



Malynda Wenzl, Mayor

Timothy A. Rippe, Council President
Donna Gustafson, Councilor
Michael Marshall, Councilor

Karen Martinez, Councilor
Elena Uhing, Councilor
Mariana Valenzuela, Councilor

[TVCTV Livestream](#)

[Zoom Webinar](#) Meeting ID: 850 7572 2488 Passcode: 97116

Americans with Disabilities Act (ADA) Notice: The City is committed to providing equal access to public meetings. Requests for accommodation can be made by contacting the City Recorder's Office at least 48 hours before the meeting at: mwoods@forestgrove-or.gov or 503-992-3235

EXECUTIVE SESSION

EXECUTIVE SESSIONS ARE CLOSED TO THE PUBLIC. No formal decisions or actions will be taken. Representatives of the news media may attend, but may not disclose any information discussed. News media representatives can request a link to attend via Zoom by emailing the City Recorder's Office at: mwoods@forestgrove-or.gov

5:30 The City Council will convene to hold an executive session: ORS 192.660(2)(f) to consider information or records that are exempt by law from public inspection.

Staff: Ashley Driscoll, City Attorney

COMMUNITY ENHANCEMENT PROGRAM MEETING

Agenda and packet are published separately.

6:15 Discuss and Approve 2024-25 CEP Grant Program

Staff: Paul Downey, Assistant City Manager/Finance Director

CITY COUNCIL MEETING

A. 7:00 Call to Order

1. Roll Call
2. Land Acknowledgement
3. Pledge of Allegiance

4. Proclamations and Awards

- a. Paul Downey: 25 Years of Service

B. Public Comment: Time provided for anyone wishing to speak to City Council on an item not on the agenda or on the agenda but not scheduled for a public hearing. Comments are limited to 2 minutes unless additional time is granted by the Presiding Officer. The public comment period shall not exceed 30 minutes unless a majority of Councilors present vote to extend the time. Zoom attendees may use the "Raise Hand" option to be called on.

1. Written Public Comment

C. Consent Agenda: Items under the Consent Agenda are considered routine and will all be adopted with a single motion, without separate discussion. Councilors who wish to remove an item from the Consent Agenda may do so prior to the motion. Any item(s) removed will be discussed and acted upon following the approval of the remaining item(s).

1. Informational: Watershed 2024 Forestry Operations Plan
2. Approve Tourism Capital Grant Award to City Club
3. Accept Resignation on Planning Commission
4. Informational: Monthly Building Report for January

D. Additions/Deletions

1. City Manager
2. Proposed by Councilors

E. Presentations: The Council will hold questions until the end of each presentation. A two-minute reminder will be given to the presenter to conclude remarks.

1. 7:15 **Federal Projects Update**
Staff: Michael Skipper, Vice President of CFM Advocates
2. 7:30 **District 4 Metro Update**
Staff: Juan Gonzalez, Metro Councilor
3. 7:45 **Community Development Department Update**
Staff: Bryan Pohl, Community Development Director

F. Public Hearings, Ordinances, and Resolutions

1. 8:00 PUBLIC HEARING SECOND READING
**ORDINANCE NO. 2023-07 ADOPTING REGULATIONS PERTAINING TO
RECREATIONAL AND COMMERCIAL DRONE OPERATION WITHIN THE CITY OF
FOREST GROVE UNDER SECTION 91 OF CITY CODE**
Staff: Henry Reimann, Police Chief

2. 8:10 PUBLIC HEARING FIRST READING
ORDINANCE NO. 2024-03 AMENDING TITLE III (ADMINISTRATION), CHAPTER 35 (CITY ORGANIZATIONS), §35.065 THROUGH §35.095 OF CITY CODE, RELATING TO HISTORIC LANDMARKS BOARD AND COMMUNITY FORESTRY COMMISSION

Staff: Mariah Woods, City Recorder

3. 8:20 PUBLIC HEARING
ORDER NO. 2024-03 DENYING THE APPEAL AND UPHOLDING THE DIRECTOR'S DECISION TO APPROVE AN EMERGENCY SHELTER UTILIZING TWELVE TO SIXTEEN UNIT SLEEPING PODS ON PROPERTY KNOWN AS 2500 22ND STREET IN FOREST GROVE; FILE NO. 311-23-000786-RSCH

Staff: Bryan Pohl, Community Development Director

G. 8:35 Council Communications:

1. Councilor Reports
2. City Manager's Report
3. Mayor's Report

H. 9:00 Adjournment



CITY COUNCIL MEETING
Monday, February 12, 2024
Community Auditorium, 1915 Main Street

Malynda Wenzl, Mayor, Co-Chair
Timothy A. Rippe, Council President
Donna Gustafson, Councilor
Michael Marshall, Councilor
Karen Martinez, Councilor

Juan Carlos Gonzalez,
Metro Councilor District 4, Co-Chair
Leslie Nunez, Committee Member
Marissa Salgado, Committee Member
Elena Uhing, Councilor
Mariana Valenzuela, Councilor

[TVCTV Livestream](#)

[Zoom Webinar](#) Meeting ID: 850 7572 2488 Passcode: 97116

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A. 6:15 Call to Order; Roll Call

B. Public Comment Time provided for anyone wishing to speak to the Community Enhancement Program Committee on an item not on the agenda or on the agenda but not scheduled for a public hearing. Comments are limited to 2 minutes unless additional time is granted by the Presiding Officer. Zoom attendees may use the "Raise Hand" option to be called on.

