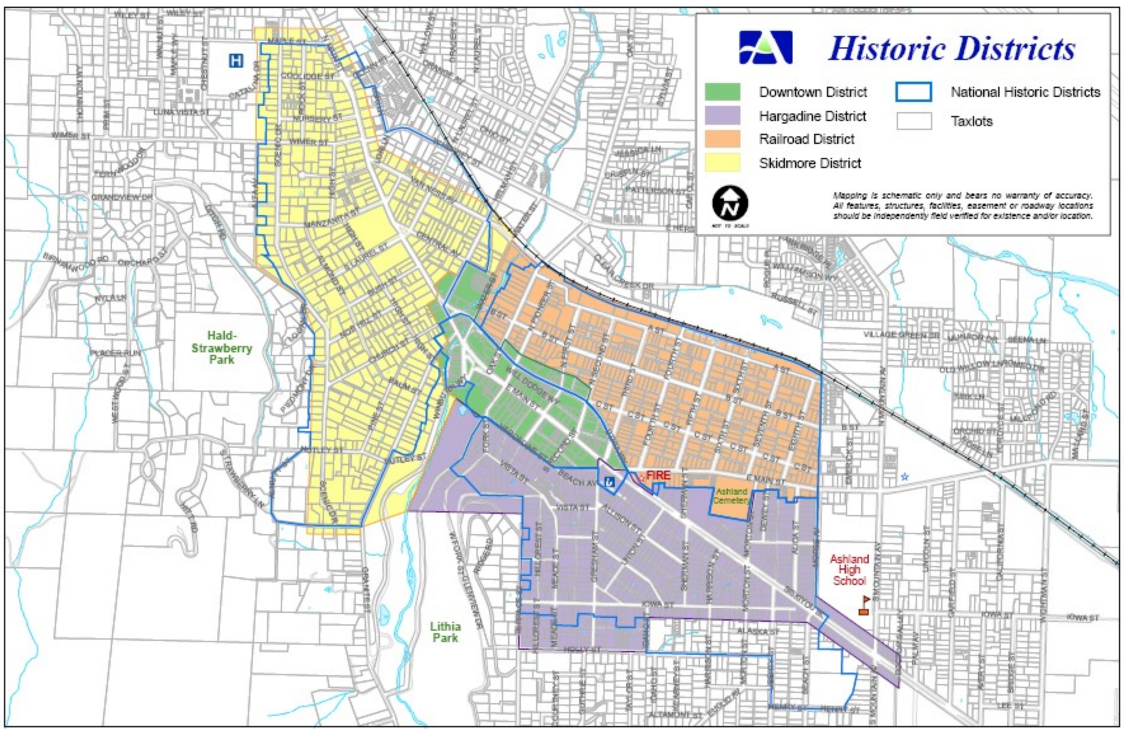


Historic Design Review Board

Three members of the HPAC meet every other week as the Historic Design Review Board to review building permits for projects within historic districts which do not require Planning Actions. The three members who meet weekly vary. At each monthly Historic Commission meeting a schedule for the upcoming month is made. These meetings are informal and are not attended by city staff. Board members record their recommendations on a form and they take their own notes regarding each meeting. These meetings are generally an opportunity for the board to meet informally with the applicant and make suggestions and recommendations about improving design or compatibility issues.

Ashland's Resources

Ashland's historic resources are contained primarily within the four National Register historic districts, as well as within the four areas of historic interest. In addition, Ashland has 30 individual resources listed in the National Register.



Ashland has four National Register Historic Districts:

District	Contributing	Noncontributing
Ashland Downtown District	73	27
Railroad Addition District	256	115
Siskiyou-Hargadine District	274	186
Skidmore Academy District	300	184

Additionally, there is a local sign inventory with three historic signs that have been designated.[5] Other areas which have been surveyed include the Ashland North quadrant area which was surveyed in 2006 (95 Eligible Contributing/Significant, 40 Not Eligible, 5 Eligible/Out of Period). Recommendations regarding potential future historic districts were made as part of this project.[6]

Existing Incentive Programs

The City of Ashland became a Certified Local Government (CLG) in 2000. The CLG program is a national program which offers non-competitive grants for historic preservation projects and programs to communities which are administered through the Oregon State Historic Preservation Office (SHPO). The annual grant through the CLG program administered through the State SHPO office has historically been the primary source of funding for additional city preservation programs in Ashland. In recent years, budgetary and staffing limitations have made it difficult to pursue grants where the funds received don't justify the administrative burden. In addition, the Oregon State Special Assessment Program is available to any historic property owner who owns a contributing resource within a National Register district, as well as those which are individually listed in the National Register. In Ashland, currently 25 properties take advantage of Special Assessment program.[7][**NOTE:** *Staff to contact SHPO about the possibility of SHPO-administered grants and about the current status of the Special Assessment Program.*]

Additionally, individually listed and contributing income producing properties are eligible for Federal Tax Credits through the National Park Service program. Ten properties have taken advantage of this program in recent years.

The Historic Preservation Advisory Committee currently distributes Historic Preservation Awards annually during Historic Preservation Week in May. Awards are given in several categories for outstanding historically compatible new construction and additions, as well as outstanding restoration work. An award is also given to an outstanding organization or individual for their work in the area of historic preservation in Ashland.

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[5] Designated signs include: the Varsity Theatre sign at 166 East Main Street, which is located in the Downtown Historic District. Another is the Peerless Rooms sign at 243 Fourth Street, which is located within the Railroad Historic District. The last is the Palm Motel sign at 1065 Siskiyou Blvd., which is not in a Historic District but is down near SOU on Siskiyou.

