

**City of Rainier  
Planning Commission Meeting  
June 19, 2023  
6 p.m.  
Rainier City Hall**

Chair Erin O’Connell called the meeting to order at 6:01 p.m.

**Commissioners Present:** Erin O’Connell, Nick Gratzner and Jan Rich

**Commissioners Absent:** Dena Nordstrom and Nina Pogue

**City Staff Present:** City Recorder Sarah Blodgett, City Administrator W. Scott Jorgensen and City Planner Skip Urling

**Visitor Comments:** There were no visitor comments at this time.

**Consider Approval of the Consent Agenda:** Consider Approval of the May 22, 2023 Regular Planning Commission Meeting Minutes—Commissioner Nic Gratzner moved to approve the consent agenda. That motion was seconded by Commissioner Jan Rich and adopted unanimously.

**New Business**

- a. Ordinance 1093—Adding a New Chapter to Title 17 of the Rainier Municipal Code Establishing Rules and Regulations for Planned Unit Developments as an Alternative Method of Subdividing or Developing Property for Residential Use—City Planner Skip Urling summarized the proposed ordinance. He said it gives developers flexibility but still requires them to provide amenities. Commissioners agreed by consensus to recommend that the council adopt the ordinance.
- b. Housing Committee Recommendations—City Administrator W. Scott Jorgensen said that the commission recommended permitting duplexes and/or two-unit townhouses in R-1 zones outright. It’s currently a conditional use. Commissioners agreed by consensus to leave it as a conditional use. The other recommendations involved reducing minimum lot sizes for duplexes, triplexes, two and three-unit townhouses in R-3. Chair Erin O’Connell asked if staff could provide more information for the August meeting.

**Old Business**

- a. Cottage Housing Examples—Jorgensen said that commissioners asked him to find other cities that allow cottage clusters. The examples he included in the meeting materials were from Eugene, Bend and Manzanita. Rich said cottage clusters could be a good housing option for seniors. O’Connell said she likes it. Jorgensen suggested that it be a conditional use in R-2 and R-3 zones. Commissioners agreed by consensus.
- b. UGB Update—Jorgensen reported that he applied for a grant through the Department of Land Conservation and Development for a consultant to do the work required for the proposed UGB land swap.

O'Connell adjourned the meeting at 7:11 p.m.

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Erin O'Connell, Chair

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Sarah Blodgett, City Recorder

DRAFT

**City of Rainier  
Planning Commission Meeting  
August 21, 2023  
6 p.m.  
Rainier City Hall**

Chair Erin O'Connell called the meeting to order at 6:05 p.m.

**Commissioners Present:** Erin O'Connell, Nick Gratzner, Dena Nordstrom and Nina Pogue

**Commissioners Absent:** Jan Rich

**City Staff Present:** City Recorder Sarah Blodgett, City Administrator W. Scott Jorgensen and City Planner Skip Urling

**Visitor Comments:** There were no visitor comments at this time.

**Consider Approval of the Consent Agenda:** Consider Approval of the May 22, 2023 Regular Planning Commission Meeting Minutes—This item was tabled to the next meeting.

**New Business**

- a. Selection of Vice Chair—This item was temporarily tabled.
- b. Tiny Homes—Chair Erin O'Connell said they should meet standards, be sited with a foundation and connected to services. City Administrator W. Scott Jorgensen said he would probably be okay with having them as an accessory dwelling unit (ADU). He asked what approach the city should take. O'Connell said a definition for tiny homes could be added to code. Commissioner Nick Gratzner said he's fine with tiny homes as ADUs. O'Connell said they could be defined as ADUs, meet building and zoning codes and be allowed in SR, R-1 and R-2 zones. Commissioners and staff agreed by consensus.
- c. Shipping Containers—O'Connell said she's also inclined to allow these as accessory structures. City Planner Skip Urling said language could be included to require them to resemble the main structure on the property. O'Connell said there have been previous discussions about this, but it's been a long time. She requested that the minutes from those meetings be included in the packet for the next meeting. There was a discussion about taking a similar approach with tiny homes and shipping containers, which would be to add a definition and require that zoning and building codes be met. Commissioners and staff agreed by consensus.
- d. Public Hearing on Ordinance 1093—Adding a New Chapter to Title 17 of the Rainier Municipal Code Establishing Rules and Regulations for Planned Unit Developments as an Alternative Method of Subdividing or Developing Property for Residential Use—Urling gave his staff report. He said the ordinance satisfies applicable state standards, as well as those in the city's comprehensive plan. He recommends that it be passed on to council. It will give developers flexibility on lands that are tough to develop, as long as they provide certain amenities. O'Connell opened the public hearing at 6:54 p.m. There were no biases, conflicts or ex parte contacts

declared among commissioners. There was no testimony offered in favor or in opposition. The hearing was closed at 6:57 p.m. Commissioner Dena Nordstrom moved to recommend that council adopt the ordinance. That motion was seconded by Gratzner and adopted unanimously.

- e. Selection of Vice Chair—Gratzner agreed to serve as vice chair. Commissioners agreed by consensus.

### **Old Business**

- a. R-3 Zones—Ulling described some of the materials in the packet. It was from the City of Warrenton and had seven structures. Four were on one side, three were on the other and they had a breezeway between them.
- b. ADUs—City Recorder Sarah Blodgett said ADUs shouldn't be bigger than the main structure. Commissioners and staff agreed by consensus that ADUs should be allowed on SR and R-1 zonings with the same standards for tiny homes and shipping containers. Commissioners and staff agreed by consensus.
- c. View Preservation Policies—This item was tabled.

O'Connell adjourned the meeting at 7:35 p.m.

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Erin O'Connell, Chair

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Sarah Blodgett, City Recorder





September 11, 2023

To: Rainier Planning Commission

From: Skip Urling, City Planner

Re: Columbia River Launch Service (CRLS) Rezone Application

### Background

CRLS has acquired a 0.303 acre parcel on E A Street that has not yet been assigned an address, but is identified as Tax Lot 7216-DA-00301. It is CRLS's goal to develop a facility to provide offers support services for ships visiting ports on the Columbia River. Among these services we transport clients and provisions to ships anchored. The property's primary use will be for staging goods and equipment that will be delivered to the ships. The subject property is presently zoned Central Business District (CBD) does not permit such activities. To remedy this situation, CRLS is seeking an amendment to the zoning map to classify their property Waterfront Commercial (WC), which allows warehousing and storage buildings outright, subject to site design review approval. The CBD district was sought by a previous owner who never developed the site. The previous zoning was, in fact, WC.

The application was originally submitted May 2, 2023 and deemed incomplete. A revised application was submitted July 17<sup>th</sup> and deemed complete July 28<sup>th</sup>. Notice of the application was submitted to the Department of Land Conservation and Development August 22, 2023; notice of the Planning Commission public hearing was posted and distributed to adjacent property owners August 22<sup>nd</sup>, and published in *The Clatskanie Chief* August 23<sup>rd</sup>.

Applicable Rainier Municipal Code (RMC) chapters include:

- RMC 18.45 Waterfront Commercial District
- RMC 18.125 Amendments
- RMC 18.160 Decision Making Processes
- RMC 18.170 General Notice Provisions
- RMC 18.175 Public Hearing Procedures

### Findings

Following are the applicable substantive code sections with the applicant's suggested findings in *italics* followed by staff findings in regular front.

18.45.020 Permitted Uses

The following categories of uses are permitted outright in the WC zone.

- A. Any use which is permitted in the general commercial zone (C-2)
- B. Any of the following water-oriented uses:
  - 1. Marina.
  - 2. Boat sales, service or repair.
  - 3. Boat-launching facility.
  - 4. Public or private dock.
  - 5. Storage of marine equipment in building(s) with less than 5,000 square feet total space.
  - 6. Commercial towboat operation permitted east of Third Street East. (Ord. 974 § 4 (Exh. A.2 § 3.7), 1998)

*Applicant response: None*

Staff Finding: Storage of marine equipment in building(s) less 5,000 square feet in total space are identified as permitted uses. Changing the zoning of the applicant's property to WC would accommodate the company's goal, provided the design meets city development standards.

18.125.030 Quasi-judicial amendments to the comprehensive plan map or zoning map.

A. Quasi-judicial amendments to the comprehensive plan map or zoning map (generally small in size, single ownership or single interest in changing the zoning map) may be initiated by the city council, the planning commission, or by application of an owner of property or the owner's authorized agent within the area for which the amendment is proposed.

Staff finding: The application meets this criterion.

B. Decision Process. Quasi-judicial map amendments are Type IV decisions. Public hearings shall be held by the planning commission and the city council. Any amendments to the map shall be adopted by ordinance of the city council.

Staff finding: The Planning Commission is holding the first of the two requisite hearings.

D. Criteria for Zoning Map Amendments. Quasi-judicial amendments to the zoning map shall be consistent with the following criteria:

1. The proposal conforms with applicable provisions of the city's comprehensive plan;

Below are the city's comprehensive plan goals to which the applicant's responses and staff findings apply. The full text of the plan goals and policies can be found on the city's website on the planning commission page and are incorporated herein by reference.

Goal 1. Citizen Participation

To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

*Applicant response: NA*

Staff finding: The very act of providing the opportunity for public input at the first of two required public hearings indicates that the applicant and city are meeting this goal.

Goal 2. Land Use Planning

To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land, and to assure an adequate factual basis for such decisions and actions.

*Applicant response: NA*

Staff finding: The city has an adopted and approved comprehensive plan and zoning code to provide for the orderly development of the city. The underlying plan designation for the property is commercial. This goal is satisfied.

Goal 3. Agricultural Lands

To preserve  
And maintain agricultural lands.