C. Addition/Deletions

D. Discussion Item

1. Discuss and Approve 2024-25 CEP Grant Program

E. 6:55 Adjournment



COMMUNITY ENHANCEMENT PROGRAM (CEP) COMMITTEE MEETING

FY 2024-25 PROCESS

Paul Downey, ACM /
Finance Director

Monday, February 12, 2024

Purpose of Meeting

- Provide General Information about the CEP program and process
- Discuss process for the FY 2024-25 CEP Grants
 - Funding available
 - Program funding options
 - Discussion and approval to proceed with grant applications

General Information

- CEP Grant Program is funded by a \$1.00 per ton fee charged by Metro on waste disposed at the Forest Grove Transfer Station.
- The fee currently generates about \$65K per year for grants to non-profits.
- Metro sets the overall structure and rules for the Program. More to follow on this.

General Information

- In addition to the \$1.00 per ton fee, a facility may choose to collect an additional Solid Waste Community Investment Fee (CIF) of: (1) \$0.50 per ton of all putrescible solid waste received by the facility; or (2) a fee of \$1.00 per ton on all waste types received that are not subject to any Solid Waste Community Enhancement Fees.
- Waste Management is currently assessing the \$0.50 per ton fee.
- The CIF has generated \$24,495 to date and may generate an additional \$16,000 before June 30, 2024.
- For FY 2024-25, Metro has determined CIF funds can be included in the CEP grant process.
- Staff recommends only budgeting to spend what has been received to date for FY 24-25 grants.

CEP Advisory Committee

- Committee reviews grant applications per Metro eligibility criteria and goals.
- Committee can add more restrictive eligibility requirements and may adopt additional funding goals.

Metro Project Criteria Eligibility

A solid waste community enhancement project must meet the following criteria to be eligible for funding. A solid waste community enhancement committee may apply more restrictive eligibility criteria:

- The project must be located in the solid waste community enhancement area boundary as specified by the solid waste community enhancement committee
- OR
- The project must benefit individuals or programs located inside the solid waste community enhancement area boundary.

Metro Project Criteria Eligibility

- The project applicant must be:
 - A non-profit organization, including without limitation, a neighborhood association or charitable organization with 501(c)(3) status under the Internal Revenue Service; or
 - A school or institution of higher learning; or
 - A local government, local government advisory committee, department or special district provided that they include documented support from the local government executive officer.

Metro Project Criteria Eligibility

- The project must not be used to replace any other readily available source of federal, state, local or regional funds.
- The project must not promote or inhibit religion.
- The project must not discriminate based on race ethnicity, age, gender, or sexual orientation.
- If the project is located on private land, the project application must establish a clear public benefit and must document landowner permission.

Metro Goals for Projects

Projects shall meet one or more of the following goals and solid waste community enhancement committees shall give priority to projects that best meet the goals. A solid waste community enhancement committee may adopt additional funding goals.

The project will:

- Improve the appearance or environmental quality of the community.
- Reduce the amount or toxicity of waste.
- Increase reuse and recycling opportunities.
- Result in rehabilitation or upgrade of real or personal property owned or operated by a nonprofit organization having 501(c)(3) status.

Metro Goals for Projects (cont.)

- Result in the preservation or enhancement of wildlife, riparian zones, wetlands, forest lands and marine areas, and/or improve the public awareness and the opportunities to enjoy them.
- Result in improvement to, or an increase in, recreational areas and programs.
- Result in improvement in safety.
- Benefit youth, seniors, low-income persons or underserved populations.
- The City has added an additional goal that projects will be evaluated on how the project enhances sustainability in the City while achieving the values described in the City's Vision Statement and City Council Goals.

City FY 23-24 CEP Program

- The allocated funding was divided into two programs:
 - Community Impact Grant (CIG) for \$30,000 per year for three years. After reviewing the applications, a one-year \$30,000 CIG was awarded. To date, the grant recipient has not spent any of the funds and may not spend any of the funds before the grant expires on June 30, 2024. Unspent funds must be returned to the City and put back into the CEP.
 - Three one-year \$10,000 grants. Partial funding of grant requests, as had been done in prior years, was not allowed.
- The FY 22-23 grant awarded to fund recreation scholarships was carried over to FY 23-24. The initial amount was \$26,338, and as of December 31, 2023, \$2,235 in scholarships were funded.

FY 24-25 Funding Estimate

- Current CEP revenue estimate is approximately \$65,000 per year. The City charges a 6% overhead charge so there is \$60,000 in revenue available for grant awards for the coming fiscal year.
- There is an estimated \$3,400 in beginning CEP Fund Balance available.
- There is \$24,495 in CIF Funds available that can be spent as CEP for the coming fiscal year based on the CIF funds received through December 31, 2023. Staff understands that Metro is discussing how these funds can be spent but for the coming year, Metro will allow these funds to be spent as part of the CEP.

FY 24-25 Funding Estimate

- For the FY 24-25 CEP funding available, staff is assuming that the remaining \$23,883 in remaining scholarships funds available will be allowed to be carried over for that purpose.
- Staff estimates there is approximately \$88,708 in funding available for FY 24-25. This includes the \$3,400 in fund balances.
- Staff recommends allocating \$80,000 for FY 24-25 grant funding. This is \$20,000 more than the current fiscal year.
- This will leave approximately \$8,708 in unallocated funding to allow for a shortfall in projected revenue.
- Staff is recommending that the CIF funds be spent first.