[6] Kramer, George. MS. Kramer & Company. ***Ashland North Reconnaissance Level Survey, August 2006.***

[7] 8 commercial and 17 residential

Questionnaires for Historic Commission Members and Staff

Historic Commission Needs:[8]

The following needs were identified based upon Commissioner responses to the questionnaire.

Training

A majority of commissioners responded positively to the possibility of additional training which could include training about city codes and the duties of a Historic Commissioner as well as how to read construction and building plans. It was noted that it might be helpful to have more commissioners with design/history background. Additionally it was indicated that a mentoring program for new Commissioners would be beneficial.

Development Code

Overall the Commission is happy with the code and they appreciate its flexibility. It was expressed that the Commission relies heavily upon staff to interpret the code. Commissioners identified the need to amend the code so that it is more restrictive in certain cases. Additionally there is concern that some issues such as changing siding or window replacement are never reviewed by the Historic Commission or the Review Board because they don't require a building permit and that this is causing the integrity of the historic districts to be compromised.

Overall, Commissioners are happy with the current process. It was noted that there was an interest in the Commission having more input and authority to make final decisions than it currently does. Additionally, it was noted that the process needs to be more consistent, and that fluctuations in the way applications are handled in different situations can be frustrating.

Education of Property Owners

A majority of Commissioners felt that the Commission could improve their education of historic property owners. An idea was proposed suggesting that everyone who purchases a property in a historic district should get a handbook and be invited to the Review Board so that they know what is involved when they want to make changes to their property.

Communication with Planning Commission and Council

All respondents suggested communication between the Historic Commission, Planning Commission and Council could be improved.

[8] A more complete summary of the questionnaires is located in Appendix #4.

Preservation Programs

Commissioners had several suggestions for additional programs including: Incorporation of archaeological resources in the interpretation of the city's history and prehistory; Making new owners in the historic district aware of codes regarding historic preservation; Training for commissioners and attending training sessions and conferences and working closer with state affiliate, the Historic Preservation League of Oregon, the National Trust and the University of Oregon historic preservation program.

Staff Needs

The following needs were identified from the city staff:

Development Code

While overall staff feels that the current code is well balanced, it was noted that while the standards in Section IV-C of the Site Design and Use Standards work well for residential applications, there is sometimes difficulty in applying these standards to commercial projects, along with the associated standards for the Downtown and Detail Site Review. It has been a goal for both the Commission and staff to identify and implement more specific standards for exterior changes to contributing structures in the residential historic districts.

Staff indicated that the changes as a result of the new Ordinance that went into effect on July 1 would not significantly change the current process. However several new requirements were noted, including: larger scale drawings with more detail, and Type I review by the HC of all exterior changes requiring building permits on commercial structures identified as contributing.

Staff identified concern that changes to siding, roofing and windows are not reviewed, because they do not require permits. Additionally it was noted that the Commissioners are advisory only and have no authority to deny an application, which leads some applicants to forgo appearing before the Review Board.

Review Process

Staff noted that the new process implemented on July 1 will take additional time. Specifically, concerns were expressed about those applications that have to be reviewed by both the Tree and Historic Commissions as well as the Planning Commission. However, staff believed it was important to have a more thorough review. Some concern was expressed about the need to educate property owners that regardless of whether or not their property is historic, all applications within the districts must be reviewed by the Historic Commission. Additionally, it was noted that for some land use actions (which do not involve physical changes to a structure or site) it does not always make sense to bring it before the Historic Commission.

Staff noted that sometimes there were issues related to running a formal meeting. Specifically, it may be necessary to provide additional training so that during a meeting it is clear that the proper process is being followed. Additionally, sometimes the make-up of the Review Board at any given meeting affects the consistency of the results, in that the same issues are not addressed in the same manner. In general staff noted that the Historic Commissioners were very helpful, and volunteered significant time to assist staff. Commissioners are available weekly and provide regular feedback on a variety of issues.

Office Resources

Staff stated that they knew of easily accessible maps available on-line and at the office. Maps are available to staff electronically, but only the district map is on the website. It was noted that the National Historic District boundaries do not match up with the local Ashland Historic District boundaries which can sometimes cause confusion. Staff felt that the historic inventories are well done and useful and that it might be useful to provide the inventory on-line to the public. Additionally it was noted that there is a need to organize old historic information resource files.

Programs

Staff identified a variety of different programs that could be beneficial to Ashland, including: additional identification and survey of historic structures outside the historic districts; educational programs such as brochures for homeowners; Historic Preservation Week; brown bag lunches on preservation topics such as historic window restoration; and special assessment programs to encourage restoration.

Survey

The survey distributed to stakeholders in Ashland's Preservation Program was designed to identify general needs and goals within the community. In general, open ended questions were asked, allowing respondents to reply freely based upon their experience with preservation in Ashland. A total of 200 notices were distributed and we received about a 20 percent return (40 responses) to this survey.[9]

Respondents felt that the Downtown District was most in need of protection, with the Railroad District the next most in need. A majority of respondents felt that the City is doing a good job protecting Ashland's historic resources through the code, however some felt that the City should have some requirements for basic maintenance of both structures and landscaping. There was some concern expressed about rental housing being detrimental to the fabric of the districts.

Most Respondents felt that a majority of Ashland's historic resources have been identified within the four districts. However, some respondents noted that local resources, such as small orchard and farm homes outside of these districts, especially farmhouses in the Bellview District, should be identified and protected. It was noted that an effort should be made to collect oral histories, in particular about the mill sites in Ashland.