*Applicant response: NA*

Staff findings: We agree.



Goal 4. Forest Lands

To conserve forest lands for forest use.

*Applicant response: NA*

Staff finding: We agree.

Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources

To conserve open spaces and protect natural and scenic resources.

*Applicant response: NA*

Staff Finding: We concur.

Goal 6: Air, Water and Land Resource Quality

To maintain and improve the quality of air, water and land resources of the State.

*Applicant response: The proposal will maintain and endeavor to improve air, water and land resources of the State. The proposal endorses findings and policies in Goal 6. The proposal for development 1 will further strengthen policy 6 as plans for future development will address drainage, erosion and runoff concerns with this undeveloped section of water front. Our equipment is used and equipped to assist in environmental clean-up in support of local state and federal emergencies. Due to our small vessel size our overall impact to policies 1, 2 and 6 are low and in some cases will reduce the impact based on the new proximity loading facility. In addition, we have been working with the state and USCG to have the dredge removed and rights water lease secured so that there is recourse if a situation like this one arises again.*

Staff finding: The objective of the rezone application is to accommodate storage buildings which will house supplies and equipment for small business endeavoring to serve shipping traffic on the Columbia River. Since storage will be the primary function of the building(s) we do not anticipate any adverse impacts to air, water or land resource quality. These issues will be reviewed during site design and building permit review to ensure adherence with this goal.

Goal 7: Areas subject to Natural Disasters and Hazards

To protect life and property from natural disasters and hazards.

a) *Applicant response: Any proposed development or improvements will adhere to existing codes and regulations regarding scope or flood hazard conditions as was as any other conditions identified in local zoning overlays and studies. Any and all necessary development permits with required engineering or site planning will be obtained in order to ensure compliance with any site specific condition or limitations that may exist.*

Staff finding: Staff concurs.

#### Goal 8: Recreational Needs

To satisfy the recreational needs of the citizens of the state and visitors.

*Applicant response: NA*

Staff finding: We agree.

#### Goal 8: Economy of the State

To diversify and improve the economy of the state.

a) *Applicant response: The proposed amendment will bring added economic diversity to the State of Oregon and the City of Rainier. With a new boat moored in Rainier and many of our employees living in Longview-Kelso we will be further supporting findings 1 in the local economy. As a lunch company our business is centered around policy 2 and supporting the maritime industry on the Columbia River. Our facility will provide ships in the Longview-Rainier-Kalama anchorages with provisions to support the marine traffic on the river.*

Staff finding: Staff concurs: We also recognize the importance of business and job retention is maintaining a strong local and state economy and this map amendment will facilitate this effort.

#### Goal 10: Housing

To provide for the housing needs of the citizens of the state.

*Applicant response: NA*

Staff finding: We agree.

Goal 11: Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban development.

*Applicant response: NA*

Staff finding: Existing water and sewer facilities are installed in E A Street with adequate capacity to serve what is likely to be low demand from the proposed storage facilities and attendant employees.

Goal 12: Transportation

To provide and encourage a safe, convenient and economic transportation system.

*Applicant response: Currently no impact but potential for future dock and marine facilities if right to water leases are granted by the state.*

Staff finding: While traffic on B Street (Hwy 30) can be heavy at times, there is traffic on A Street and W 1<sup>st</sup> Street is generally light. The additional vehicular traffic from future development of the subject property is not thought to be problematic in terms of traffic generation.

13. Energy Conservation.

To conserve energy.

*Applicant response: Future building plants will include energy conservation design.*

Staff finding: This goal is satisfied.

14. Urbanization

To provide and orderly and efficient transition from rural to urban land use.

*Applicant response: This proposal does not request an adjustment to the UDA. There are a few policies that may be encouraged in Policy 2 subset b, c, d and e but no considerable changes from current zoning designation.*

Staff finding: Development of this property for waterfront commercial activities would be considered infill development

2. The proposal complies with all applicable statutory and ordinance requirements and regulations;

*Applicant response:*

*1. Regarding statutory compliance ORS 227.175 (1) states (1) "When required or authorized by a city, an owner of land may apply in writing to the hearings officer, or such other person as the city council designates, for a permit or zone change, upon such forms and in such a manner as the city council prescribes. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service." The proposal application will adhere to the procedures and process as described in ORS 227.175 including all fees, approval criteria, public hearings and land use decisions.*

*2. Regarding ordinance compliance the Rainier Comprehensive Plan Policies Goal 2: Land Use policies describe requirements and procedures for the application and approval criteria in relation to zone descriptions and allowances. This proposal and application has addressed the individual criteria required for the proposed zoning change.*

*3. This proposed zone change and application also complies with Rainier Zoning Ordinance Section 6.2 which prescribes the procedures and criteria for amendments to the comprehensive plan map and zoning map.*

Staff finding: Staff agrees with the applicant's statement, although we note that a comprehensive plan map is unnecessary because the underlying plan designation for the property is commercial.

4. There is a public need for the proposal and that this need will be served by changing the zoning of the property in question as compared with other available property; and



*Applicant response:*

- 1. Columbia River Launch Service is positioned well to maximize the utility of this waterfront property utilizing all the geographical advantages this property provides.*
  - 2. This property was formally designated Waterfront Commercial and was unsuccessful in its rezoning. By restoring its original zoning we can utilize the property in a greater capacity.*
  - 3. The proposed rezoning will provide workers that will contribute to the local economy.*
4. The public interest is best carried out by approving the proposal at this time. (Ord. 974 § 4 (Exh. A.2 § 6.3), 1998)

*Applicant response:*

- 1. Economic growth and development of a vacant lot.*
- 2. Development of this property would lead to the better maintenance and upkeep of property.*

Staff finding: Staff agrees with the applicant's response.

**Conclusion and Recommendation**

Columbia River Launch Service's rezone application is consistent with the city's comprehensive plan goals. It complies with the statutory and city regulations and requirements. It will serve a public need and the public interest by facilitating the establishment of a new business resulting in new jobs and an increase in the tax base for the community. We believe this zoning map amendment is warranted and should be approved.

**Suggested Motion:** Based on the findings and conclusions of the September 11, 2023 staff report on the application, I move that the Planning Commission send a recommendation to the Rainier City Council to approve the Columbia River Launch Service application to amend the Rainier zoning map designation for Tax Lot 7216-DA-00301 from Central Business District to Waterfront Commercial.



### Summary of Proposed Planning Changes

- PUD ordinance to council for first reading October 2, second reading November 6
- Cottage Clusters as conditional uses in R-1 and R-2 zones
- ADUs--must meet building and zoning codes and are allowed in SR and R-1 zones; tiny homes are defined as ADUs, must meet building and zoning codes and are allowed in SR, R-1 and R-2 zones
- Shipping containers--must meet building and zoning codes and allowed in SR, R-1 and R-2 zones—possibly commercial? What about industrial?

### 2024 Planning Priorities

- UGB land swap
- Transportation System Plan Update (grant application pending)
- Public Facilities Plan (grant application to be submitted)

**City of Rainier  
Planning Commission Meeting  
March 23, 2022  
6 p.m.  
Rainier City Hall**

Chair Erin O’Connell called the meeting to order at 6:15 p.m.

**Commissioners Present:** Erin O’Connell, Paul Langner and Dena Nordstrom

**Commissioners Absent:** Nina Phillips and Laura Trethewey

**City Staff Present:** City Recorder Sarah Blodgett, City Administrator W. Scott Jorgensen and City Planner Keshia Owens

**Visitors Present:** None

**Visitor Comments:** There were no visitor comments at this time.

**Consider Approval of the Consent Agenda:** Consider Approval of the February 16, 2022 Regular Planning Commission Meeting Minutes—Commissioner Paul Langner moved to approve the consent agenda. That motion was seconded by Commissioner Dena Nordstrom and adopted unanimously.

**New Business**

- a. Ordinance 1087—Establishing Rules and Regulations for Recreational Vehicles—City Administrator W. Scott Jorgensen said he used sections of ordinances from three different cities to put this one together. He also based it on direction he got from council on big issues, including prolonged occupation and on-street parking. The city attorney recommended adding the last section that addresses penalties for non-compliance. City Councilor Connie Budge wanted section 3(d) to be added to address allowing family member support for patients receiving end of life care. O’Connell said that section should refer to the section of code pertaining to temporary use and include a provision that the RV be lawfully connected to city services in a manner approved by the public works director. Langner moved to forward the ordinance on to council with those revisions. That motion was seconded by Nordstrom and adopted unanimously.

**Old Business**

- a. Ordinance 1083—Regarding the Annexation of Contiguous Properties and Annexation of Properties That Are a Danger to Public Health—Chair Erin O’Connell said revisions were made based on direction that the commission gave to Planner Keshia Owens. Nordstrom moved to forward the ordinance on to council. That motion was seconded by Langner and adopted unanimously.

**New Business**

- b. Shipping Container Discussion—Jorgensen said that City Recorder Sarah Blodgett received a request for the use of a shipping container in a residential area. Blodgett said that kind of request has been denied before. Having a 40-foot shipping container on a residential property is not outright permitted under the city code. But it isn’t outright prohibited, either. Jorgensen said he would like it to remain permitted on industrial

properties. Langner said allowing it in residential areas is a slippery slope. It's not a residence. Some uses could make sense, but some would not be appropriate. He expressed concerns about aesthetics and fire and safety issues. O'Connell said there are people in the county who have connected multiple shipping containers to bypass the building permitting processes. Owens pointed out that those structures don't have foundations. Jorgensen said he could ask council for direction. He pulled up ordinances from Curry County and Klamath Falls that regulate the use of shipping containers and asked Owens if she could research how other municipalities have handled these issues.