Considerations – FY 24-25

- Staff met to discuss the CEP process and recommends that the Committee make the grant award process simpler by:
 - Awarding all grants for a one-year period.
 - Using the \$80,000 in funds available next year, do awards at different levels with one large grant, several mid-sized grants, and several smaller grants. For example:
 - One \$20,000 grant
 - Four \$10,000 grants; and
 - Four \$5,000 grants

Considerations (cont.)

- Does the Committee agree with carrying-over the recreation scholarship program to FY 2024-25?
- Does the Committee want to continue the three-year CIG program or award grants on a one year basis?
- Does the Committee want to continue the CEP process where there are a limited number of grants and the full amount requested is awarded?
- If so, how many grants and at what amount?

Considerations (cont.)

- In previous years, events such as the Chalk Art Festival received CEP funds. Recently, the City established funding for tourism-related events within the Transient Lodging Tax (TLT) Fund. Since events are now eligible for TLT funding, does the Committee want to exclude from CEP funding events that would be eligible for TLT funding?

FY 2024-25 Process

- Staff proposes the following timeline:
 - April 1 – April 30: Applications available and accepted.
 - May 13: CEPC meeting to hear applicant presentations. Time permitting approve allocations of grant funds and designate 2024-25 CEP projects.
 - May 28 (tentative): CEPC meeting to approve allocation of grant funds and designate 2024-25 CEP projects.
 - July 1: Contracts for designated projects distributed.

Next Steps

- Questions
- Discuss Program Elements
- Discuss Funding for Grants
- Discuss Other Considerations
- Motion and approval of FY 2024-25 Process

Mariah Woods

From: HatzUrbanHuerta huerta <hatzurbanhuerta@gmail.com>
Sent: Monday, January 22, 2024 5:07 PM
To: City Councilors
Subject: 2500 22nd Ave

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

In regards to the property at 2500 22nd Ave. I realize this testimony may be late for reading day of, today Jan 22, but hope it will be submitted.

Keeping the property owned by a local non-profit seems to be a good investment for the community at large. Local funding invested into the community by the community sounds like a win win. Shelter for those in transition, or "houseless", creates an opportunity for people looking to better their situation. Housing pods and a resource center does not mean more crime and drugs, a stigma commonly heard from people who fear instability. There is plenty of diversity in the neighborhood that a resource center to help improve the lives of others might enhance the neighborhood.

I believe it a good idea to sell the property to the Forest Grove Foundation to implement their programming. I believe a local non-profit such as FGF will preserve the space versus more garbage from resources that are too expensive and inevitably creating more debt somebody.

New construction would create more houslessness vs housing pods creating less houslessness.

Thank you,

Rodrigo Huerta
Mary Hatz
Owner/ Operators
Comida KIN food truck

Mariah Woods

From: noreply@civicplus.com
Sent: Thursday, February 08, 2024 9:52 AM
To: City Councilors
Subject: Online Form Submittal: Contact City Council

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Contact City Council

First Name	Mariah
Last Name	Jacobs
Address	
City	FOREST GROVE
State	OR
Zip	97116
Email	mariahd825@gmail.com
Whom would you like to contact?	Entire Forest Grove City Council (Includes Mayor Wenzl)
Would you like a response?	Yes
Question / Comment	Hello, My name is Mariah and my husband and I moved to Forest Grove almost a year ago now. When I first moved in I made several calls to the city about the road needing repaired, only to be ignored without so much as a call or email back. Jumping ahead to now, our street is worse then ever with pot holes and really poorly laid chip sealer that was thrown into the holes by someone, i think a neighbor (god i hope it wasnt the city because if it was it was done very very poorly). Now, I gave up on getting the city to care about my little road because its a dead end and I thought maybe they just won't care about us little guys down here, BUT THEN, in the course of this year, the city decided to re-paved (stripped and paved) all of Concord way, which is also a dead end street that serves an about an equal number of homes as our street. This street was also in WAY better condition, dare I say it wasnt even in need of this repair.

SO, I reached out to the city Public Works Director - Tom V., asking all of this. The only response I got was that our road is a low maintenance road and has always been a low maintenance road since the city took it over from the county, and there is no plan to adjust this.

To this I ask WHY? What can be done to change this?

Considering this road is now in the middle of town, why is it still not to be maintained like other coldasacks/dead in roads? I asked this to Tom, only to be ignored.

Now I ask, no I plead, with you, please help me to get Raymond st, specifically the dead end street off Willamina towards Bonnie In onto the list of maintained roads. It is terrible to drive on and its honestly even worse to walk on, I trip at least once a week walking down it because it is so uneven and full of holes - isn't that a like a lawsuit waiting to happen?

Please, let me know what can be done. I plan to raise my kids in Forest Grove and grow old in our house here, so how can I get it to matter to the city?

Thank you and thank you for taking the time to respond and work with me on this issue.

Mariah

Email not displaying correctly? [View it in your browser.](#)

Mariah Woods

From: noreply@civicplus.com
Sent: Monday, February 12, 2024 10:41 AM
To: City Councilors
Subject: Online Form Submittal: Contact City Council

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Contact City Council

First Name	BRETT
Last Name	DOTY
Address	
City	forest grove
State	oregon
Zip	97116
Email	brettdoty0421@gmail.com
Whom would you like to contact?	Entire Forest Grove City Council (Includes Mayor Wenzl)
Would you like a response?	Yes
Question / Comment	My name is brett doty I've lived in forest grove over 10 years now. September 9th 2023 i was in a accident and broke my femur and foot. due to these injuries i have been out of work since then with no income, i was able to get on oregon paid leave but that only lasted 12 weeks and all those funds ran out. im still unable to work and need assistance with rent before me and my family go homeless im trying everything i can to prevent that from happening so i just hope theres something out there that could assist us.