Overall a majority of respondents feel that they know what sort of work requires review, and they believe the process is fair. However, respondents felt that the City should make it easier to utilize energy and resource saving measures, such as solar energy, on historic structures. It was suggested that all of the city codes, ordinances and Site Design Standards relating to historic review and design criteria should be pulled into one section of the code, to make it easier for applicants, staff and Commissioners to understand the historic preservation portion of the code.

Most respondents felt that additional historic preservation programs are necessary, and a majority also were interested in grant or loan programs facilitated by the City which would benefit historic property owners.

Respondents were interested in programs which included: study sessions or workshops (on weekends); walking tour with markers/plaques; special speakers; inventory with photos placed online; assistance with historic research or nominations; grade school history education; and history articles in the newspaper.

A majority of respondents were interested in receiving a newsletter from the Historic Commission. They were interested in the following educational topics: identifying historic home styles; green preservation; foundation repair;

[9] See the Appendix # 5 for the specific questions and a more detailed summary of responses.

appropriate siding & window replacement; Ashland history; theater history; spotlight on current restoration projects.

A majority of people have had a positive experience with the City with regard to historic preservation.

Recommended Code Revisions

The City of Ashland is unique in that its Historic Commission is mandated by AMC Chapter 2.24 to review and make recommendations in connection with the issuance of building permits, zone changes, conditional use permits, variances, sign permits and site reviews within the identified local districts. This is in contrast to many other jurisdictions throughout the state who only review exterior alterations to identified historic resources and don't do any kind of review of land use permits.

It should be noted that while it was brought up by staff, the Commission and the public that sometimes there is frustration regarding the advisory role of the Historic Commission as opposed to its power to make final binding decisions, the resolution of this issue is beyond the scope of this project. It is recommended that the issue of the power and function of the Historic Commission and its duties be considered carefully by the City Council and Mayor, as it would require a change in the enabling language of the Historic Commission especially as it relates to the review of all land use decisions and the function of the Planning Commission. The fundamental nature of the Historic Commission and the scope of the projects reviewed would need to be examined within the overall context of land use review and public process as it relates to future development and preservation of historic resources within the city as a whole.

The goal of this project is to evaluate Ashland's Historic Preservation Program, including the Historic Commission's duties within the context of the existing enabling language found in the comprehensive plan and the municipal code. Any recommendations or suggested projects within the identified program areas are meant to help improve the Historic Commission's ability to address identified needs in areas where they have existing authority as identified through the Comprehensive Plan. Some of the suggested revisions are 'housekeeping' issues and others will require policy changes, which may necessitate additional consideration and discussion by the Historic Commission, the Planning Commission and City Council.

Based upon the responses of the public, planning staff and the Historic Commissioners, the following changes to the City of Ashland Municipal Code are suggested. It is recommended that the timeline and priority of any code revisions be determined by City staff in cooperation with the Historic Commission, especially since the City recently implemented some significant changes to their Land Use code.

Revision and Expansion of Design Standards for Exterior Changes in Residential Districts

Need to Review Changes not Requiring a Building Permit

Like staff and Historic Landmarks Commissioners in many jurisdictions, the issues of acceptable design and building materials for exterior changes to buildings in residential districts arise frequently. Typical examples of exterior changes to buildings that can impact the integrity of historic structures and the surrounding district are changes to windows, doors or siding. Causing further challenge is that these kinds of changes don't require a building permit, but if done inappropriately, will impact a structure's integrity. In order to preserve the integrity of historic resources, the local jurisdiction must take extra measures to educate historic property owners about proper techniques for restoring and remodeling historic structures, and ensure that review processes and criteria are in place beyond building permit review.

It was identified as an important goal by both staff and the Historic Commission that exterior alterations to resources are reviewed even though they don't require a building permit.

This goal is supported by language in both the Comprehensive Plan and the Municipal Code. The Comprehensive Plan 1.30 Goal is: *To preserve historically significant structures and sites in Ashland.* Comprehensive Plan 1.31 Policies #7 is: *The City shall develop and implement through law design guidelines for new development as well as for alteration of existing structures within the historic interest areas for structures and areas that are historically significant.* Additionally, the AMC Chapter 2.24.040 Powers and Duties B:T*o draft and recommend ordinances and other measures designed to protect and foster interest in the improvement of designated historical properties.*

Further, as an active Certified Local Government, Ashland is required to have a program in place which ensures the protection of identified significant historic resources.[10] The lack of review of alterations to structures that contribute to the historic districts has caused some loss of integrity within these districts, particularly in the case of siding and window replacement.

[10] CLG Performance Standards A: The SHPO expects elected officials and administrators of CLGs to support historic preservation programs with adequate funding, staff, and access, and ensure that ordinances and other legislation designed to protect historic and prehistoric cultural resources are enforced (qq.v, OAR 660-023-0200)

Need to Revise and Expand Existing Residential Standards

Section IV, Historic District Development contains eleven design standards identified in Section IV B for rehabilitation and ten standards in Section IV C relating primarily to new additions and new construction. These current standards are generally most useful for the review of residential projects within the historic districts.

However, it has been noted that occasionally some of these standards conflict with the standards for commercial development within Section VI, the Downtown Ashland section of the *Site Design and Use Standards.* For example, the standards relating to height (IV-C-1, *Avoid construction that greatly varies in height from older buildings in the vicinity* conflicts with VI-A-1, *Building height shall vary from adjacent buildings...to maintain the traditional "staggered" streetscape appearance*). To avoid this kind of conflict, the purpose of Section IV could be revised to clarify its application primarily to the three identified residential districts, any residential structures within the downtown district or any future locally listed resources outside of the historic districts. It could be clarified here that if there is a conflict between criteria of the two sections when reviewing a proposed project in downtown, the criteria found in Section VI of the *Site Design and Use Standards* should be utilized first, supplemented when necessary by historic district design standards in Section IV. An additional section within Section VI may be necessary to provide clear and objective standards for transition areas within the commercial areas of the residential districts as well as any commercial structures outside of the downtown area.

