

Note: Anyone wishing to speak at any Planning Commission 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.

April 23, 2024 Study Session Agenda

I. CALL TO ORDER: 7:00 p.m., Civic Center Council Chambers, 1175 E. Main Street

II. <u>ANNOUNCEMENTS</u>

III. PUBLIC FORUM

Note: If you wish to discuss an agenda item, please contact <u>PC-public-</u> <u>testimony@ashland.or.us</u> by April 23, 2024, 10 a.m. to register to participate electronically. To speak to an agenda item in person you must fill out a speaker request form at the meeting and will then be recognized by the Chair to provide your public testimony. Written testimony can be submitted in advance or in person at the meeting. If you are interested in watching the meeting via Zoom, please utilize the following link: <u>https://zoom.us/j/95300167735</u>

IV. DISCUSSION ITEM

A. Discussion of changes proposed by the Development Process Management Advisory Committee (DPMAC)

B. Discussion of video "Smart Cities: Toward a New Model for Urban Communities"

(https://alum.mit.edu/forum/video-archive/smart-cities)

- V. OPEN DISCUSSION
- VI. <u>ADJOURNMENT</u>

Next Meeting Date: May 14, 2024

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please email planning@ashland.or.us. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title 1).



DISCUSSION ITEM

Changes proposed by the Development Process Management Advisory Committee (DPMAC)



DATE: April 23, 2024
TO: Planning Commission
FROM: Brandon Goldman, Community Development Director
DEPT: Community Development
RE: Development Process Management Advisory Committee

The Development Process Management Advisory Committee (DPMAC) has been actively identifying areas within Ashland's land use code that could potentially be amended to facilitate the processing of development applications. A key focus of these discussions has been on how certain processes could be handled administratively, provided the criteria for approval are clear and objective. The committee's discussions have included various specific amendments aimed at simplifying the code and reducing the need for discretionary decisions, thus speeding up the approval process for common development actions.

Although these potential amendments have been identified by Staff and the committee, and generally discussed, they are not currently included in a workplan for future code amendments. Should the Planning Commission and City Council express interest in exploring such changes, the Planning Commission would play a central role in the legislative amendment process.

The proposed changes listed below range from creating streamlined procedures for tree removal within building footprints to simplifying the subdivision process for small developments and establishing a more straightforward approach for commercial-toresidential conversions. Each of these items, if moved forward, would require thorough evaluation and consideration to ensure they align with Ashland's planning goals and maintain the necessary balance between development efficiency and public involvement.

Tree Removal Permits within Building Footprints as Administrative Actions:

- **Process Amendment:** Create a fast-track administrative procedure for tree removal permits within a building's footprint. This process would bypass the need for public notice, assuming the removal meets predefined criteria that justify no public input is required (e.g., non-heritage, non-significant trees).
- **Code Amendment:** Amend the land use code to clearly define criteria for trees within building footprints that qualify for administrative action, including tree size, species, and condition.

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Code References: Section 18.5.7.020.A. – Applicability and Review Procedure, Ministerial Action.

Emergency Removals for Hazardous or Diseased Trees:

- **Process Amendment:** Establish a clear, streamlined process for the immediate administrative approval of permits for trees posing imminent hazards or severely infected by disease, or infested by insects, without requiring public notice.
- **Code Amendment:** Update the code to include a list of conditions considered emergencies and a protocol for rapid assessment by a qualified arborist or city official.
- Code References: Section 18.5.7.020.A. Applicability and Review Procedure, Ministerial Action; Section 18.5.7.040.A. Approval Criteria, Emergency Tree Removal Permit.

Subdivision Processing for Up to 12 Residential Lots:

- **Process Amendment:** Simplify the subdivision process for developments proposing no more than 12 residential lots by allowing a combined outline and final planning action, reducing steps in the review process.
- **Code Amendment:** Adjust subdivision regulations to permit a unified process for small-scale developments, detailing criteria and standards for approval.
- Code References: Section 18.5.3.020.C. Applicability and General Requirements, Subdivision and Partition Approval Through Two-Step Process; Section 18.5.3.030. – Preliminary Plat Approval Process; Section 18.5.3.070. – Preliminary Subdivision Plat Criteria; Section 18.5.3.090. – Final Plats.