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A place where families and businesses thrive.

CITY RECORDER USE ONLY:

AGENDA ITEM #: C.1.

MEETING DATE: 02.12.2024

FINAL ACTION: No action

CITY COUNCIL STAFF MEMORANDUM

TO: *City Council*

FROM: *Jesse VanderZanden, City Manager*

PROJECT TEAM: *Gregory H. Robertson, P.E., AICP, PMP
Director of Public Works*

MEETING DATE: *February 12, 2024*

SUBJECT TITLE: *Watershed 2024 Annual Forestry Operations Plan*

ACTION REQUESTED:

☐ Ordinance

☐ Order

☐ Resolution

☐ Motion

☒ X

☐ Informational

X all that apply

BACKGROUND:

The Forest Grove Watershed Stewardship Management Plan includes a recommendation that the annual forestry operations plan be presented to the City Council annually. Due to time constraints on the Council agenda, staff is recommending the annual forestry operations plan be included as an informational presentation in the consent agenda.

Attached is the Annual Forestry Operations Plan for 2024 prepared by Trout Mountain Forestry, the City's contract forester. Among the maintenance tasks are, general rocked road maintenance and brushing, replanting and invasive species survey and treatment. Aside from the harvest and routine maintenance activities, we will begin the decennial watershed tree inventory. The purpose is to measure the forest health, density and diversity of tree species and re-examine the harvest recommendations contained in the Management Plan. This year's harvest is within the target limits as recommended in the Management Plan.

STAFF RECOMMENDATION:

Informational only

ATTACHMENT(s):

2024 Forestry Operations Plan prepared by Trout Mountain Forestry

City of Forest Grove
2024 Forestry Operations Plan

Prepared by Barry Sims, Trout Mountain Forestry

Jan 29, 2024

This year's forestry operations plan has five main components, all related to ongoing stewardship of the City's Watershed Forest. These are listed here and are discussed in more detail below:

- Tree planting
- Update forest inventory
- Follow-up weed control
- Road monitoring and maintenance
- Annual timber harvest

Tree Planting

Each year the forest management plan calls for some regeneration harvesting to perpetuate the forest for future generations. Based on site conditions, some areas are suitable for natural regeneration of Douglas-fir, and others, especially with heavy brush or slash, require planting to ensure adequate stocking. In the next two weeks, we will be planting 8,750 trees in areas that were harvested last year, working with contract planting crews.

Update Forest Inventory

The forest inventory is a sample-based estimate of timber volumes, with detailed information about tree species, diameters, heights, and timber quality. The last forest inventory for the City's watershed was completed in 2011. It formed the basis for the target annual harvest level that is reflected in the Forest Management Plan. That inventory, which involved collecting tree data at more than 850 sample locations throughout the watershed, established total timber volumes by species at the stand, management zone, and property level.

Based on the growth rates, a conservative target harvest level of 1.7 to 2.0 million board feet (MMBF) was established for the active management zone. Over the past 10 years, the actual harvest level has fluctuated somewhat based on each area's unique constraints, but has averaged 1.7 MMBF.

Over time, the inventory data becomes less reliable as a basis for decision-making, and new inventory information is necessary to ensure harvest levels are sustainable over time. This is also required for Forest Stewardship Council (FSC) certification, in which the City has participated for nearly 20 years.

Trout Mountain Forestry will be assisting City Staff in evaluating two different approaches to updating the forest inventory – 1) traditional sample-based timber cruising, and 2) new methodology based on Lidar-based remote sensing volume estimation. Once a determination is made about the best method

for the City's needs, considering data quality and cost, a scope of work and procurement process will be followed. The goal will be to have an updated forest inventory by the end of 2024.

Follow-up weed control

Weed control efforts will be focused on roadside infestations of relatively new invasive weeds, such as Shining geranium and False brome, in an effort to prevent these weeds from becoming established in the Watershed. In addition, areas with recent disturbance, such as the 2023 harvest areas, will be surveyed and treated as needed for these weeds, as well as more established weeds like Scotch broom and Himalayan blackberry. Both of these weeds are relatively rare in the Watershed and cause significant ecological problems once they become established, such as crowding out native plants and diminishing habitat quality. They can also outcompete conifer seedlings and cause areas to be poorly stocked with timber for the future.

Road Monitoring & Maintenance

Since the 2019 culvert inventory was completed, all of the high priority culvert replacements, road repairs, and road decommissioning have been completed. Routine annual work includes inspection of culverts during periods of heavy precipitation, clearing blown down trees to maintain access, and periodic road brushing/mowing as vegetation encroaches. Each year some minor road repairs and rocking are conducted as needed.

In 2024, new Oregon Department of Forestry rules require a Road Condition Assessment, which will be completed this summer/fall. This new requirement is a result of the Private Forest Accord, an agreement between conservation groups and the timber industry that was signed into law in order to better protect streams and fish.

Annual Timber Harvest

This year's harvest is being planned for the southwestern corner of the Watershed, adjoining Stimson and State lands. This portion of the Watershed is accessible only through Stimson's Scoggins Mainline road system, behind locked gates. The City has an easement to use this road system for forest management. All of the logs will be hauled out this road system and will give the City's Watershed roads, as well as Potts Road and Soda Springs Road, a break from truck traffic related to the City's harvest this year.