Further, some of the Standards in Section IV-B conflict with or contradict the Secretary of the Interior's Standards for Rehabilitation.[11] This could be a potential problem for properties on the Oregon Special Assessment program. The Oregon SHPO office utilizes the Secretary of the Interior's Standards when evaluating project proposals, and any work that does not comply with these standards may cause the property to be removed from the program. For example, Standards IV-B-1, 3, 4 and 5 encourage new additions to match existing features as much as possible. This is contradictory to Secretary of the Interior's Standard #9 which requires: "*The new work shall be differentiated from the old.*" Another potential conflict exists in Standard IV-B-3 which requires that ridge lines be extended where possible. This could potentially conflict with Secretary of the Interior's Standard #10 which requires: "*New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.*"

Last, should Ashland decide to review exterior alterations not requiring a building permit, the Historic Commission and city staff will need to review the existing

[11] Appendix #6C

standards to ensure that clear and objective criteria exist for projects which typically haven't been reviewed before. For example, criteria exists encouraging that new window additions duplicate existing or original windows (IV-B-2), but no specific criteria exists addressing the issue of replacement of existing windows.

Possible New Language for General Standards

The following section contains examples of possible language to include within Section IV B *Rehabilitation and Remodel Standards.* The revision of Section IV B should begin with a clarification that the standards apply only to contributing structures within an existing district (or resources that are individually listed). Additional revisions could include:[12]

- Be sure the *restored* portion has exterior wall finish that matches the existing or original material. For additions, be sure that the new exterior material is distinguishable from the old, either by selecting a different, compatible material or by including a design feature which distinguishes it from the original. (clarification and addition to IV-B-1)
- If replacement of siding, windows or distinguishing architectural features is necessary, every effort should be made to utilize in-kind materials and to replicate the detailing, style or profile of what is being replaced. If in-kind replacement is not feasible, materials compatible with the historic structure should be used. Modern materials such as vinyl are discouraged. (clarification and addition to IV-B-1 & 2)
- Design the roof on additions to have the same pitch as the original roof. Avoid extending the ridge line. Any new additions should be designed so that if they are removed in the future the essential form and integrity of the original resource will not be compromised.(revision and addition to IV-B-3)
- While the style of any porch or entry addition should match that of the existing style of the building, each property shall be recognized as a physical record of its time, place and use. It shall be clear from the use of materials or design which portion of the resource is original, and which is new. Changes that create a false sense of historical development, such as added conjectural elements from other buildings, shall not be undertaken. (clarification and revision of IV-B-4)
- Maintenance and repair of existing distinguishing architectural features is encouraged, especially on any facades visible from the right of way. (clarification of IV-B-6)
- Exterior alterations or additions, if they are necessary, should be on the rear of the building, and not exceed the height of the existing building.

[12] Many revisions based upon Secretary of the Interior's Standards and Oregon SHPO's model ordinance.

While additions should be compatible, it should be clearly distinguishable that they are new. (clarification and addition to IV-C-1)

- Any restorations of existing historical features should be based upon historic evidence, either photographs or existing physical evidence. If historic evidence is not available, restoration based upon conjecture should not be attempted. (clarification of IV-C-10)
- Provide a use compatible to the design of the historic property which requires minimal alteration of the building, structure or site and its environment. (new)
- The historic character of a property shall be retained and preserved. The relocation of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property shall be avoided. (new)
- Correct structural deficiencies without visually changing the composition, texture or other visual qualities of the structure. Do not excavate or regrade adjacent to an historic structure in a way that could cause the foundation to shift or fail. (new)
- Any required surface cleaning of buildings shall be undertaken utilizing the gentlest means possible. Harmful chemical or physical treatments, such as sandblasting, that can cause damage to original historical material, shall be avoided. Retain original masonry and mortar whenever possible without the application of any surface treatment. (new)
- Archeological resources shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken. (new)

Additional Residential Standards for the Historic Districts

Standards IV-B-7, 8, 9 and 10 relate to the use of specific materials and styles. Since these particular standards are so specific regarding compatible material and style, as time goes by and new properties or districts with different styles or materials are listed on the National Register or the Local Landmarks list, these Standards may not apply. Therefore, it is important to clarify that certain design standards relating to the particular materials or styles only apply to specifically identified residential districts.

The existing design standards could be revised as follows:

- Within the Railroad Addition, Siskiyou-Hargadine and Skidmore Districts, if a reroof is required on an existing building, in-kind replacement is preferred. If in-kind replacement is not feasible (or for new construction or additions), roofs of sawn shingle or composition are preferred. Asphalt shingles which match existing color and texture are acceptable. Shake, tile or metal roofs should be avoided. (clarification and revision of IV-B-7).

- Within the Railroad Addition, Siskiyou-Hargadine and Skidmore Districts, for new additions to existing buildings, diagonal and vertical siding should be avoided.(clarification and revision of IV-B-8)

- Within the Railroad Addition, Siskiyou-Hargadine and Skidmore Districts, for new additions to existing buildings, styles should match that of the existing building and styles from other eras should be avoided. (clarification of IV-B-11).