### **Old Business**

- b. Urban Growth Boundary Update—Jorgensen said he provided written and oral testimony on House Bill 4118, which would have formed a task force to look at ways to improve the state's land use processes. The bill did not advance out of committee. Since there won't be a legislative solution any time soon, the city should look at the land swap option. He and Owens have corresponded with the Department of Land Conservation and Development (DLCD), and that agency provided documents about how the City of Sutherlin did its land swap. Langner suggested that perhaps a letter could be written to the DLCD director stating that the UGB was adopted in 1983, mistakes were made and the city has since been hamstrung by it. Changing the UGB is a big lift for a small town with a limited budget. There's usually money involved in the same process for other cities and it can take years to get done, with no guaranteed results. Surveying wasn't done at the time, there were just lines drawn on a map. Jorgensen said he could reach out to officials with the City of Sutherlin to see how that process went for that municipality.
- c. Garage Code Discussion—Blodgett suggested that the required footage be changed to 300 square feet. Owens confirmed that the process to change it would be a text amendment with an enabling ordinance. Langner suggested changing it to 240 square feet. Commissioners agreed by consensus. Jorgensen said he would ask council for direction.

O'Connell adjourned the meeting at 7:55 p.m.

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Erin O'Connell, Chair

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Sarah Blodgett, City Recorder

**City of Rainier  
Planning Commission Meeting  
September 19, 2022  
6 p.m.  
Rainier City Hall**

Chair Erin O'Connell called the meeting to order at 6 p.m.

**Commissioners Present:** Erin O'Connell, Nick Gratzner, Paul Langner and Dena Nordstrom

**Commissioners Absent:** None

**City Staff Present:** City Recorder Sarah Blodgett, City Administrator W. Scott Jorgensen and City Planner Skip Urling

**Visitors Present:** Paul Vogel, Columbia Economic Team

**Visitor Comments:** There were no visitor comments at this time.

**Consider Approval of the Consent Agenda:** Consider Approval of the March 23, 2022 Regular Planning Commission Meeting Minutes—Commissioner Paul Langner moved to approve the consent agenda. That motion was seconded by Commissioner Dena Nordstrom and adopted unanimously.

**New Business**

- a. Introduction of Planner Skip Urling—Urling introduced himself to the commission. His previous work included a stint as the community development director for the City of Warrenton. Urling's undergraduate degree was in political science and he earned a master's in city planning at Georgia Tech. He has also worked as a planner for the Cowlitz-Wahkiakum Council of Governments (CWCOG) and served as a member of the Longview School Board. City Administrator W. Scott Jorgensen said the city has been contracting with the CWCOG but was unable to fulfill the terms of the agreement because it had a difficult time recruiting a planner. City Recorder Sarah Blodgett suggested having Urling contract as the city planner and the city council approved that agreement at its most recent meeting. Also introduced was new commissioner Nick Gratzner. He said he's lived most of his life in Rainier and attended high school here. Gratzner began his career doing mortgage banking and commercial real estate and currently works as the operations manager for a roofing company. Jorgensen said the city also has a new Department of Land Conservation and Development (DLCD) representative and that Suzi Dahl with the county has some new employees to help her out. He advised that former commissioner Nina Phillips is back in town and has expressed interest in serving on the commission again.
- b. Sign Code Update—Jorgensen advised that Mayor Jerry Cole has asked him to update the sign code to allow for sandwich board signs. Business owners have reached out to Cole to make that request. The city's current sign code doesn't forbid them, but doesn't specifically allow for them either. Blodgett said there should be standards. Urling said they shouldn't block sidewalks. Nordstrom said the code should state clearly that the signs are temporary in nature. O'Connell said they need to be associated with an active business license. Urling suggested keeping the city's approach simple. Langner said a definition for sandwich board signs could be added to code. They can be defined as

- temporary and taken down during non-business hours, a maximum of 12 square feet and limited to placement in front of the associated business in commercial zones. O'Connell said that sandwich board signs can be added to the section listing exemptions. Langner said there should not be a permit required for them. Commissioners agreed by consensus. Jorgensen said he would draft those changes and bring them back for the next meeting.
- c. Senior and Multigenerational Housing Subcommittee—Jorgensen announced that council has appointed members to the committee, which will be a planning commission subcommittee. Langner has agreed to serve as chair. The group is charged with examining the possible rezoning of some properties to encourage more housing development, developing a possible text amendment for the Central Business District code to allow for more flexibility and examining properties that could be added to the city's Urban Growth Boundary to facilitate more housing. The subcommittee will make recommendations to the commission.

## **5. Old Business**

- a. Shipping Container Discussion—Urling said that the City of Warrenton had a good ordinance, it just wasn't well enforced. It required a façade and pitched roof so the container looked like the main building on the property. Gratzner said the use of some shipping containers is well done and would support allowing them, with appropriate place and manner restrictions. Urling said there was a mini-storage in Warrenton that used a shipping container and it worked out well. O'Connell said the design review process would still apply and it would be an accessory structure. Urling said a container would trigger building code review, if its proposed use was for particular purposes. Langner said they should be divided into three uses—temporary, storage and home. Gratzner said that for residential use, they should be treated like a mobile home. O'Connell said they would have to be connected to infrastructure. Gratzner wants to limit the total number of them that can be on a single lot. Jorgensen said he would find Warrenton's code and bring it back for the next meeting.
- b. Urban Growth Boundary Update—Langer gave a brief overview of the history of Oregon's land use laws. Unbuildable land was included in the city's UGB when it was established. O'Connell said there is land on the west side of town zoned for light industrial. Some of it is in the UGB, but it's beyond the city's infrastructure. Langner said it would make sense to extend the city's water and sewer lines to Dike Road. O'Connell said there are larger properties out that way, which could provide more housing opportunities. Paul Vogel from Columbia Economic Team said he's been working on a project for almost a year. The challenge is that it requires 30 to 40 acres of buildable land. One large landowner is interested but their property is located outside of the UGB. DLCD may have found a pathway that could shorten the permitting process. The City can provide water to that property now, but not sewer. There's still a question about how to annex the property into the City or have it in the UGB. He has a meeting scheduled later on in the week with DLCD, Regional Solutions, Business Oregon and other stakeholders. The business would create 110 jobs. O'Connell said there are failing septic and well systems on the west end of town. There is a mobile home park that needs to connect to the city's system.
- c. Garage Code Discussion—Jorgensen said that Urling advised him a minimum of 240 square feet is standard for most cities. Blodgett said it's currently 120. That standard is

set in the definition of “garage” in the city’s code. She suggested that the definition be amended. Commissioners agreed by consensus.

O’Connell adjourned the meeting at 7:39 p.m.

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Erin O’Connell, Chair

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Sarah Blodgett, City Recorder

DRAFT

Planning to fulfill the housing needs of all Oregonians is more crucial than ever. DLCD encourages cities to provide a sufficient amount of housing that serves Oregonians of all income levels. Take a look at our Housing Resources (<http://www.oregon.gov/lcd/UP/Pages/Housing-Resources.aspx>) page to learn more about how planning for housing that serves all Oregonians is vital to the success and growth of Oregon communities.

The Oregon Legislature continues to pass bills that aim to help cities build more affordable housing, along with a variety of housing types. The Housing Resources ([/lcd/UP/Pages/Housing-Resources.aspx](http://www.oregon.gov/lcd/UP/Pages/Housing-Resources.aspx)) page provides information on notable legislation affecting housing development and land use planning in Oregon.

## Transportation Planning

### Implementing Goal 12: Transportation

Goal 12 ([/lcd/OP/Pages/Goal-12.aspx](http://www.oregon.gov/lcd/OP/Pages/Goal-12.aspx)) of the statewide planning program is, *"To provide and encourage a safe, convenient and economic transportation system."*

A city's roads and pathways are vital to the community they serve. Transportation plans ensure that communities have a vision to stay ahead of growing transportation needs. The transportation system includes all the different ways people can travel, from walking to driving to flying. Transportation planning coordinates all of these different modes of transportation together in an efficient and sustainable way.

Learn more about transportation planning ([/lcd/UP/Pages/Transportation-Planning.aspx](http://www.oregon.gov/lcd/UP/Pages/Transportation-Planning.aspx)).

## Public Facilities

### Implementing Goal 11: Public Facilities & Services

Goal 11 ([/lcd/OP/Pages/Goal-11.aspx](http://www.oregon.gov/lcd/OP/Pages/Goal-11.aspx)) of the statewide planning program is, *"To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development."* See OAR 660-011 (<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=3061>) for details on how this is accomplished.

As cities grow, the needs of its utility infrastructure grows along with it. Water pipes, sewers, and roads all need to keep up with the cities they sustain. Public facilities plans make this easier to manage over time. This is why Oregon law (ORS 197.712(2)(e)) requires all cities with over 2,500 people maintain a Public Facilities Plan. The purpose of the plan is to ensure that urban development within a UGB is guided and supported by types and levels of urban facilities and services that are appropriate for the needs and requirements of the community. These public facilities and services are to be provided in a timely, orderly and efficient manner.

DLCD, through the Technical Assistance Grant Program, provides funding to help cities build public facilities plans. See the Grant Information page ([/lcd/About/Pages/Grants.aspx](http://www.oregon.gov/lcd/About/Pages/Grants.aspx)) for more information.

If you would like to see an example of a public facility plan, see the City of Lake Oswego Public Facility Plan (<http://www.ci.oswego.or.us/planning/public-facilities-plan-appendix>), available online.