Portions of the harvest area will involve a road use agreement with Oregon Department of Forestry to cross State Land. This agreement is in process and ODF has always been very accommodating.

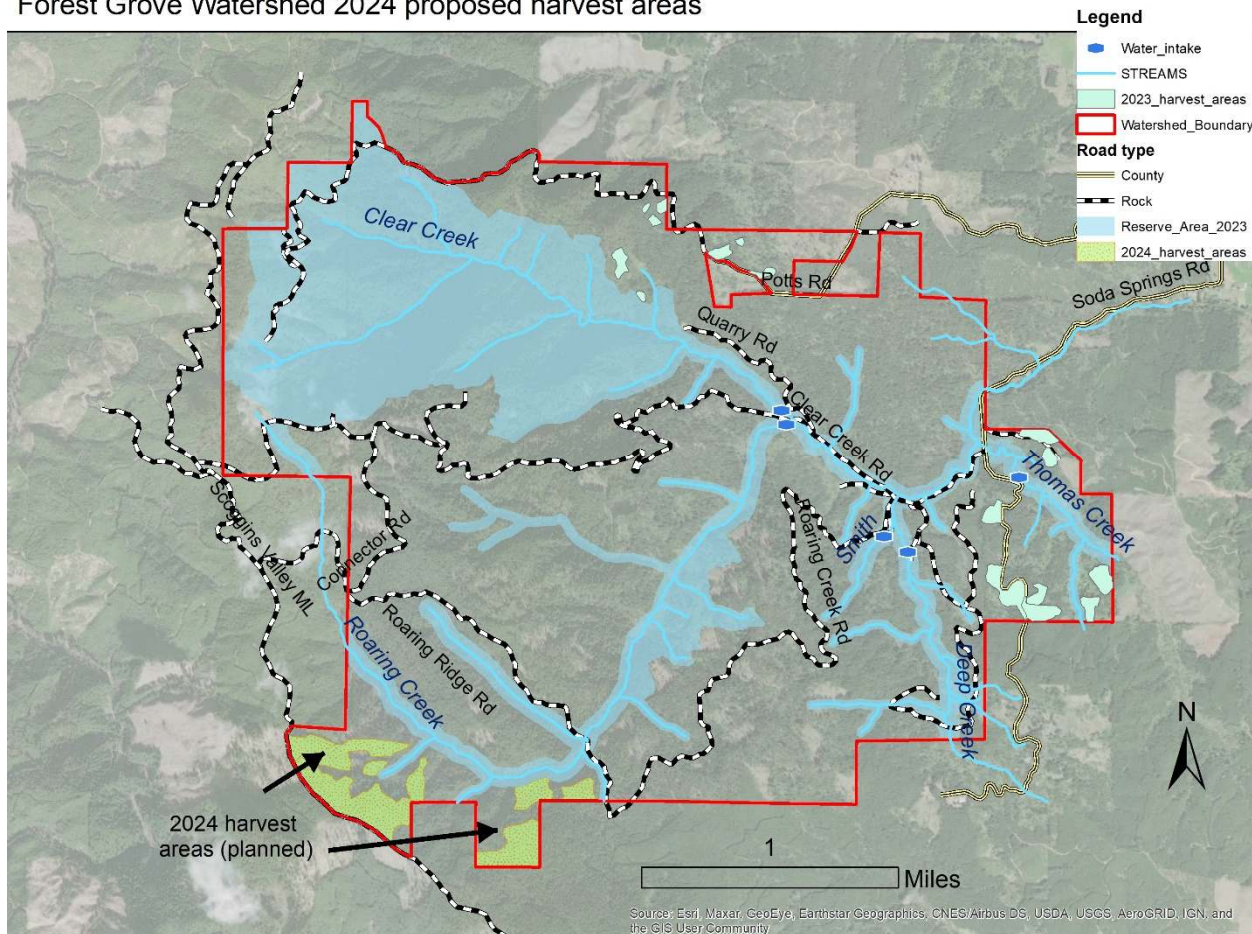
All of the harvest area is suitable for ground-based logging.

The target harvest volume is 2.2 MMBF, and will involve thinning on approximately 60 acres, patch cutting on four areas totaling 18 acres, and Variable Retention harvesting on two areas totaling 30 acres. Variable Retention harvesting is designed to regenerate the stands, and is being done in part because

adjoining State Land was recently clearcut, and newly exposed areas of the Watershed will be very susceptible to blowdown over the coming years. Variable Retention harvesting involves retaining 15 to 30% of the previous stand for seed source and wildlife habitat, and has a maximum unit size of 20 acres, according to the Management Plan.

The following map shows the Watershed Boundary, the locations of the City's water intakes, the 2023 harvest areas (northern and eastern portions of the Watershed, light green polygons), as well as the proposed 2024 harvest areas in the southwestern corner of the Watershed. The areas reserved from active forest management are shaded light blue.

Forest Grove Watershed 2024 proposed harvest areas





A place where families and businesses thrive.

CITY RECORDER USE ONLY:

AGENDA ITEM #: _____

MEETING DATE: _____

FINAL ACTION: _____

CITY COUNCIL STAFF MEMORANDUM

TO: *City Council*

FROM: *Jesse VanderZanden, City Manager*

PROJECT TEAM: *Miles Glowacki, Economic Development Coordinator
Bryan Pohl, Community Development Director*

MEETING DATE: *February 12, 2024*

SUBJECT TITLE: *Tourism Capital Grant Program Awards*

ACTION REQUESTED:

Ordinance

Order

Resolution

X

Motion

Informational

X all that apply

BACKGROUND:

The City Council approved a 2.5% local Transient Lodging Tax (TLT) effective January 1, 2018. The TLT is a tax collected from lodging guests, defined as daily or weekly renters at hotels, motels, and other lodging establishments within the city limits.