In order to best accommodate the specific conditions in Ashland, it is recommended that either existing City staff or a consultant familiar with crafting residential design standards facilitate a work session with the Historic Commission to discuss both residential design standard revisions as well as acceptable building materials. The goal of the work session should be to determine what the Commission finds acceptable for historic residential buildings in general as well as within the three different districts. For example, do the Commissioners wish to have additional standards which discourage the use of particular materials such as vinyl or aluminum? What sorts of window replacements are acceptable? Are alternative building materials allowed on new construction, or should traditional building materials found in the district be used? How are the integration of ‘green’ building or energy conservation methods encouraged and which materials are acceptable?

Possible new standards could include:

- Within the Railroad Addition, Siskiyou-Hargadine and Skidmore Districts replacement of windows is discouraged in favor of restoration of historic windows. If replacement is necessary because of advanced deterioration, it should be with in-kind materials, however if this is not feasible, acceptable materials include wood, or any paintable modern material that replicates the window profile and design. If energy efficiency is a concern, high quality storm windows are encouraged, as they should thermally outperform a new double glazed metal window.
- Within the Railroad Addition, Siskiyou-Hargadine and Skidmore Districts for new additions and new construction, replacement siding should be compatible with the existing resource. Paintable materials such as wood or alternative materials such as smooth-finish fiber-cement siding (such as Hardieplank) are acceptable, while vinyl should be avoided. Use of salvaged historic material is encouraged. Other acceptable ‘green’ siding options include Forest Stewardship Council (FSC) certified sustainably harvested wood, or natural resin-based siding made of recycled materials.
- Within the Railroad Addition, Siskiyou-Hargadine and Skidmore Districts, solar panels are acceptable on roofs provided they are located on the rear of the roof, away from the front façade, with limited visibility from the right of way. Every attempt should be made to minimize damage to the existing resource when attaching the panels, and they should be removable.

Once the Commission determines what it finds acceptable, the Site Design Standards, Section IV, B Historic Design Review Criteria should be revised and updated with clear and objective Design Standards for these districts. It is recommended that a list of "encouraged" and "discouraged" materials and design features with graphics similar to the ones that already exist in this Section be developed to help guide staff, the applicant and the Commission.

Review process for exterior changes in the Residential Districts

As of July, commercial buildings within the historic districts require a Type I review for any exterior alteration which requires a building permit, if they are designated contributing to one of the National Register Historic Districts.[13] It is suggested that the City consider requiring a similar type of review for Single Family contributing buildings within the National Register districts.

Additionally, it is recommended that a review process be established for reviewing all exterior alterations to contributing properties within the historic districts (regardless of whether a building permit is required).

Since there are a significant number of contributing properties within these historic districts, it is recommended that a two-tiered review process be implemented by which staff can approve small projects if they meet certain criteria, and the Historic Commission would perform discretionary review of the more complex projects as a Type I review. The Ministerial process completed by staff could be used for "over-the-counter" approvals with input from the Historic Review Board.

Recommended language

Ministerial Review: For projects that are limited in scope or minor alterations on the rear or interior side yard, not visible from the public right-of-way and no increase in building footprint or massing, or in-kind replacement of siding, windows or doors. Historic Design review performed by the Staff Advisor or designee shall be based upon the application of clear and objective standards and shall not require public hearing nor public notice. Suggested projects include: signs which are under 25 square feet in size, skylights; mechanical equipment; reroofing; 'in-kind' door, window, roof and siding replacement.

Type I : For projects that are limited in scope or minor alterations not requiring a building permit and no increase in building footprint or massing. Historic Design review performed by Historic Commission shall be based upon clear and objective standards and shall not require public hearing. These reviews shall be considered as a Type I decision and shall require a public notice and opportunity for appeal to the Planning

[13] Per 18.108.040 A. 1.c "Any exterior change to a structure which requires a building permit and is listed on the National Register of Historic Places or to a contributing property within an Historic District on the National Register of Historic Places.

Commission in accordance with of the Ashland Municipal Code. Suggested projects include: replacement of roofing, siding or windows (not in-kind), outbuildings (less than 200 square feet); awnings; wheelchair ramps; reconfiguration of existing decks; reconstruction of stairs; etc.

Criteria: Criteria used shall be found in the Site Design and Use Standards Section IV B: *Rehabilitation & Remodel Standards: 1-11.* Additional residential standards will possibly be developed. (Perhaps these standards could be supplemented in the meantime by the Secretary of the Interior's Standards for Rehabilitation or the State SHPO Model Ordinance.)

Review Process: The Staff Advisor shall approve, conditionally approve, or deny the application, based on the project's conformity with the standards. Conditions of approval, if any, shall be limited to project modifications required to enable the project to better meet the intent of the standards. All reviews by the Staff Advisor shall be in conformance with current land use review regulations.

Adjustment of National Register District Boundaries

Currently, Ashland's four National Register Districts do not match the boundaries of the local districts have been adopted with the Comprehensive Plan. This has been identified as an issue which causes confusion for City staff, Commissioners and the public.

Further, there are some property owners who are subject to the regulation that exists in the AMC for historic districts, but who do not have access to potential incentives available to those located within the National Register district boundaries, such as the State Special Assessment program.

It is recommended that City staff and the Historic Commission consider working with the State Historic Preservation Office to determine whether or not the existing boundaries of the four National Register Districts could easily be adjusted to match the local boundaries.

Additionally, the City may want to amend the Comprehensive Plan to include the maps for the four National Register Districts, so that the area designated for review within the National Register districts would be clarified.