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# Land Conservation and Development Department

## Chapter 660

### Division 11 PUBLIC FACILITIES PLANNING

660-011-0000

#### Purpose

The purpose of this division is to aid in achieving the requirements of Goal 11, Public Facilities and Services, OAR 660-015-0000(11), interpret Goal 11 requirements regarding public facilities and services on rural lands, and implement ORS 197.712(2)(e), which requires that a city or county shall develop and adopt a public facility plan for areas within an urban growth boundary containing a population greater than 2,500 persons. The purpose of the plan is to help assure that urban development in such urban growth boundaries is guided and supported by types and levels of urban facilities and services appropriate for the needs and requirements of the urban areas to be serviced, and that those facilities and services are provided in a timely, orderly and efficient arrangement, as required by Goal 11. The division contains definitions relating to a public facility plan, procedures and standards for developing, adopting, and amending such a plan, the date for submittal of the plan to the Commission and standards for Department review of the plan.

[ED. NOTE: Goals referenced are available from the agency.]

**Statutory/Other Authority:** ORS 183 & 197

**Statutes/Other Implemented:** ORS 197.712

#### History:

LCDD 4-1998, f. & cert. ef. 7-28-98

LCDC 4-1984, f. & ef. 10-18-84

660-011-0001

#### Definitions

(1) "Public Facilities Plan": A public facility plan is a support document or documents to a comprehensive plan. The facility plan describes the water, sewer and transportation facilities which are to support the land uses designated in the appropriate acknowledged comprehensive plans within an urban growth boundary containing a population greater than 2,500. Certain elements of the public facility plan also shall be adopted as part of the comprehensive plan, as specified in OAR 660-011-0045.

(2) "Rough Cost Estimates": Rough cost estimates are approximate costs expressed in current-year (year closest to the period of public facility plan development) dollars. It is not intended that project cost estimates be as exact as is required for budgeting purposes.

(3) "Short Term": The short term is the period from year one through year five of the facility plan.

(4) "Long Term": The long term is the period from year six through the remainder of the planning period.

(5) "Public Facility": A public facility includes water, sewer, and transportation facilities, but does not include buildings, structures or equipment incidental to the direct operation of those facilities.

(6) "Public Facility Project": A public facility project is the construction or reconstruction of a water, sewer, or transportation facility within a public facility system that is funded or utilized by members of the general public.



(7) "Public Facility Systems": Public facility systems are those facilities of a particular type that combine to provide water, sewer or transportation services. For purposes of this division, public facility systems are limited to the following:

(a) Water:

(A) Sources of water;

(B) Treatment system;

(C) Storage system;

(D) Pumping system;

(E) Primary distribution system.

(b) Sanitary sewer:

(A) Treatment facilities system;

(B) Primary collection system.

(c) Storm sewer:

(A) Major drainageways (major trunk lines, streams, ditches, pump stations and retention basins);

(B) Outfall locations.

(d) Transportation:

(A) Freeway system, if planned for in the acknowledged comprehensive plan;

(B) Arterial system;

(C) Significant collector system;

(D) Bridge system (those on the Federal Bridge Inventory);

(E) Mass transit facilities if planned for in the acknowledged comprehensive plan, including purchase of new buses if total fleet is less than 200 buses, rail lines or transit stations associated with providing transit service to major transportation corridors and park and ride station;

(F) Airport facilities as identified in the current airport master plans;

(G) Bicycle paths if planned for in the acknowledged comprehensive plan.

(8) "Land Use Decisions": In accordance with ORS 197.712(2)(e), project timing and financing provisions of public facility plans shall not be considered land use decisions as specified under ORS 197.015(10).

(9) "Urban Growth Management Agreement": In accordance with OAR 660-003-0010(2)(c), and urban growth management agreement is a written statement, agreement or set of agreements setting forth the means by which a plan for management of the unincorporated area within the urban growth boundary will be completed and by which the urban growth boundary may be modified (unless the same information is incorporated in other acknowledged documents).

(10) Other Definitions: For the purposes of this division, the definitions in ORS 197.015 shall apply except as provided for in section (8) of this rule regarding the definition in ORS 197.015(10).

**Statutory/Other Authority:** ORS 183 & 197

**Statutes/Other Implemented:** ORS 197.712

**History:**

LCDC 4-1984, f. & ef. 10-18-84

650.011-0014

#### **The Public Facility Plan**

(1) The public facility plan shall contain the following items:

(a) An inventory and general assessment of the condition of all the significant public facility systems which support the land uses designated in the acknowledged comprehensive plan;

(b) A list of the significant public facility projects which are to support the land uses designated in the acknowledged comprehensive plan. Public facility project descriptions or specifications of these projects as necessary;

- (c) Rough cost estimates of each public facility project;
- (d) A map or written description of each public facility project's general location or service area;
- (e) Policy statement(s) or urban growth management agreement identifying the provider of each public facility system. If there is more than one provider with the authority to provide the system within the area covered by the public facility plan, then the provider of each project shall be designated;
- (f) An estimate of when each facility project will be needed; and
- (g) A discussion of the provider's existing funding mechanisms and the ability of these and possible new mechanisms to fund the development of each public facility project or system.

(2) Those public facilities to be addressed in the plan shall include, but need not be limited to those specified in OAR 660-011-0005(5). Facilities included in the public facility plan other than those included in OAR 660-011-0005(5) will not be reviewed for compliance with this rule.

(3) It is not the purpose of this division to cause duplication of or to supplant existing applicable facility plans and programs. Where all or part of an acknowledged comprehensive plan, facility master plan either of the local jurisdiction or appropriate special district, capital improvement program, regional functional plan, similar plan or any combination of such plans meets all or some of the requirements of this division, those plans, or programs may be incorporated by reference into the public facility plan required by this division. Only those referenced portions of such documents shall be considered to be a part of the public facility plan and shall be subject to the administrative procedures of this division and ORS Chapter 197.

**Statutory/Other Authority:** ORS 183 & 197

**Statutes/Other Implemented:** ORS 197.712

**History:**

LCDC 4-1984, f. & ef. 10-18-84

#### 660-011-0013

##### **Responsibility for Public Facility Plan Preparation**

(1) Responsibility for the preparation, adoption and amendment of the public facility plan shall be specified within the urban growth management agreement. If the urban growth management agreement does not make provision for this responsibility, the agreement shall be amended to do so prior to the preparation of the public facility plan. In the case where an unincorporated area exists within the Portland Metropolitan Urban Growth Boundary which is not contained within the boundary of an approved urban planning area agreement with the County, the County shall be the responsible agency for preparation of the facility plan for that unincorporated area. The urban growth management agreement shall be submitted with the public facility plan as specified in OAR 660-011-0040.

(2) The jurisdiction responsible for the preparation of the public facility plan shall provide for the coordination of such preparation with the city, county, special districts and, as necessary, state and federal agencies and private providers of public facilities. The Metropolitan Service District is responsible for public facility plans coordination within the District consistent with ORS 197.190 and 268.390.

(3) Special districts, including port districts, shall assist in the development of the public facility plan for those facilities they provide. Special districts may object to that portion of the facilities plan adopted as part of the comprehensive plan during review by the Commission only if they have completed a special district agreement as specified under ORS 197.185 and 197.254(3) and (4) and participated in the development of such portion of the public facility plan.

(4) Those state agencies providing funding for or making expenditures on public facility systems shall participate in the development of the public facility plan in accordance with their state agency coordination agreement under ORS 197.180 and 197.712(2)(f).

**Statutory/Other Authority:** ORS 183 & 197

**Statutes/Other Implemented:** ORS 197.712

**History:**

LCDC 4-1984, f. & ef. 10-18-84

#### 660-011-0029

##### **Public Facility Inventory and Determination of Future Facility Projects**

(1) The public facility plan shall include an inventory of significant public facility systems. Where the acknowledged comprehensive plan, background document or one or more of the plans or programs listed in OAR 660-011-0010(3) contains such an inventory, that inventory may be incorporated by reference. The inventory shall include:

- (a) Mapped location of the facility or service area;



(b) Facility capacity or size; and

(c) General assessment of condition of the facility (e.g., very good, good, fair, poor, very poor).

(2) The public facility plan shall identify significant public facility projects which are to support the land uses designated in the acknowledged comprehensive plan. The public facility plan shall list the title of the project and describe each public facility project in terms of the type of facility, service area, and facility capacity.

(3) Project descriptions within the facility plan may require modifications based on subsequent environmental impact studies, design studies, facility master plans, capital improvement programs, or site availability. The public facility plan should anticipate these changes as specified in OAR 660-011-0045.

**Statutory/Other Authority:** ORS 183 & 197

**Statutes/Other Implemented:** ORS 197.712

**History:**

LCDC 4-1984, f. & ef. 10-18-84

#### **660-011-0025**

##### **Timing of Required Public Facilities**

(1) The public facilities plan shall include a general estimate of the timing for the planned public facility projects. This timing component of the public facilities plan can be met in several ways depending on whether the project is anticipated in the short term or long term. The timing of projects may be related directly to population growth, e.g., the expansion or new construction of water treatment facilities. Other facility projects can be related to a measure of the facility's service level being met or exceeded, e.g., a major arterial or intersection reaching a maximum vehicle-per-day standard. Development of other projects may be more long term and tied neither to specific population levels nor measures of service levels, e.g., sewer projects to correct infiltration and inflow problems. These projects can take place over a long period of time and may be tied to the availability of long-term funding. The timing of projects may also be tied to specific years.

(2) Given the different methods used to estimate the timing of public facilities, the public facility plan shall identify projects as occurring in either the short term or long term, based on those factors which are related to project development. For those projects designated for development in the short term, the public facility plan shall identify an approximate year for development. For those projects designated for development over the long term, the public facility plan shall provide a general estimate as to when the need for project development would exist, e.g., population level, service level standards, etc. Timing provisions for public facility projects shall be consistent with the acknowledged comprehensive plan's projected growth estimates. The public facility plan shall consider the relationships between facilities in providing for development.