Furthermore, the City Council approved a Tourism Capital Grant Program funded by the TLT, effective November 13, 2023. This program allows groups to apply for a reimbursement of up to \$2,500 to purchase durable goods to support an event that attracts attendees from outside of Forest Grove and encourages them to stay overnight. Applicants have six months from the grant award to request a one-time reimbursement.

The purpose of the Tourism Capital Grant Program is to provide financial assistance for capital expenditures that directly contribute to the growth, development and promotion of tourism with the objective of increasing overnight lodging stays within the City of Forest Grove.

SUMMARY:

The City Club of Forest Grove is requesting a grant of up to \$2,500 to purchase an electrical spyder box unit, extension cord, new signage and banners, holiday lights, and decorations. Staff has reviewed the application and finds that it meets the eligibility requirements of the program. Staff recommends approval of the funding request. Per the Tourism Capital Grant Program requirements, all grant requests are placed on the consent agenda for Council approval. If there is a question about the grant, it can be removed from the consent agenda.

FISCAL IMPACT:

Up to \$2,500 from the TLT fund.

ATTACHMENT(s):

City Club of Forest Grove Tourism Capital Grant Request Form

CITY OF FOREST GROVE TOURISM CAPITAL GRANT REQUEST FORM

Non-Profit Name	The City Club of Forest Grove
Contact Name	Donna Gustafson
Contact Phone	503.704.4937
Contact Email	cityclubofforestgrove@gmail.com
Contact Mailing Address	1018 37th Ave Forest Grove Oregon 97116
Funding Amount Requested?	2500

Describe the item to be purchased or improved:

Below are the items and estimated pricing based on research.

Electrical Spyder Unit: \$723
Spyder Box 100" cord: \$697
New Signage & Banners: \$750
Holiday lights & decorations: \$400

Describe how the purchase will further the city's tourism goals: (How will the item/improvement entice visitors from 50 miles away or more and to stay overnight in Forest Grove?)

All the items above will be used for all City Club events in Forest Grove. The events not only bring residents to the downtown area but it brings tourists from other cities and states to see our beautiful city.



A place where families and businesses thrive.

CITY RECORDER USE ONLY:

AGENDA ITEM #: C.3.

MEETING DATE: 02.12.2024

FINAL ACTION: _____

CITY COUNCIL STAFF REPORT

TO: *City Council*

FROM: *Jesse VanderZanden, City Manager*

PROJECT TEAM: *Mariah Woods, City Recorder*

MEETING DATE: *February 12, 2024*

SUBJECT TITLE: *Accept Boards/Commissions Resignation – Planning Commission*

ACTION REQUESTED:	☐ Ordinance	☐ Order	☐ Resolution	☐ Motion	☒ X	☐ Informational
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X all that apply

ISSUE STATEMENT

Accept Resignation on Planning Commission (Joel Redwine, Self-Employed, Appointed 01/20, Term Expiring December 31, 2025).

STAFF RECOMMENDATION

Staff recommends City Council accept the above-noted resignation and deem the seat vacant.

ATTACHMENT

E-mail resignation from Joel Redwine dated January 9, 2024.

From: Joel Redwine <joel.redwine@gmail.com>
Sent: Tuesday, January 09, 2024 7:27 PM
To: Bryan Pohl <BPohl@forestgrove-or.gov>
Subject: Resignation

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hello Bryan,

Did Julie Danko get the opportunity to take my place (following up from my email on December 15th)? I would like to resign as the commitment is challenging for me at times, and I simply feel my time on the commission has run its course. It was fun, educational, and rewarding being on it, but priorities are needing my focus elsewhere.

Thanks!

Joel Redwine

Monthly Building Activity Report January-24 2023-2024

Category	Period: January-23		Period: January-24	
	# of Permits	Value	# of Permits	Value
Man. Home Setup				
Res 1 & 2 Family New	14	\$4,497,051	3	\$1,026,944
SFR Addition & Alt/Repair	6	\$203,689	5	\$93,800
Multi Family New				
Multi Family Alterations/Repair/Additions				
Group Care Facility				
Commercial New	3	\$199,654		
Commerical Addition				
Commercial Alt/Repair	2	\$226,848	4	\$159,090
Industrial New				
Industrial Addition				
Industrial Alt/Repair				
Gov/Pub/Inst (new/add)			1	\$22,332
Signs	2	\$7,650		
Grading				
Demolitions	2		1	
Total	29	\$5,134,892	14	\$1,302,166

Fiscal Year-to-Date

2022-2023		2023-2024	
Permits	Value	Permits	Value
171	\$24,927,049	159	\$27,691,415



District 4 Metro update

Forest Grove City Council | February 12th, 2024

Garbage and recycling

- RID Patrol success
- 770 tons of garbage in the last year
- Response time down to 1 day
- ridpatrol.oregonmetro.gov