Historic Commission Liaison to the Planning Commission/Hearings Board

Concern regarding the limited communication between the Historic and Planning Commissions was expressed by Commissioners. Since the Historic Commission spends a significant amount of time and energy reviewing applications that are then forwarded on for review by the Planning Commission or Hearings Board, it is suggested that a liaison from the Historic Commission be appointed to the Planning Commission or Hearings Board. There are many nuances and facets of the back and forth debate that occur between the Commissioners and the applicant that cannot necessarily be conveyed in minutes or a decision. This representative would be able to convey this information back to the larger Planning Commission or Hearings Board to help facilitate better communication between the two review bodies regarding projects that have been reviewed by the Historic Commission.

Enabling Language for the Historic Review Board

Currently, the Historic Commission's Review Board, comprised of three members of the Historic Commission which meets weekly to review building permits for projects within the historic districts, is not formally established in the Ashland Municipal Code. Therefore their role, powers and duties are not clearly defined within the Ashland Municipal Code.

It is recommended that the Historic Review Board be formally established and their role clearly defined in the Ashland Municipal Code the way that it is for the Planning Commission Hearings Board in AMC Section 2.14. It is recommended that both staff and the Historic Commission work together to determine the following:

1) ***Membership***: Should at least one (or more) of the members of the Historic Review Board be a Preservation Professional or Certified Architect? As a Certified Local Government, Ashland is encouraged to require that a substantial effort will be made to find a number individuals that meet the Standards for a Preservation Professional for the Historic Commission.[14] Should this requirement extend to the Review Board?
2) ***Duties*:** Currently the Historic Review Board meets weekly to review existing Building Permits and make recommendations to applicants. Are there additional duties this Board should have?
3) ***Rules of Procedure:*** What sort of criteria should the Review Board utilize when discussing Building Permits with applicants? Does additional language need to be developed within the *Site Design Standards* specifically for the Historic Review Board?

Establishment of a Local Inventory

A local inventory of historic resources is a compilation of those resources within a city or other locality which are locally significant.[15] This differs from a national or state inventory, in that the locality has the discretion in deciding what resources

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[14] An added benefit to utilizing Preservation Professionals is that their volunteer time can be counted at their Professional billing rate (as a soft match) to meet the CLG match requirements (as opposed to the normal minimum wage rate for regular volunteers). See Appendix 6 D for the Secretary of the Interiors Professional Qualification Standards.

[15] The SHPO model ordinance defines a designated Landmarks Register as: *The list of, and record of information about properties officially recognized by (The City of__,__County) as important in its history.*

are listed and what sort of responsibilities or benefits accompany a local listing. [16] Many jurisdictions establish a local inventory as a completely voluntary program whereby individual property owners of historic resources meeting basic criteria (such as being 50 years old), are encouraged to apply for listing in exchange for the benefit of local incentive programs administered through the local jurisdiction. Other benefits to a Local Landmark Inventory would be the ability to protect those properties outside of districts that wouldn't necessarily meet the more stringent National Register criteria for listing. Since the local jurisdiction has the ability to set its own criteria for listing, they would have the ability to designate resources they felt were worthwhile, even if they may not be nationally significant.

Enabling language already exists within the Ashland comprehensive plan and municipal code. Comprehensive Plan 1.31 (6) states: *The City shall identify and inventory its significant historic buildings, structures, sites, objects and districts employing photographic, written and oral documentation, and maps, and shall protect those resources identified as significant.* The AMC Section 2.24.040A explains the Historic Commission's duties: *To survey and recommend to the City Council, areas or properties of significant historical value and interest to be designated historical properties; (Ord 2037 S5, 1979).* As a result of this initial enabling language, the four local areas of historic interest were established, and the associated map adopted along with the Comprehensive Plan. These four areas subsequently were thoroughly surveyed and established as National Register Districts. However, individual local landmarks or historic resources have never been identified, nor has a process or criteria for review ever been established.[17]

As a Certified Local Government, the City of Ashland is required to designate local landmarks. [18] It is noted that these may include, but are not limited to: districts, sites, buildings, structures and objects. Per ORS 197.772 & LUBA no 2000-160 the designation of local landmarks must be based upon clear and objective criteria embodied in the local ordinance and supported by written findings of fact, as well as a provision that addresses the question of owner consent. [19]

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[16] Currently, there are no national or state requirements associated with being designated an historic resource. For example, a resource listed on the National Register does not have any protection, except for what is required by the local jurisdiction. With the exception of those properties listed on the National Register and enrolled in the Special Assessment Program, any requirements for alteration review of NR properties are all local.

[17] There is a process and criteria for locally significant historic signs however. This Inventory was established in 1990 per Ordinance 2598,

[18] CLG Performance Standard C: "The Certified Local Government designates local landmarks"

[19] Additionally, any property listed on the National Register of Historic Places must be protected as local landmarks under OAR 660-023-0200.

Therefore, it is recommended that the Historic Commission establish criteria and a procedure for establishing a local historic inventory. Many jurisdictions do not charge a fee for review of nominations to the local inventory. The Commission may wish to model their criteria and process after AMC 18.196.160 Section B 1-2 for the Historic Signs. Additionally, there is language in the State's model ordinance which could be utilized.

Additional Recommendations

In addition to the above recommended changes, it is suggested that several internal improvements be made as staff time warrants. First, the existing permit tracking system should be modified to include the tracking of permits reviewed by the Historic Commission. This will be useful for support staff when they prepare the annual list of projects for the annual awards. Additionally, it is recommended that the City staff utilize the SHPO Statewide Database to access information on the four National Register Districts. The database is available online, and can also be downloaded in its entirety. Reports and searches are easy to do using this database, and it is more efficient than using the notebooks.[20] Staff also indicated that there is a file cabinet containing historic information that has been collected over the years. Sorting through and organizing these records would be an excellent project for a summer intern.