(3) Anticipated timing provisions for public facilities are not considered land use decisions as specified in ORS 197.712(2)(e), and, therefore, cannot be the basis of appeal under ORS 197.610(1) and (2) or 197.835(4).

**Statutory/Other Authority:** ORS 183 & 197

**Statutes/Other Implemented:** ORS 197.712

**History:**

LCDC 4-1984, f. & ef. 10-18-84

#### **660-011-0033**

##### **Location of Public Facility Projects**

(1) The public facility plan shall identify the general location of the public facility project in specificity appropriate for the facility. Locations of projects anticipated to be carried out in the short term can be specified more precisely than the locations of projects anticipated for development in the long term.

(2) Anticipated locations for public facilities may require modifications based on subsequent environmental impact studies, design studies, facility master plans, capital improvement programs, or land availability. The public facility plan should anticipate those changes as specified in OAR 660-011-0045.

**Statutory/Other Authority:** ORS 183 & 197

**Statutes/Other Implemented:** ORS 197.712

**History:**

LCDC 4-1984, f. & ef. 10-18-84

#### **660-011-0034**

##### **Determination of Rough Cost Estimates for Public Facility Projects and Local Review of Funding Mechanisms for Public Facility Systems**

(1) The public facility plan shall include rough cost estimates for those sewer, water, and transportation public facility projects identified in the facility plan. The intent of these rough cost estimates is to:

(a) Provide an estimate of the fiscal requirements to support the land use designations in the acknowledged comprehensive plan; and

(b) For use by the facility provider in reviewing the provider's existing funding mechanisms (e.g., general funds, general obligation and revenue bonds, local improvement district, system development charges, etc.) and possible alternative funding mechanisms. In addition to including rough cost estimates for each project, the facility plan shall include a discussion of the provider's existing funding mechanisms and the ability of these and possible new mechanisms to fund the development of each public facility project or system. These funding mechanisms may also be described in terms of general guidelines or local policies.

(2) Anticipated financing provisions are not considered land use decisions as specified in ORS 197.712(2)(e) and, therefore, cannot be the basis of appeal under ORS 197.610(1) and (2) or 197.835(4).

**Statutory/Other Authority:** ORS 183 & 197

**Statutes/Other Implemented:** ORS 197.712

**History:**

LCDC 4-1984, f. & ef. 10-18-84

#### **660-011-0340**

##### **Date of Submittal of Public Facility Plans**

The public facility plan shall be completed, adopted, and submitted by the time of the responsible jurisdiction's periodic review. The public facility plan shall be reviewed under OAR chapter 660, division 25, "Periodic Review" with the jurisdiction's comprehensive plan and land use regulations. Portions of public facility plans adopted as part of comprehensive plans prior to the responsible jurisdiction's periodic review will be reviewed pursuant to OAR chapter 660, division 18, "Post Acknowledgment Procedures."

**Statutory/Other Authority:** ORS 183 & 197

**Statutes/Other Implemented:** ORS 197.712

**History:**

LCDC 4-1984, f. & ef. 10-18-84

#### **660-011-0342**

##### **Adoption and Amendment Procedures for Public Facility Plans**

(1) The governing body of the city or county responsible for development of the public facility plan shall adopt the plan as a supporting document to the jurisdiction's comprehensive plan and shall also adopt as part of the comprehensive plan:

(a) The list of public facility project titles, excluding (if the jurisdiction so chooses) the descriptions or specifications of those projects;

(b) A map or written description of the public facility projects' locations or service areas as specified in sections (2) and (3) of this rule; and

(c) The policy(ies) or urban growth management agreement designating the provider of each public facility system. If there is more than one provider with the authority to provide the system within the area covered by the public facility plan, then the provider of each project shall be designated.

(2) Certain public facility project descriptions, location or service area designations will necessarily change as a result of subsequent design studies, capital improvement programs, environmental impact studies, and changes in potential sources of funding. It is not the intent of this division to:

(a) Either prohibit projects not included in the public facility plans for which unanticipated funding has been obtained;

(b) Preclude project specification and location decisions made according to the National Environmental Policy Act; or

(c) Subject administrative and technical changes to the facility plan to ORS 197.610(1) and (2) or 197.835(4).

(3) The public facility plan may allow for the following modifications to projects without amendment to the public facility plan:

(a) Administrative changes are those modifications to a public facility project which are minor in nature and do not significantly impact the project's general description, location, sizing, capacity, or other general characteristic of the project;



(b) Technical and environmental changes are those modifications to a public facility project which are made pursuant to "final engineering" on a project or those that result from the findings of an Environmental Assessment or Environmental Impact Statement conducted under regulations implementing the procedural provisions of the National Environmental Policy Act of 1969 (40 CFR Parts 1500-1508) or any federal or State of Oregon agency project development regulations consistent with that Act and its regulations.

(c) Public facility project changes made pursuant to subsection (3)(b) of this rule are subject to the administrative procedures and review and appeal provisions of the regulations controlling the study (40 CFR Parts 1500-1508 or similar regulations) and are not subject to the administrative procedures or review or appeal provisions of ORS Chapter 197, or OAR chapter 660 division 18.

(4) Land use amendments are those modifications or amendments to the list, location or provider of, public facility projects, which significantly impact a public facility project identified in the comprehensive plan and which do not qualify under subsection (3)(a) or (b) of this rule. Amendments made pursuant to this subsection are subject to the administrative procedures and review and appeal provisions accorded "land use decisions" in ORS Chapter 197 and those set forth in OAR chapter 660 division 18.

**Statutory/Other Authority:** ORS 183 & 197

**Statutes/Other Implemented:** ORS 197.712

**History:**

LCDC 4-1984, f. & ef. 10-18-84

#### **660-011-0050**

##### **Standards for Review by the Department**

The Department of Land Conservation and Development shall evaluate the following, as further defined in this division, when reviewing public facility plans submitted under this division:

(1) Those items as specified in OAR 660-011-0010(1);

(2) Whether the plan contains a copy of all agreements required under OAR 660-011-0010 and 660-011-0015; and

(3) Whether the public facility plan is consistent with the acknowledged comprehensive plan.

**Statutory/Other Authority:** ORS 183 & 197

**Statutes/Other Implemented:** ORS 197.712

**History:**

LCDC 4-1984, f. & ef. 10-18-84

#### **660-011-0060**

##### **Sewer Service to Rural Lands**

(1) As used in this rule, unless the context requires otherwise:

(a) "Establishment of a sewer system" means the creation of a new sewage system, including systems provided by public or private entities;

(b) "Extension of a Sewer System" means the extension of a pipe, conduit, pipeline, main, or other physical component from or to an existing sewer system in order to provide service to a use, regardless of whether the use is inside the service boundaries of the public or private service provider. The sewer service authorized in section (8) of this rule is not an extension of a sewer;

(c) "No practicable alternative to a sewer system" means a determination by the Department of Environmental Quality (DEQ) or the Oregon Health Division, pursuant to criteria in OAR chapter 340, division 71, and other applicable rules and laws, that an existing public health hazard cannot be adequately abated by the repair or maintenance of existing sewer systems or on-site systems or by the installation of new on-site systems as defined in OAR 340-071-0100;

(d) "Public health hazard" means a condition whereby it is probable that the public is exposed to disease-caused physical suffering or illness due to the presence of inadequately treated sewage;

(e) "Sewage" means the water-carried human, animal, vegetable, or industrial waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present;

(f) "Sewer system" means a system that serves more than one lot or parcel, or more than one condominium unit or more than one unit within a planned unit development, and includes pipelines or conduits, pump stations, force mains, and all other structures, devices, appurtenances and facilities used for treating or disposing of sewage or for collecting or

conducting sewage to an ultimate point for treatment and disposal. The following are not considered a "sewer system" for purposes of this rule:

(A) A system provided solely for the collection, transfer and/or disposal of storm water runoff;

(B) A system provided solely for the collection, transfer and/or disposal of animal waste from a farm use as defined in ORS 215.303.

(2) Except as provided in sections (3), (4), (8), and (9) of this rule, and consistent with Goal 11, a local government shall not allow:

(a) The establishment of new sewer systems outside urban growth boundaries or unincorporated community boundaries;

(b) The extension of sewer lines from within urban growth boundaries or unincorporated community boundaries in order to serve uses on land outside those boundaries;

(c) The extension of sewer systems that currently serve land outside urban growth boundaries and unincorporated community boundaries in order to serve uses that are outside such boundaries and are not served by the system on July 28, 1998.

(3) Components of a sewer system that serve lands inside an urban growth boundary (UGB) may be placed on lands outside the boundary provided that the conditions in subsections (a) and (b) of this section are met, as follows:

(a) Such placement is necessary to:

(A) Serve lands inside the UGB more efficiently by traversing lands outside the boundary;

(B) Serve lands inside a nearby UGB or unincorporated community;

(C) Serve lands subject to a Goal 14 exception approved pursuant to OAR 660-014-0090;

(D) Connect to components of the sewer system lawfully located on rural lands, such as outfall or treatment facilities; or

(E) Transport leachate from a landfill on rural land to a sewer system inside a UGB;

(b) The local government:

(A) Adopts land use regulations to ensure the sewer system shall not serve land outside urban growth boundaries or unincorporated community boundaries, except as authorized under section (4) of this rule; and

(B) Determines that the system satisfies ORS 215.296(1) or (2) to protect farm and forest practices, except for systems located in the subsurface of public roads and highways along the public right of way.