Manmade Steep Slopes in Physical and Environmental Constraints Permits:

- **Process Amendment:** Provide clear guidelines for the treatment of manmade steep slopes during the permit review process, differentiating them from natural steep slopes.
- **Code Amendment:** Amend the environmental constraints code to include definitions and standards for the treatment of manmade steep slopes, including mitigation measures and engineering standards.

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 Code References: Section 18.3.10.090.H. – Development Standards for Hillside Lands, Exception to the Development Standards for Hillside Lands; Section 18.3.10.060 – Land Classifications.

Private Drive/Street Lot Serving Increases:

- **Process Amendment:** Evaluate and potentially increase the number of lots that can be accessed by a private drive or street based on safety, environmental impact, and infrastructure capacity.
- **Code Amendment:** Revise the subdivision and infrastructure codes to allow for more lots per private drive/street, incorporating design and safety standards.
- Code References: Section 18.4.6.040.F. Street Design Standards, table; Section 18.4.6.040. G.5. – Street Design Standards, Standards Illustrated; Section 18.5.3.020.A. – Applicability and General Requirements, Applicability; Section 18.6.1.030.P. – Private Drive.

Solar Ordinance Amendments for Intra-Parcel Shading:

- **Process Amendment:** Establish a process for evaluating and permitting intra-parcel shading arrangements, ensuring compliance with new standards.
- **Code Amendment:** Amend the solar ordinance to permit intra-parcel shading that does not extend more than 4 feet up the southern wall of a building's ground floor within the parent parcel of the development. Neighboring parcels to the north of the developing property would retain protections of the existing Solar Ordinance.
- Address solar ordinance in Climate Friendly Areas As Climate Friendly Areas (CFAs) would allow taller buildings and higher densities, amendments to the solar ordinance may be needed to facilitate the density and intensity of development envisioned for such areas.
- Code References: Section 18.4.8.040. Solar Access Performance Standard (possibly also Section 18.4.8.020.C. Applicability, Exceptions and Variances; Section 18.4.8.030.
 Solar Setbacks)

Planning Application Expiration and Extensions:

• **Process Amendment:** Implement a clearer, more flexible policy regarding the expiration of planning applications and the process for requesting extensions.

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- **Code Amendment:** Amend planning codes to outline specific conditions under which application periods can be extended, including consideration of lengthening the maximum extension time period (currently 18 months initial approval, with one 24-month extension), and address required documentation.
- **Code References:** Section 18.1.6.030 Permit Expiration; 18.1.6.040 Permit Extension.

Accessory Dwelling Unit (ADU) Permitting:

- Process Amendment: Streamline the ADU permitting process, reducing barriers to ADU development through promotion of permit-ready plans and clear guidelines. Establish website how-to guide, and resource lists for homeowners.
 - Work with Architects/Designers underway
- Code Amendment: Not needed outright permitted

Commercial-to-Residential Conversions:

- **Process Amendment:** Establish a streamlined process for commercial-to-residential conversions that requires only a building permit, exempting these conversions from more extensive site reviews.
- Code Amendment: Amend zoning and development codes to clarify conditions under which commercial properties can be converted to residential uses with minimal procedural requirements.
- Code References: Section 18.3.14.040 Allowed Uses (Transit Triangle); Section 18.2.2.030. Allowed Uses (Base Zones and Allowed Uses); Section 18.2.3.130 Dwelling in Non-Residential Zone and possibly Section 18.5.1.010 Summary of Approvals by Type of Review Procedure (table)

Fence Permit Amendments:

- **Process Amendment:** Remove requirement that a fence permit be obtained for fences that comply with Ashland's standards for height, location, and materials. This amendment would reduce Staff time spent on reviewing, issuing and inspecting fence permits for new and replacement fencing. Failure to build a fence in compliance with standards would trigger code compliance action.
- **Code Amendment:** Update the code to amend permit requirement but retain existing design standards.
- Code References: Section 18.4.4.060

Community Development Department

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Implementing these amendments would require careful consideration of the balance between development efficiency and the protection of community, environmental, and aesthetic values. Each amendment would undergo public consultation and legal review to ensure compliance with broader planning goals and state laws, and would then be presented to the Planning Commission and City Council at public hearings for consideration.