Second, it is recommended that the website be updated to include an expanded historic page which includes links to all the relevant code related to historic review, as well as related historic maps and other useful information and FAQ's. There is actually quite a lot of useful information on the website, it is just located in many different areas.

Third, it is recommended that a brochure describing the review process and existing design standards for historic resources in Ashland be developed. CLG funding has been awarded this fiscal year to accomplish this goal.

Last, the survey results indicated that the public would like to have all of the related code language that applies to any historic review in one section within the Municipal Code.[21] This an excellent idea, as it would help both City staff and applicants clearly understand the role of the Historic Commission, the Review Board, its duties and procedures as well as criteria for review. This reorganization could be done at the same time any amendments to the AMC relating to historic preservation are processed.

[20] Sample statistics reports from the database for the four districts are in Appendix #7

[21] Currently the duties of the Historic Commission are in Section 2.24, and the related review procedures and processes are in various parts of Section 18

Preservation Programs: Alternative Projects

The following section contains possible alternative projects that could be pursued by the Historic Commission and the City of Ashland in order to fulfill needs identified through the survey process.

In addition to the needs addressed in the previous code section, needs were identified in four program areas and include: 1) Survey and Inventory; 2) Economic Incentives; 3) Education; and 4) Commissioner Training and Networking.

Survey and Inventory

Based upon results from the survey it was clear that a majority of respondents believed that a significant number of historic resources have already been identified in the City of Ashland.

However, it was also clear that there was concern that a number of individually eligible, locally significant resources have not been identified. For example, several respondents indicated that late 19th and early 20th century Ashland farms and related buildings have not been inventoried.

Additionally, in the reconnaissance level survey report for the Ashland north quadrant, consultant George Kramer identified a number of resources which could either become a part of an existing district, or be collectively part of a Multiple Property Submission (MPS) or new local or national district.[22]

An inventory of Lithia Springs/Winburn Camp was completed in 1987 where Lithia Springs was identified as eligible for the National Register. For the last few years Lithia Springs has been identified as a priority by the Historic Commission, and this year Ashland received CLG funding to develop a management plan for Lithia Springs.

Additional areas identified in need of survey included Lower Helman Street (below tracks) and above Iowa Street and the surrounding area.

[22] Properties can be nominated to the National Register in a number of ways. The most common way is either through an individual listing or district. A Multiple Property Submission (MPS) is a way to nominate a number of buildings of the same type or significance which are not located in close proximity to each other.

Economic Incentives[23]

Grant/Loan Program

Survey results clearly indicated strong support for some kind of grant or revolving loan program sponsored and managed by the Historic Commission. Many cities throughout the state have programs like this that the Ashland Historic Commission can look to. For example, the Forest Grove Landmarks Commission has had a grant program for many years. On average they distribute about $10,000 annually for a variety of preservation projects including maintenance, repair and restoration work. The City of Astoria has developed a façade grant program for their residential districts, which was funded last year by a Certified Local Government Grant. They awarded small grants to individuals who proposed to restore some or all of a residential building façade based upon historic evidence. The program was so successful they plan on continuing it in the future.

The Ashland Historic Commission could consider different alternative economic programs, and apply for CLG funding to 'try out' the program that is identified as the best possible choice for Ashland. Additionally, local partners could be identified, such as local banks, that might be interested in sponsoring and administering a local revolving loan program for historic properties.

Permit fee reduction

Survey results indicated a desire by property owners to have reduced permit fees in exchange for compliance with Historic Commission recommendations. Some jurisdictions offer this type of incentive, including waiving permit fees altogether for initial historic designation.

Preserve America

Ashland could apply for Preserve America status in order to gain access to additional federal grant funds relating to historic preservation and tourism. Currently there are four cities in Oregon with this status: Astoria, Salem, Jacksonville and Enterprise. Recently for example, the City of Salem received $60,000 for historic markers and developing a walking tour brochure.

Main Street Program

Survey results indicated that the area most in need of protection in Ashland was its Downtown. In 2007, Governor Kulongoski included funding to re-establish this nationally known program in Oregon. The Oregon Main Street program is a statewide commercial district revitalization program administered by the Oregon Economic and Community Development Department. In partnership with the National Trust Main Street Center, this program is designed to assist communities with maintaining viable commercial districts. The underlying

[23] Incentive Programs for Other Cities are in Appendix #8

premise of Main Street program is to encourage economic development within the context of historic preservation in ways appropriate to today's marketplace. There are a wide range of financial assistance and incentive programs available through this program.

Public Education Programs

Special Assessment/Federal Tax Credits

A very small number of eligible properties are taking advantage of the state Special Assessment Program and the Tax Credit Program. The Historic Commission could reach out to historic property owners and make sure they are aware of these programs. Recently the Historic Commission recommended that the City adopt the 15 year renewal available to historic residential property owners already on Special Assessment. Should this pass with City Council Approval, those property owners could be made aware of the opportunity for them to renew.

Walking Tour/Brochures

Survey results indicated a strong desire by residents to have the ability to go on a self guided walking tour of historic Ashland. The *Imagine* Project will have an audio tour ready to go next spring.

The Ashland Historic Commission could work with the *Imagine* Project to identify any needs for associated brochures or historic markers or plaques to go along with the tour.