(4) A local government may allow the establishment of a new sewer system, or the extension of an existing sewer system, to serve land outside urban growth boundaries and unincorporated community boundaries in order to mitigate a public health hazard, provided that the conditions in subsections (a) and (b) of this section are met, as follows:

(a) The DEQ or the Oregon Health Division initially:

(A) Determines that a public health hazard exists in the area;

(B) Determines that the health hazard is caused by sewage from development that existed in the area on July 28, 1998;

(C) Describes the physical location of the identified sources of the sewage contributing to the health hazard; and

(D) Determines that there is no practicable alternative to a sewer system in order to abate the public health hazard; and

(b) The local government, in response to the determination in subsection (a) of this section, and based on recommendations by DEQ and the Oregon Health Division where appropriate:

(A) Determines the type of sewer system and service to be provided, pursuant to section (5) of this rule;

(B) Determines the boundaries of the sewer system service area, pursuant to section (6) of this rule;

(C) Adopts land use regulations that ensure the sewer system is designed and constructed so that its capacity does not exceed the minimum necessary to serve the area within the boundaries described under paragraph (B) of this subsection, except for urban reserve areas as provided under OAR 660-021-0040(6);

(D) Adopts land use regulations to prohibit the sewer system from serving any uses other than those existing or allowed in the identified service area on the date the sewer system is approved;



(E) Adopts plan and zone amendments to ensure that only rural land uses are allowed on rural lands in the area to be served by the sewer system, consistent with Goal 14 and OAR 660-004-0018, unless a Goal 14 exception has been acknowledged;

(F) Ensures that land use regulations do not authorize a higher density of residential development than would be authorized without the presence of the sewer system; and

(G) Determines that the system satisfies ORS 215.296(1) or (2) to protect farm and forest practices, except for systems located in the subsurface of public roads and highways along the public right of way.

(5) Where the DEQ determines that there is no practicable alternative to a sewer system, the local government, based on recommendations from DEQ, shall determine the most practicable sewer system to abate the health hazard considering the following:

(a) The system must be sufficient to abate the public health hazard pursuant to DEQ requirements applicable to such systems; and

(b) New or expanded sewer systems serving only the health hazard area shall be generally preferred over the extension of a sewer system from an urban growth boundary. However, if the health hazard area is within the service area of a sanitary authority or district, the sewer system operated by the authority or district, if available and sufficient, shall be preferred over other sewer system options.

(6) The local government, based on recommendations from DEQ and, where appropriate, the Oregon Health Division, shall determine the area to be served by a sewer system necessary to abate a health hazard. The area shall include only the following:

(a) Lots and parcels that contain the identified sources of the sewage contributing to the health hazard;

(b) Lots and parcels that are surrounded by or abut the parcels described in subsection (a) of this section, provided the local government demonstrates that, due to soils, insufficient lot size, or other conditions, there is a reasonably clear probability that onsite systems installed to serve uses on such lots or parcels will fail and further contribute to the health hazard.

(7) The local government or agency responsible for the determinations pursuant to sections (4) through (6) of this rule shall provide notice to all affected local governments and special districts regarding opportunities to participate in such determinations.

(8) A local government may allow a residential use to connect to an existing sewer line provided the conditions in subsections (a) through (h) of this section are met:

(a) The sewer service is to a residential use located on a parcel as defined by ORS 215.010(1), or a lot created by subdivision of land as defined in ORS 92.010;

(b) The parcel or lot is within a special district or sanitary authority sewer service boundary that existed on January 1, 2005, or the parcel is partially within such boundary and the sewer service provider is willing or obligated to provide service to the portion of the parcel or lot located outside that service boundary;

(c) The sewer service is to connect to a residential use located within a rural residential area, as described in OAR 660-004-0040, which existed on January 1, 2005;

(d) The nearest connection point from the residential parcel or lot to be served is within 300 feet of a sewer line that existed at that location on January 1, 2005;

(e) It is determined by the local government to be practical to connect the sewer service to the residential use considering geographic features or other natural or man-made constraints;

(f) The sewer service authorized by this section shall be available to only those parcels and lots specified in this section, unless service to other parcels or lots is authorized under sections (4) or (9) of this rule;

(g) The existing sewer line, from where the nearest connection point is determined under subsection (8)(d) of this rule, is not located within an urban growth boundary or unincorporated community boundary; and

(h) The connection of the sewer service shall not be relied upon to authorize a higher density of residential development than would be authorized without the presence of the sewer service, and shall not be used as a basis for an exception to Goal 14 as required by OAR 660-004-0040(6).

(9) A local government may allow the establishment of new sewer systems or the extension of sewer lines not otherwise provided for in section (4) of this rule, or allow a use to connect to an existing sewer line not otherwise provided for in section (8) of this rule, provided the standards for an exception to Goal 11 have been met, and provided the local government adopts land use regulations that prohibit the sewer system from serving any uses or areas other than those

justified in the exception. Appropriate reasons and facts for an exception to Goal 11 include but are not limited to the following:

(a) The new system, or extension of an existing system, is necessary to avoid an imminent and significant public health hazard that would otherwise result if the sewer service is not provided; and, there is no practicable alternative to the sewer system in order to avoid the imminent public health hazard, or

(b) The extension of an existing sewer system will serve land that, by operation of federal law, is not subject to statewide planning Goal 11 and, if necessary, Goal 14.

**Statutory/Other Authority:** ORS 197.040

**Statutes/Other Implemented:** ORS 197.712

**History:**

LCDD 3-2008, f. & cert. ef. 4-18-08

LCDD 1-2008, f. & cert. ef. 2-13-08

LCDD 1-2005, f. & cert. ef. 2-14-05

LCDD 4-1998, f. & cert. ef. 7-28-98

LCDD 3-2008, f. & cert. ef. 4-18-08

LCDD 1-2008, f. & cert. ef. 2-13-08

LCDD 1-2005, f. & cert. ef. 2-14-05

LCDD 4-1998, f. & cert. ef. 7-28-98

680-011-0365

**Water Service to Rural Lands**

(1) As used in this rule, unless the context requires otherwise:

(a) "Establishment" means the creation of a new water system and all associated physical components, including systems provided by public or private entities;

(b) "Extension of a water system" means the extension of a pipe, conduit, pipeline, main, or other physical component from or to an existing water system in order to provide service to a use that was not served by the system on the applicable date of this rule, regardless of whether the use is inside the service boundaries of the public or private service provider.

(c) "Water system" shall have the same meaning as provided in Goal 11, and includes all pipe, conduit, pipeline, mains, or other physical components of such a system.

(2) Consistent with Goal 11, local land use regulations applicable to lands that are outside urban growth boundaries and unincorporated community boundaries shall not:

(a) Allow an increase in a base density in a residential zone due to the availability of service from a water system;

(b) Allow a higher density for residential development served by a water system than would be authorized without such service; or

(c) Allow an increase in the allowable density of residential development due to the presence, establishment, or extension of a water system.

(3) Applicable provisions of this rule, rather than conflicting provisions of local acknowledged zoning ordinances, shall immediately apply to local land use decisions filed subsequent to the effective date of this rule.

[ED. NOTE: Goal referenced is available from the agency.]

**Statutory/Other Authority:** ORS 183 & 197

**Statutes/Other Implemented:** ORS 197.712

**History:**

LCDD 4-1998, f. & cert. ef. 7-28-98



Several methods have been suggested for calculating the amount of industrial land that is needed to support a city the size of Rainier. These methods will not work successfully in Rainier, because it is part of the Longview-Kelso area. As such, the demand for industrial land in Rainier cannot be separated neatly from the demand for industrial land in the entire area. Most of the industrial land in the Longview area is currently developed. This factor will make the demand for industrial land in Rainier greater than would be expected for a City of its size. Although the City cannot foresee the rate at which the development of the Light Industrial Lands occur, the Agriculture/Industrial Reserve give the City a mechanism to insure this development occurs in a compact orderly manner.

The designation of adequate lands to meet the industrial and commercial needs of the City sets one portion of the west line of the UGB. The City then reviewed the two remaining areas which were available to accommodate the future residential growth of the City. These two areas were Lindberg and the Beaver Creek Valley. The City choose the Beaver Creek Valley instead of the Lindberg area south and east of Rainier for two reason. First, it is difficult to supply public services to the Lindberg area. This area contains numerous ridges and steep bluffs, which make the construction of sewers and water lines difficult and expensive. The soils in the area are shallow, and they have a solid basalt base. To reach the only significant piece of level ground in Lindberg, it is necessary to travel along the face of a steep basalt bluff for a least one-half mile. This dramatically increases the cost of providing public services to this area. The second reason for not including the lands in Lindberg is that there is a significant degree of urban development in the Beaver Creek Valley. The Rainier School District has constructed a new high school and grade school near Larson Road in the Beaver Creek Valley. The school district constructed over 1½ miles of sewer line to serve these school buildings. There are also two mobile home parks which are situated to the south of the City in the Beaver Creek Valley. These existing developments have established the direction of future growth for Rainier.

A small portion of the land to the southeast of the City was included in the Urban Growth Boundary. This land is currently bordered on three sides by the City. There is not a great deal of buildable land in this area. It does, however, border on the City watershed. It should be possible to serve the limited number of building sites in this area without expansion of existing public facilities.

The majority of the new residential growth outside of the City of Rainier will be in the Beaver Creek Valley to the south and west of the City. A preliminary Urban Growth Boundary was developed in this area using the two existing Mobile Homes Parks and the High School Complex as anchor points of the boundary. Analysis of this boundary showed that it contain more land than Rainier needed to provide for its growth in the next twenty (20) years. This preliminary boundary could be easily divided into two distinct areas. The Western portion included the High School Complex and one-half of the residential land and the Eastern portion included the two existing Mobile Home Parks, one-half of the total residential alnd and is directly linked to the residential areas of the City by the existing road system.