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DISCUSSION ITEM

Discussion of video "Smart Cities: Toward a New Model for Urban Communities"

(https://alum.mit.edu/forum/video-archive/smart-cities)

INFORMATIONAL ONLY

Senate Bill 1537 Legislative Update



Department of Land Conservation and Development

Director's Office 635 Capitol Street NE, Suite 150 Salem, Oregon 97301-2540 S Phone: 503-373-0050 Fax: 503-378-5518 www.oregon.gov/LCD

- TO: Interested Persons, Local Governments and State Agencies
- FROM: Alexis Hammer, Legislative and Policy Manager Aurora Dziadul, Legislative and Policy Analyst Department of Land Conservation and Development

DATE: April 10, 2024

SUBJECT: 2024 Land Use Legislation Report

INTRODUCTION

The attached report describes legislation passed in the 2024 short session by the Oregon Legislature related to state land use statutes or the land use programs administered by the Department of Land Conservation and Development (DLCD). This report is also published on the DLCD website under "Legislative Information" at: <u>https://www.oregon.gov/lcd/NN/Pages/Legislative-Updates.aspx</u>.

This report provides a summary of each legislative measure but does not provide a comprehensive breakdown of each bill. Therefore, we recommend that this report be used primarily as a reference to legislation that may be of interest and that readers refer to the bills and their legislative history directly for a full picture of legislative intent and law.

This report includes hyperlinks to the Oregon Legislative Information System (OLIS) page for each bill. From those pages, readers can access bill language, measure history, and related testimony.

State law requires DLCD to notify local governments when new statutory requirements require changes to local comprehensive plans, regional framework plans, or ordinances implementing these plans¹. Application of these statutory changes to specific plans and codes should be determined by local planning staff and legal counsel.

¹ Oregon Law (ORS 197.646) requires that "a local government shall amend its acknowledged comprehensive plan, regional framework plan, and land use regulations implementing the plan, by a self-initiated post-acknowledgment process under ORS 197.610 to 197.625 to comply with ... a new statutory requirement." Furthermore, this statute requires that, "when a local government does not adopt amendments to a comprehensive plan, a regional framework plan and land use regulations implementing the plan as required by ... this section, the new statutory ... requirements apply directly to the local government's land use decisions."

KEY LEGISLATION

<u>SB 1537</u>– GOVERNOR KOTEK'S HOUSING PRODUCTION FRAMEWORK

Chief Sponsor: Senate President Rob Wagner at the request of Governor Tina Kotek Appropriation (DLCD): \$10,629,017 Positions (DLCD): 28 FTE (DLCD): 14.46

Sections 1 – 7 | Housing Accountability and Production Office

Summary: Sections 1 - 7 of SB 1537 direct the Department of Land Conservation and Development (DLCD) and Department of Consumer and Business Services (DCBS) to create a joint Housing Accountability and Production Office (HAPO). HAPO will support increased housing production throughout the state by supporting local jurisdictions and developers and enforcing state housing laws. The office is authorized and encouraged to provide a wide range of financial and technical support to local partners, including assisting with permitting and land use decisions, implementation of local procedures and codes, and compliance with housing law. The office will also receive complaints - from housing developers regarding violations of state housing laws related to a specific project, more general complaints from members of the public within that jurisdiction, or from DLCD or DCBS. If the complaint is valid, HAPO will investigate to determine whether there is a potential violation of state housing laws. If the office finds a potential violation, written notice will be provided to the local government specifying the violation, opportunities for funding or technical assistance to remedy the violation will be offered, and the office will cite the authority that will be invoked if the violation continues. After 60 days, if a local government has not addressed the violation, an enforcement action can be taken against the jurisdiction requiring local housing policies be brought into compliance. The Housing Accountability and Production Fund is created through this bill to hold funding for technical support and operations by DLCD, \$5,000,000 is allocated to it for technical assistance and the 3 required reports. DLCD will submit a report to the legislature on the work of HAPO on or before September 15, 2026.