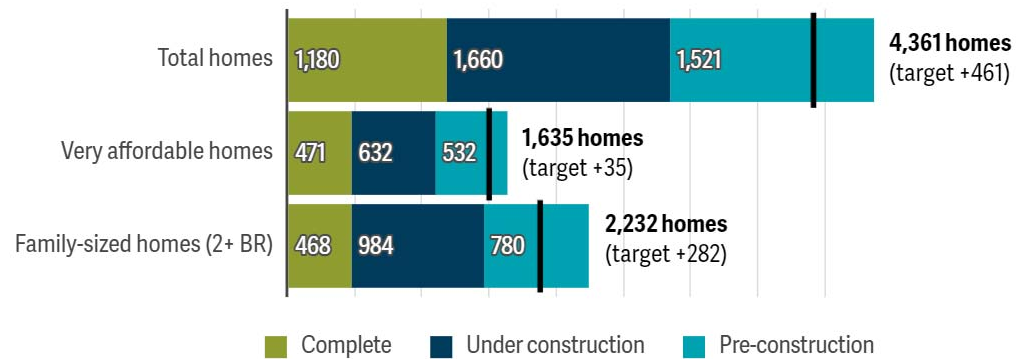
Growth management decision

Ensuring enough land for 20 years of growth, and supporting economic development



Affordable housing

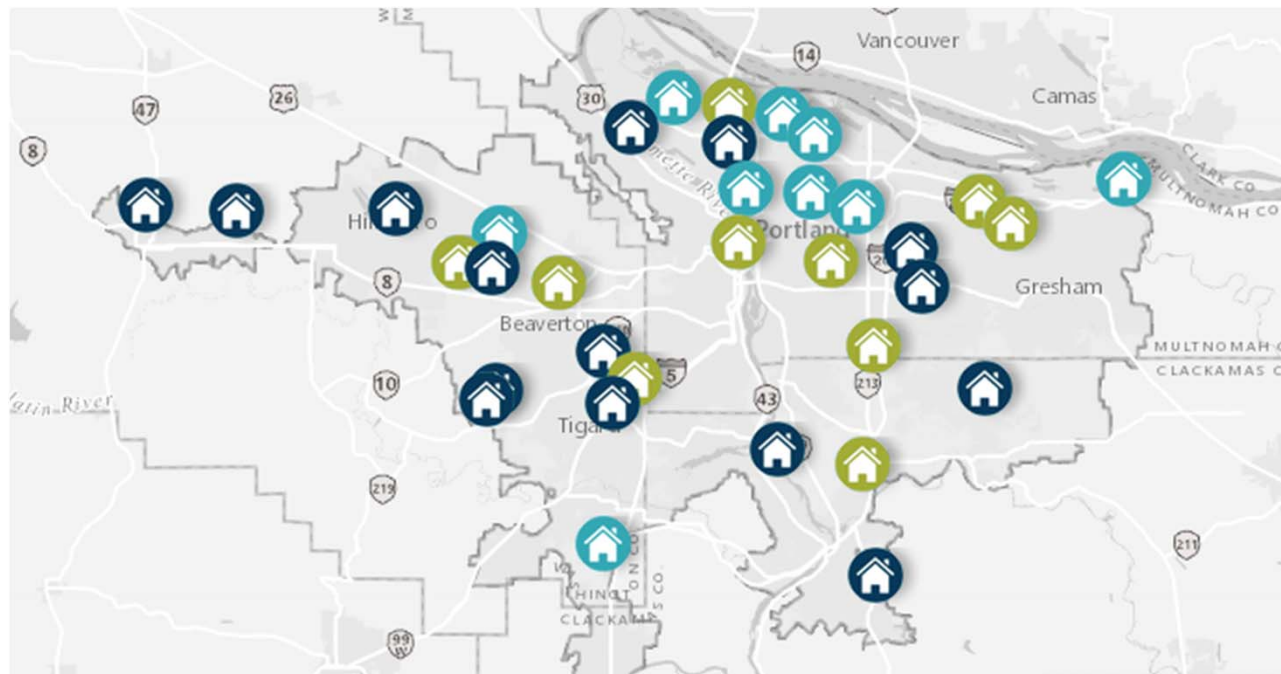
Affordable housing production: progress underway



On pace to exceed our construction goals



Project Map

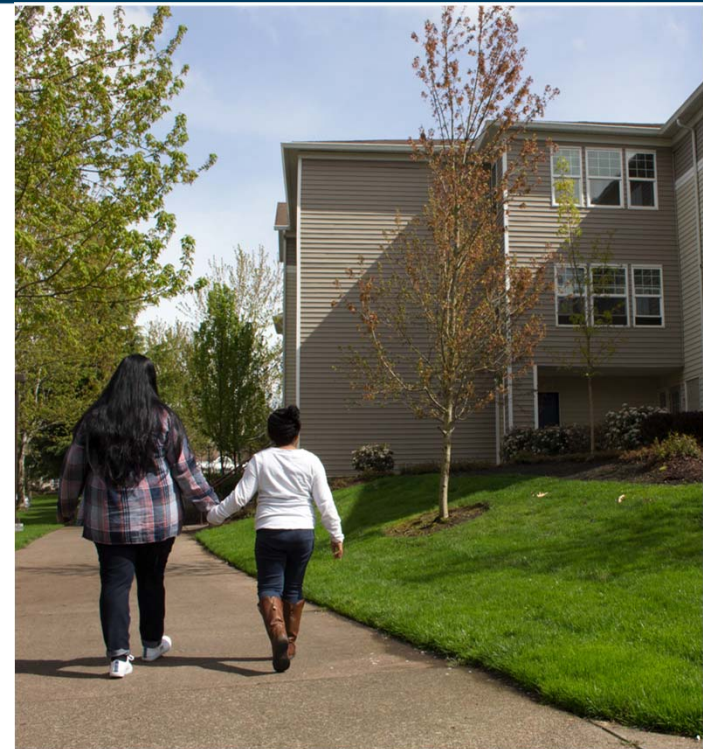


Supportive Housing Services

1,877 placed in housing

497 Washington County
shelter beds

2,235 eviction preventions



Regional transportation plan

A transportation system that cuts congestion, supports clean air and improves safety across our region.