Many of the residents of the Western part of the Boundary and the School Board objected to being included in the Urban Growth Boundary. After considerable discussion and study of the Urban Growth Boundary Line the City choose to retain the Eastern portion of the preliminary Urban Growth Boundary. If the City exceeds its growth projections, which is very possible in view of its role as a part of the Longview-Kelso-Rainier Urban area, it may be necessary to reconsider the exclusion of the Western Area from the Urban Growth Boundary.

Rainier has determined that there will be a need for 908 new dwelling units in the next twenty (20) years. These 908 units break down to 656 single family dwellings (SFD), 110 multi-family dwellings (MFD) and 142 mobile homes (MH). There is enough vacant buildable land inside the City Limits to provide 126 SFD units and 56 MFD units. This leaves a total of 716 new units which must be provided for within the Urban Growth Boundary. These 716 dwelling units break down to 530 SFD units, 54 MFD units and 142 Mobile homes.

It is assumed by the City that these new units will be constructed at the following densities: SFD's at 3 dwellings per net buildable acres; MFD'S at 12 dwellings per net buildable acres; and one half the mobile homes will be in mobile home parks at a density of 10 units per acre and the remaining mobile homes will be on individual lots at a density of 3 units per net acre. Comparing the density of future development with the number of units needed, the City determines that it needs 212 gross buildable acres to meet the housing demand for the year 2000. This 212 acres break into 176.6 acres for SFD, 4.5 acres for MFD and 30.8 acres for MH. These 212 acres of needed lands are gross buildable acres. The City assumes that an average of 30% of each gross acre is committed to some sort of public uses such as streets, parks, or utility facilities during the development process.

The UGB contains 646 acres of land which has been designated for residential development. Within this area there are certain areas which are unbuildable. ~~Along the south edge of the existing city limits, there is a large area in which~~ the slope of the land generally exceeds 20%. In these areas and others, where there are localized steep slopes ( greater than 20%), there is a total of 305 acres of unbuildable lands. There is also 30 acres of land which is located within identified flood plains or in natural drainage ways. This land is also unbuildable. In addition, 5 acres of this residential land is crossed by Bonneville Power Administration power line easements and is unbuildable. The preceding lands account for 340 acres of those lands designated for residential use.

A significant number of dwellings are already existing within the area designated for residential growth inside the UGB. Most of the residents of this area moved there in search of a rural life style. The people who have enough land to enable them to develop it, will do so at some time in the future. However, they will keep a large lot for their personal use. The City assumes that these lots will average approximately one (1) acre. This will result in 40 existing SFD using 40 acres of residential land. In addition, there are two (2) existing mobile home parks which have a total acreage of approximately 61 acres. This land is also built upon. The total amount of land which is already built upon and which will not be available to meet the need for residential land in Rainier is 101 acres.



# Oregon

Tina Kotek, Governor

## Department of Land Conservation and Development

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[www.oregon.gov/LCD](http://www.oregon.gov/LCD)

September 8, 2023

W. Scott Jorgensen, City Administrator  
City of Rainier  
106 W B Street  
Rainier, Oregon 97048



SENT VIA E-MAIL

**RE: Notice of DLCD Housing Planning Assistance grant award**

Dear Scott:

I am pleased to offer City of Rainier a Housing Planning Assistance award for 2023-2025. Your application was selected from among many proposals submitted to the Department of Land Conservation and Development for this biennium. Your proposal aligns well with the priorities established in the Land Conservation and Development Commission's Grants Allocation Plan, funding priorities outlined in House Bills 2001 and/or 3395, and Housing Planning Assistance funding priorities. The department is prepared to provide a consultant team for the Rainier Urban Growth Boundary Land Exchange.

In the coming weeks, DLCD staff will be matching local governments with one of several qualified consultant teams to develop a detailed work program and budget. If you have specific preferences on consultant pairings, please reach out to DLCD staff so we are aware and can incorporate this into our decision-making. Once the pairing is made, that consultant team will reach out to complete a draft scope of work for negotiation with the agency. Once a consultant contract and grant agreement is executed by all parties, reimbursable work on the project may begin.

Oregon's current budget provides funding to support the House Bill 2001 (2023) and House Bill 3395 (2023) grant program. Please note, **DLCD has not committed a specific amount of funding to any project at this time**. The specific funding amounts will be determined as grant agreements and consultant contracts are developed in accordance with projected costs and balanced to ensure all awarded projects are adequately funded. Additionally, in the event of a significant change in state revenue we may be required to limit a portion of the grant award.

If you have any questions about the award, please contact Laura Kelly, DLCD Regional Representative, at 503-798-7587, [laura.kelly@dlcd.oregon.gov](mailto:laura.kelly@dlcd.oregon.gov), and Karen Guillen-Chapman, DLCD Housing Division Staff, at 971-718-1586, [karen.guillen-chapman@dlcd.oregon.gov](mailto:karen.guillen-chapman@dlcd.oregon.gov).

Thanks for your interest, and compliments on your successful application. We look forward to working with you on the project.

Yours truly,

A handwritten signature in black ink, appearing to read "Ethan Stuckmayer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ethan Stuckmayer  
Housing Services Division Manager

cc: Senator Suzanne Weber  
Representative Brian Stout  
Nate Stice, Regional Solutions Team Coordinator  
Laura Kelly, DLCD Regional Representative  
Karen Guillen-Chapman, DLCD Housing Team Staff  
Angela Williamson, DLCD Grants Administrative Specialist

Skip

## Chapter 19.22

# SUPPLEMENTAL RESIDENTIAL ZONING STANDARDS

Sections:

19.22.010 Purpose.

19.22.020 Repealed.

19.22.025 Accessory dwelling units.

19.22.030 Home occupations.

19.22.040 Signs in residential zones.

19.22.050 Repealed.

19.22.060 Permanent supportive housing.

**19.22.010 Purpose.**

The standards contained herein are supplemental standards that apply to applicable uses in the city's zoning districts. (Ord. 3450 § 3, 2021; Ord. 3122 § 15, 2010).

**19.22.020 Accessory dwelling units.**

*Repealed by Ord. 3466.* (Ord. 3450 § 3, 2021; Ord. 3182 § 6, 2011; Ord. 3122 § 15, 2010).

**19.22.025 Accessory dwelling units.**

(1) Purpose. The director shall have the authority to approve attached accessory dwelling units (ADUs) which are consistent with single-family neighborhood character and the regulations and provisions herein. The appeal board of adjustment shall have the authority to approve detached accessory dwelling units (ADUs) which are consistent with single-family neighborhood character and the regulations and provisions herein. It is not the intent of these regulations to provide for ADUs on every residential property and they shall not be deemed to create a right or privilege to establish or maintain an ADU which is not strictly in compliance with these regulations.

(2) Requirements. Accessory dwelling units (ADUs) may be permitted in residential districts R-1, R-2, R-3, R-4 and TNR as accessory to single-family dwellings, subject to the requirements that follow.

(3) Site Requirements.

*Right of Ownership*



- (a) A certification from the public works director that existing water and sewer facilities serving the property are adequate is required.
- (b) Only one ADU shall be permitted (attached or detached) as accessory to a single-family dwelling unit.
- (c) An accessory dwelling unit may not be sold as a separate piece of property, or as a condominium unit, unless allowed by the existing zoning on the property.
- (d) Parking. A minimum of two off-street parking spaces must be provided on the property where an ADU is proposed and additional parking for the ADU is required as follows:
- (i) No minimum on-site parking spaces are required for an accessory dwelling unit in areas with on-street parking available.
  - (ii) One parking space is required for the ADU if on-street parking is not available.
  - (iii) On-street parking is defined as parking spaces legally available for parking of vehicles. Posted time- or day-restricted parking spaces are not considered as available for purposes of this section.
  - (iv) A street/sidewalk entrance in the form of a walkway, landscaping features, mailbox post and similar construction to direct visitors to the ADU, will be required per the determination of the community development director upon recommendation by the fire marshal.
- (e) Fire department access shall extend to within 150 feet of all portions of the exterior walls of the building as measured by an approved route. Distances in excess of 150 feet may result in additional requirements for construction as approved by the fire code official. Alleys shall not be considered for fire department access.

#### (4) Building Requirements.

- (a) Accessory dwelling units must be on the same lot as the single-family dwelling to which they are accessory. They may be attached (added to or created within) the existing single-family dwelling as provided for in subsection (6) of this section, or detached as provided for in subsection (7) of this section.
- (b) All housing and building codes and standards shall be applicable to all ADUs including, but not limited to, the building code, the plumbing code, the electrical code, the mechanical code, the

fire code, and all requirements of the Cowlitz County health department. Note, manufactured homes may be used for ADUs but must be less than 10 years old.

(c) ADUs are not required to have separate independent utility connections and solid waste collection.

(d) The square foot size of any ADU, excluding any garage area, shall be of not less than 300 square feet nor in excess of 1,500 square feet, and it shall contain no more than three bedrooms.

(e) Street-facing entrances may be allowed. Exterior entrances can be located no closer than 10 feet to an adjoining property line.

(f) Any exterior stairs shall be placed in the rear or side yard and no closer than 10 feet to an adjoining property line.

(g) All ADUs shall have separate street addresses that are visible from both the street and alley that clearly identify the location of the ADU.

(5) Occupancy.

(a) No ADU may be the residence of more than four persons.

(b) The owner of the property or immediate family member of the property owner, or contract purchaser of record, of the single-family dwelling to which an ADU is accessory, shall reside either in the single-family dwelling or the ADU as a permanent place of residence (must occupy one of the dwelling units on the property for more than six months of each calendar year).

(c) Only one of the residences may be rented or leased.