Operative date: July 1, 2025 (Note: HAPO will begin implementation and coordination of the office and grant assistance upon signing of the bill. However, HAP) will not begin taking complaints or pursuing enforcement until the operative date of July 1, 2025.)

Sections 8 – 9 | Opting in to Amended Housing Regulations

Summary: Sections 8 – 9 of SB 1537 state that if new standards are adopted after an application is submitted, a housing developer may request that the new standards be applied to their development application, without being required to submit a redundant application or pay a duplicative fee. The applicant must opt into the newly applicable standards in full and are limited to one request before public notice is issued for the application. The local government's 120-day clock to review the application is reset once the developer requests to apply the new criteria, and the local government may charge for any additional costs related to application review.

Operative date: 91st day after sine die

Sections 10 – 11 | Attorney Fees for Needed Housing Challenges

Summary: Sections 10 - 11 of SB 1537 determine that, for land use decisions within an urban growth boundary (UGB), attorney fees may be awarded to a housing development applicant and local government in the event that a land use appeal is decided in their favor.

2024 Land Use Legislation Report April 10, 2024 Page 2 of 8 Operative date: January 1, 2025

Sections 12 – 16 | Infrastructure Supporting Housing Production

Sections 12 – 16 of SB 1537 require the Oregon Business Development Department (OBDD), also known as Business Oregon, to provide technical support for infrastructure funding to local jurisdictions with \$3,000,000 in funding allocated to the Housing Infrastructure Support Fund. Separately, DLCD will develop key considerations and metrics that can be utilized by the legislature in prioritizing infrastructure investments. This report will be delivered on or before December 31, 2024.

Operative date: 91st day after sine die (Note: This is only applicable to the Housing Infrastructure Support Fund.) Sunset: January 2, 2030 (Note: This is only applicable to the Housing Infrastructure Support Fund.)

Note: Sections 17 – 23 of SB 1537 were removed by amendment and bill sections were not subsequently renamed.

Sections 24 – 36 | Housing Project Revolving Loan Fund

Summary: Sections 24 – 36 of SB 1537 create a Housing Project Revolving Loan Fund within Oregon Housing and Community Services (OHCS) to partner with local governments to provide interest-free loans that jurisdictions can use to subsidize affordable and moderate housing projects. Local jurisdictions may opt into utilizing this program and use the would-be additional property tax revenue to repay the state fund within ten years, unless another timeframe is agreed upon. OHCS must have completed implementation of this fund by June 30, 2025, and is appropriated \$75,000,000 in one-time funding for this purpose.

Operative date: 91st day after sine die

Sections 37 – 43 | Housing Land Use Adjustments

Summary: Sections 37 – 43 of SB 1537 require local governments to allow certain adjustments to local code on housing development projects that are within an urban growth boundary. The development must result in net new housing units and demonstrate that the adjustments will help the project reach an outcome of feasibility, affordability, increased housing units, or reduction in sale cost that would not otherwise be tenable without the requested adjustments. These adjustments may not exceed 10 per project, and do not include zoning requirements, affordability, accessibility, natural resource protections and natural hazard mitigations. Local governments may apply to HAPO for an exception to this requirement, if they meet criteria specified in the bill. The Department of Land Conservation and Development will produce a report detailing the use of this provision to the legislature by September 15 of every even-numbered year.

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

Section 44 – 47 | Limited Land Use Decisions

Summary: Sections 44 – 47 of SB 1537 permit local governments to approve applications for replat, property line adjustment, and an extension alteration or expansion of nonconforming land use at the administrative level. These sections remove any local requirement for these application types and other limited land use decisions to undergo a quasi-judicial process with

2024 Land Use Legislation Report April 10, 2024 Page 3 of 8 a public hearing. Local governments may apply to HAPO for a hardship exemption from these requirements.

Operative date: January 1, 2025

Sunset: N/A (Note: Hardship applications sunset January 2, 2032.)