Newsletter

Survey results indicated strong interest in receiving a newsletter from the Historic Commission. There was interest in learning about topics ranging from the history of Ashland to proper techniques for building restoration and energy upgrades using 'green' products and methods.

Many jurisdictions around the state produce quarterly newsletters from their Historic Commissions. Typically the newsletters are written by Commissioners and distributed by the City to owners within the historic districts, as well as others who express an interest in receiving the newsletter. The newsletter could also be placed on the city's website.

The Historic Commission can consider whether producing a newsletter would be something they could take on given their current workload. Perhaps CLG funding could be requested to produce one newsletter and the Commission could see if they wish to continue.

Workshops/Brown Bag Lunches

Survey results indicated that there is a strong desire by residents to attend informational workshops with speakers that can explain about different preservation topics. Interest in workshops on the weekends was especially noted, since many individuals work and aren't able to attend during the week. The Historic Commission has noted an interest in co-sponsoring a workshop with the Conservation Commission.

New Owner Handbook

It was suggested by both the public and Commissioners that new owners of historic resources be presented with some kind of informational packet informing them of their responsibilities as well as any opportunities or incentives available. Additionally it was suggested that these owners be invited to speak with the Review Board.

Commissioner Training and Networking

Mentoring

There was interest in establishing a mentoring program for new Historic Commissioners. In addition to providing new Historic Commissioners with a comprehensive manual with all of the relevant code and design standards, it would be helpful for more experienced Commissioners to take the time to explain the realities of how things work during a meeting, as well as to answer any questions a new member may have.

SHPO Training

There was a strong interest noted by Commissioners in additional training and networking with other like minded individuals in Oregon. In September the SHPO office will be offering a training session in eastern Oregon which is free to Commissioners and staff. SHPO occasionally offers these sessions around the state.

Oregon APA Training

The Oregon Chapter of the American Planning Association is partnering with Portland State University to offer a monthly nine part training series for Planning Commissioners. Trainings are every second Friday from October through June and are also available live on the web. The sessions are free to view online and are archived for later viewing if you cannot be there 'live'. Additionally you can ask questions in real time that will be answered by the presenter in the last ten minutes. While this series is geared to Planning Commissioners, since many of the reviews that Historic Commissioners participate in involve a wide variety of land use reviews, much of this training would be applicable and useful to Ashland Commissioners. Go to http://www.oregonapa.org/pageview.aspx?id=18208 to download and watch archived training sessions.

National Alliance of Preservation Commissions-CAMP

The NAPC offers a CAMP--Commission Assistance and Mentoring Program. They offer a day camp at a cost of $2,500 plus speaker expenses and $55 a participant which includes three nationally recognized experts and focuses on preservation commission fundamentals. A curriculum can be customized to include legal issues; developing design standards and guidelines, or any two topics of interest to the Commission from their 'menu'. A second ½ day of training is available should it be needed to cover additional topics of interest. CLG funding can be utilized to pay for this type of training.

Go to http://www.uga.edu/sed/pso/programs/napc/camp.htm for more information, or contact the NAPC at 706 542-4731 to have them host a camp in Ashland.

Conferences

The National Trust and the National Alliance of Preservation Commissions as well as the local Oregon APA offer annual conferences. The National Trust Conference this year is in Tulsa Oklahoma from October 21-25; The Oregon SHPO also offers an annual Heritage Conference which provides an opportunity for preservationists throughout the State to network. CLG funding is available for Commissioners and Staff to attend these conferences. Additionally the Oregon SHPO offers $7,500 in scholarships every year which pay all expenses for a volunteer preservationist to attend a historic preservation related conference. It is known as the Elisabeth Potter Advocacy and Education Award. Applications are typically accepted through May of each year. For more information contact: David Bogan at 503 986-0671 or David.Bogan@state.or.us.

Preferred Program Priorities and Projects

At a work session on August 21, 2008, the Historic Commission discussed the five program areas and identified their priorities for specific projects.

All projects are listed below in priority order as identified by Commissioners. New items or changes are noted in italics.

Improve and Clarify Code

I. Establishment of More Detailed Rehabilitation and Remodel Standards for Residential Districts. *Historic Commissioners are interested in additional decision making authority and discretionary powers especially relating to the review of alterations/additions of identified historic resources.*

II. Establish Process, Criteria for Local Inventory

III. Historic Commission Liaison to Planning Commission

IV. Enabling Language for Historic Review Board

V. Adjustment of NR Boundary to Match Local(remove from priority list)

Survey & Inventory Program

I. Ashland North (*pursue National Register listing for identified areas noted as eligible in RLS survey)*

II. Local Landmarks *(pursue local listing of Lithia Springs)*

III. *Identify areas to expand existing National Register Districts*

IV. Lithia Springs (National Register nomination)

Economic Incentives Program

I. Grant/Loan Program

II. Preserve America Program

III. Permit fee reduction

IV. Main Street Program

Public Education Program

I. New Homeowner Handbook *(include information about Special Assessment and Fed Tax Credits)*

II. Walking Tour Brochure/Markers

III. Workshops/Brown Bag lunches

IV. Newsletter

Commissioner Training/Networking

I. Mentoring *(Commissioners mentoring newly appointed Commissioners)*

II. *Improved Recruitment Process: Add additional language to code encouraging the City to seek out individuals who meet the Secretary of the Interior's Professional Standards. Additionally, new appointees should be required to attend at least one meeting prior to sitting on the Commission.*

III. *Training*
   a. NAPC-Camp
   b. SHPO Training
   c. Oregon APA Training

IV. *Networking*
   a. Oregon Heritage Conference
   b. National Trust Conference

HPAC

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