(d) Vacation (short-term) rental, transient accommodation, and/or lodging is prohibited in ADUs or in single-family dwellings to which they are accessory. "Vacation (short-term) rental, transient accommodation and/or lodging" means the rental of any building or portion thereof used for the purpose of providing lodging for periods of less than 30 days.

(e) The ownership of ADUs may not be separated from ownership of the single-family dwelling to which they are accessory.

(f) Before issuance of the certificate of occupancy for an accessory dwelling unit, the homeowner must provide a copy of a statement recorded with the Cowlitz County auditor.



(i) The statement must read:

An application for a permit for an accessory dwelling unit has been submitted to the city of Longview by the owner of this property. Future owners are advised that the owner of the property must comply with all requirements of the Longview Zoning Code, as amended, if the accessory dwelling unit is to be occupied or rented.

(ii) If an accessory dwelling unit is to be removed, appropriate permits and inspections must first be received from the city. If a homeowner wants to remove the statement as required by subsection (5)(f)(i) of this section from the property's title, then the city shall issue an appropriate release upon evidence that the accessory dwelling unit has been removed. The release shall be recorded by the homeowner with the county auditor's office and a copy of the recorded release shall be provided to the city.

(g) No day care centers or adult family homes shall be permitted in ADUs or in single-family dwellings to which they are accessory. Family day care providers as defined in Chapter 19.09 LMC may be allowed but the maximum number of children under care is limited to the maximum occupancy of the ADU.

(h) The following permit and inspection requirements shall be met:

(i) No ADU may be added to, created within, or constructed upon the same lot as a single-family dwelling without a permit having been issued by the community development department;

(ii) All applications for ADU permits shall be on forms provided by the community development department, and the fee for such permit shall be as provided in the building code;

(iii) No ADU may be occupied unless the owner of record of the single-family dwelling to which it is accessory possesses a current certificate of occupancy for such ADU;

(iv) Before any permit for the creation or construction of an ADU is granted, the proposed site thereof and the plans and specifications therefor shall be inspected by the building and fire officials to assure that the provisions of this chapter are not violated; and

(v) The building official may inspect ADUs after giving proper notice, at such time as a complaint alleging noncompliance with this chapter or the property maintenance code, Chapter 16.30 LMC, is received by the city. The purpose of such inspection shall be to determine if such ADU is in compliance with the requirements of this chapter. If such inspection reveals that such ADU is in compliance, the building official shall issue a

certificate of occupancy for said ADU. If the inspection reveals the ADU is not in compliance, the building official shall not issue a certificate of occupancy for said ADU, and shall notify the owner or contract purchaser of the single-family dwelling to which said ADU is accessory that said ADU must be vacated and not occupied until it is reinspected by the building official and found to be in compliance, or the ADU removed.

(6) Standards for Attached ADUs.

(a) All attached ADUs shall be designed to maintain the appearance of the single-family dwelling to which they are accessory. If an ADU extends beyond the current footprint of the single-family dwelling, it must be consistent with the existing siding of the single-family dwelling. Any additions to an existing structure or building shall not exceed the allowable lot coverage or encroach into the required setbacks.

(b) When garage space is converted to accessory dwelling unit living space the portion of the driveway leading to the former garage may remain.

(7) Standards for Detached ADUs. In the event that the appeal board of adjustment grants a special property use permit for the construction of a detached ADU (i.e., an ADU that is not added to or created within the single-family dwelling) in accordance with LMC 19.12.055, all of the provisions of this chapter shall be applicable thereto. In addition, the following provisions shall be applicable to such detached ADUs:

(a) Landscaping may be provided for the privacy and screening of adjacent properties. Tall vegetative landscaping may be required between any windows or decks facing adjacent residential properties.

(b) Two-story, detached accessory dwelling units may be designed to protect the privacy of adjacent residential uses.

(c) Detached accessory dwelling units are not permitted in townhouse, zero lot line detached housing, or attached zero lot line housing developments.

(8) Special Property Use Hearings.

(a) All proposed detached ADUs shall require a special property use permit be granted by the appeal board of adjustment with consideration of impacts to privacy of neighboring properties. Where practical, locate and design the ADU to minimize disruption of privacy and outdoor



activities on adjacent properties. Strategies to accomplish this include, but are not limited to: window staggering, entries face away, no overlooking decks, landscaping.

(b) In its consideration of an application, the board shall evaluate:

(i) Compliance with subsections (8)(a) and (b) of this section.

(ii) Window locations.

(iii) Impacts from shading of neighboring properties, specifically solar access and impacts to existing solar collection systems, photo-voltaic or solar heating.

#### (9) Existing Illegal ADUs.

(a) Application may be made for any accessory dwelling unit existing prior to January 1, 2022, to become legally permitted, pursuant to the provisions of this section.

(b) An application to legalize an existing ADU shall include an application for an ADU permit and a building permit application, showing changes made to the main residence or detached accessory building to accommodate the ADU. Approval shall be consistent with the ADU regulations and process outlined in this section. The ADU shall be reviewed using the current editions of building codes in place at the time its owner brings the unit forward for permit.

(c) Nothing in this section shall require that the city permit existing ADUs that are determined to be dangerous. (Ord. 3466 § 2, 2022).

#### **19.22.030 Home occupations.**

Home occupations shall adhere to the following standards:

(1) Requirements. Home occupations shall not be permitted without a business license having first been issued in accordance with LMC Title 5. All home occupations shall comply with all applicable ordinances of the city, and shall be consistent with the following provisions:

(a) Home occupations located in the principal residence are restricted to not more than 30 percent of the usable floor area of the dwelling in which they are located. The principal use of the dwelling must remain residential;

(i) For the purposes of this section, "usable floor area" is defined as the finished living space in a dwelling unit but not including a cellar or garage;

# Homeowners' Right to Views

Contrary to popular belief, most homeowners do not have a right to their view.

By [Ilona Bray](#), J.D.

Generally, homeowners have no right to a view (or light or air), unless it has been granted in writing by a local ordinance or subdivision rule. The exception to this general rule is that someone may not deliberately and maliciously block another's view with a structure that has no reasonable use to the owner.

## View Ordinances

A few cities that overlook the ocean or other desirable vistas have adopted view ordinances. These laws protect a property owner from having his view obstructed by growing trees. They don't cover buildings or other structures that block views.

Generally the ordinances allow someone who has lost a view to sue the tree owner for a court order requiring him to restore the view. A neighbor who wants to sue must first approach the tree owner and request that the tree be cut back. The complaining person usually bears the cost of trimming or topping, unless the tree was planted after the law became effective or the owner refuses to cooperate.

Some view ordinances contain extensive limitations that take most of the teeth out of them. Some examples:

- Certain species of trees may be exempt, especially if they grew naturally.
- A neighbor may be allowed to complain only if the tree is within a certain distance from his or her property.

- Trees on city property may be exempt.

See Nolo's information on [How to Find Local Ordinances and State Laws](#) to locate your city's laws and policies.

## Other Ordinances

If, like most cities, your city doesn't have a view ordinance, you might find help from other local laws. Here are some laws that may help restore your view:

**Fence height limits.** If a fence is blocking your view, it may be in violation of a local law. Commonly, local laws limit man-made fences in back yards to six feet high and in front yards to three or four feet. Height restrictions may also apply to natural fences, such as hedges. For more information, see Nolo's [Fences and Neighbors FAQ](#).

**Tree laws.** Certain species of trees may be prohibited from being grown -- for example, trees that cause allergies or tend to harm other plants. Laws may also forbid trees that are too close to a street (especially an intersection), to power lines, or even to an airport. For more information, see Nolo's [Trees and Neighbors FAQ](#).

**Zoning laws.** Local zoning or planning regulations control the size, location, and uses of buildings. In a single-family area, buildings are usually limited to 30 or 35 feet high. Zoning laws also usually require a certain "setback," or distance between a structure and the boundary lines. They also limit how much of a lot can be occupied by a structure. For instance, many suburban cities limit a dwelling to 40% to 60% of the property.

## Subdivision Rules

Often, residents of subdivisions and planned unit developments are subject to a detailed set of rules called covenants, conditions, and restrictions (CC&Rs). They regulate most matters that could concern a neighbor, including trees and views. For example, a rule may state that trees can't obstruct the view from another lot, or simply limit tree height to 15 feet. If

someone violates the restrictions, the homeowners' association may apply pressure (for example, removing the privilege of using a swimming pool) or even sue. A lawsuit is costly and time-consuming, however, and the association may not want to sue except for serious violations of the rules.

## **How to Approach a View Problem**

Before you approach the owner of a tree that has grown to block your view, answer these questions:

- What is the least destructive action that could be taken to restore your view? Maybe the owner will agree to limited and careful pruning.
- How much will it cost to trim the tree(s)? Be ready to pay for it.
- Which part of the tree is causing view problems for you -- one limb, the top, one side of it?
- Does the tree affect the view of other neighbors? If it does, get them to approach the tree owner with you. Trimming costs may be divided among you.

## **Before You Pay for Property With a View**

First, ask the property owner or the city planning and zoning office if the property is protected by a view ordinance. (See Nolo's information on [How to Find Local Ordinances and State Laws](#) if you want to do your own research.) Then check with the real estate agent to see if neighbors are subject to restrictions that would protect your view. Also, if the property is in a planned unit development, find out whether a homeowners' association actively enforces the restrictions.

Check local zoning laws for any property that might affect you. Could the neighbor down the hill add a second-story addition?

Finally, look very closely from the property to see which trees might later obstruct your view. Then go introduce yourself to their owners and explain

your concerns. A neighbor who also has a view will probably understand your concern. If someone is unfriendly and uncooperative, you stand warned.