Sections 48 – 60 | One-Time Site Additions to Urban Growth Boundaries

Summary: Sections 48 – 60 of SB 1537 establish an alternative process by which local jurisdictions can amend their urban growth boundaries (UGBs). Cities may apply for a UGB expansion as long as they have 1) not expanded the UGB in the past 20 years and do not have an undeveloped, contiguous tract exceeding 20 net residential acres or 2) can demonstrate that 75% of lands within previous UGB expansion areas have either developed or completed comprehensive planning, including the public facilities and financial planning necessary to support development. The jurisdiction applying must also have a population that is disproportionately cost-burdened compared to the state. The new housing proposed in the UGB expansion must include at least 30% affordable housing - specifically, the housing must be available for rent by households making 80 percent or below area median income (AMI), or available for purchase by households making 130 percent or below AMI. Local jurisdictions will provide a conceptual plan with their amendment proposal to support the petition and demonstrate the feasibility of utilizing this land for affordable housing development and meeting housing needs of their communities. UGB expansions cannot exceed 50 net acres for cities 25,000 and below in population and 100 acres for cities 25,000 and above in population, with a cap of 300 net acres for the entire Metro UGB. Cities may adopt a 15 net acre one-time UGB addition without producing a complete communities plan if they propose to meet the affordable housing production outcomes above. Additionally, SB 1537 provides cities with the option to exchange existing lands within their UGB for certain lands adjacent to the UGB without completing associated Goal 10 and 14 analyses, with the requirement that lands must be similarly sized, zoned for residential use, and added lands are zoned for the same or greater density than those removed.

Operative date: 91st day after *sine die Sunset:* January 2, 2033

HB 4063 – HOUSING POLICY OMNIBUS

Chief Sponsor: House Committee on Housing and Homelessness

Sections 1 – 6 | Metro Unincorporated Urban Lands

Summary: Sections 1 – 6 of HB 4063 define Metro urban unincorporated lands as being not within a city, zoned for urban development, and within the boundaries of a sanitary district or sanitary authority and water provider, and not zoned with a designation for future urbanization. The county in which this land resides is responsible for planning for needed housing in these communities unless an intergovernmental agreement is reached with another local government to perform these duties. In the 2025 legislative session, DLCD will bring forward a request for funding to provide technical support to counties and local governments that include Metro Unincorporated Urban Lands and are implementing housing production strategies.

Operative date: Upon passage

Sections 7 – 8 | Opting in to Amended Housing Development Regulations

2024 Land Use Legislation Report April 10, 2024 Page 4 of 8 (Note: The following language mirrors that in Sections 8 – 9 of SB 1537.)

Summary: Sections 8 – 9 of HB 4063 state that if new standards are adopted after an application is submitted, a housing developer may request that the new standards be applied to their development application, without being required to submit a redundant application or pay a duplicative fee. The applicant must opt into the newly applicable standards in full and are limited to one request before public notice is issued for the application. The local government's 120-day clock to review the application is reset once the developer requests to apply the new criteria, and the local government may charge for any additional costs related to application review.

Operative date: 91st day after sine die

Section 9 | Homebuyer Letter

Summary: Section 9 of HB 4063 removes a provision in ORS 696.805 that required a seller's agent to reject letters from homebuyers. This provision was struck down as unconstitutional by the District Court. This Section removes the language from statute.

Operative date: 91st day after sine die

Sections 10 – 13 | Middle Housing Partitions

Summary: Sections 10 -13 of HB 4063 clarify that a local jurisdiction may allow the resulting parcel of a partition to be divided into three more parcels for middle housing development.

Operative date: 91st day after sine die

Note: Sections 14 – 24 of HB 4063 were removed by amendment and bill sections were not subsequently renamed.

Sections 25 – 28 | Single-Unit Housing Property Tax Exemption Approval

Summary: Sections 25 – 28 of HB 4063 provide that local jurisdictions may approve or deny single-unit housing property tax exemptions at the administrative level. They are required to submit notice to the county assessor's office upon rendering a decision.

Operative date: 91st day after sine die

Sections 29 – 44 | House Bill 2001 (2023) Technical Fixes

Summary: Sections 29 – 44 of HB 4063 clarifies that Metro cities will receive a housing needs allocation from the Department of Administrative Services in the same manner as non-Metro cities.

Operative date: 91st day after sine die

<u>SB 1564</u> – Presumed Clear and Objective Model Housing Ordinances

Chief Sponsors: Sen. Anderson, Sen. Knopp & Rep. Breese-Iverson *Appropriation (DLCD):* \$550,000

Summary: SB 1564 requires the Land Conservation and Development Commission (LCDC) to adopt model ordinances for housing types within urban growth boundaries. These model ordinances will encompass single-family detached housing, middle housing, accessory dwelling units, and multifamily housing. The Department of Land Conservation and

2024 Land Use Legislation Report April 10, 2024 Page 5 of 8 Development (DLCD) will develop three different sets of model ordinances by January 1, 2026 for local adoption, segregated by city population size – below 2,500, 2,500 to 25,000, and above 25,000 – and taking into account geographical and other regional factors. These model ordinances are presumed clear and objective. Local governments may choose to adopt model ordinances prescribed for their population size or a larger population bracket into their local code or adopt them by reference. These ordinances can be adopted in whole or in part, meaning cities can choose to utilize the state model ordinance for certain housing types while retaining their local ordinances for another type.

Operative date: Upon passage

HB 4026 – PROHIBITION OF URBAN GROWTH BOUNDARY REFERENDUM

Chief Sponsor: House Committee on Rules

Summary: HB 4026 prohibits a local government from referring the decision to expand their urban growth boundary to a ballot vote.

Operative date: January 1, 2023

HB 4015 – BATTERY ENERGY STORAGE SITING

Chief Sponsor: House Committee on Climate, Energy, and Environment

Summary: HB 4015 defines a battery energy storage system (BESS) as an energy storage system that, other than personal and noncommercial uses, collects energy from the electric grid or an energy generation facility, uses rechargeable batteries to retain and store power, and discharges energy when needed. It clarifies that BESS do not require additional permitting when sited adjacent to another energy facility. Additionally, the bill allows a developer or a local government to elect to defer regulatory review to the Energy Facility Siting Council.

Operative date: 91st day after sine die

HB 4080 – Offshore Wind Roadmap

Chief Sponsor: Rep. Grayber & Rep. Gomberg Appropriation (DLCD): \$998,072 Positions (DLCD): 2 FTE (DLCD): 1.16

Sections 1 – 4 | Offshore Wind Roadmap Development

Summary: Sections 1 – 5 of HB 4080 require the Department of Land Conservation and Development (DLCD) to develop a Roadmap for state policy on offshore wind development. The roadmap must be informed through robust community and tribal nation engagement, and it must support economic opportunity and continuity for the region, protection of natural and cultural resources, and achievement of state energy and climate goals. DLCD will engage with affected Ports, Tribal nations, local governments, and community members in the development of this roadmap. The Department is also required to complete an assessment of enforceable policies for a federal consistency review.

Operative date: Upon passage

2024 Land Use Legislation Report April 10, 2024 Page 6 of 8

Sections 5 – 6 | Legislative Report

Summary: Sections 5 – 6 of HB 4080 require DLCD to submit a report to the legislature detailing how the roadmap development process was completed by September 1, 2025.

Operative date: Upon passage *Sunset:* January 2, 2026

Note: Sections 7 – 9 of HB 4080 do not have land use implementation requirements.

CONCLUSION

If you have questions or comments about the report or other legislation, contact Alexis Hammer, Legislative and Policy Manager (<u>alexis.hammer@dlcd.oregon.gov</u>; 971-718-4505) or Aurora Dziadul, Legislative and Policy Analyst (<u>aurora.dziadul@dlcd.oregon.gov</u>; 971-446-8834).

CC:

Land Conservation and Development Commission League of Oregon Cities Association of Oregon Counties Local Officials Advisory Committee Citizen Involvement Advisory Committee Oregon Chapter of American Planning Association

> 2024 Land Use Legislation Report April 10, 2024 Page 7 of 8