Oregon Zoo

Thinking about what's next for
animal welfare, visitor accessibility
and sustainability



Questions?

Juan Carlos Gonzalez
Metro Councilor, District 4
juancarlos.Gonzalez@oregonmetro.gov

Stay in touch
oregonmetro.gov/connect



Community Development Update

PRESENTATION
2023 Department
Update

Bryan Pohl, Director

DATE 2/12/24

2023 At a Glance:

- ❖ Construction remained strong
- ❖ Recruitments
 - ❖ Economic Development Coordinator
 - ❖ Senior Planner
 - ❖ Permit Coordinator
- ❖ Downtown Historic District
- ❖ Nutria code
- ❖ Portland State population estimates



2023 At a Glance:

- ❖ Tourism event sponsorship program
- ❖ Tourism capital grant program
- ❖ Tourism marketing RFP
- ❖ Grant award for TV Highway Access Management
- ❖ Arbor Day planting at Talisman Park





2023 Planning Application Stats

- ❖ Number of subdivisions reviewed
 - ❖ 4
- ❖ Number of new lots added
 - ❖ 276
- ❖ Number of land use applications processed
 - ❖ 38
- ❖ Number of Planning Commission Meetings
 - ❖ 7

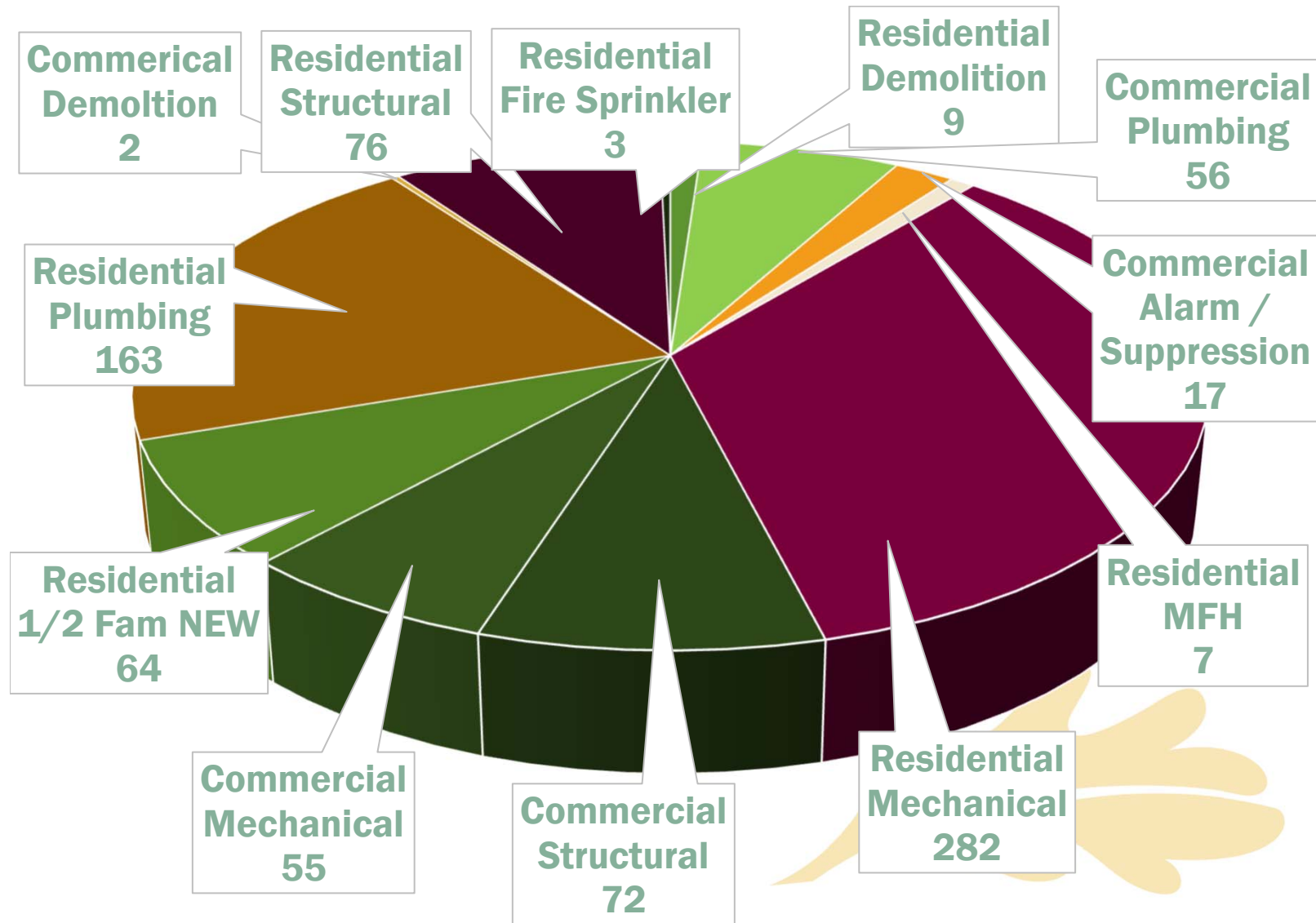




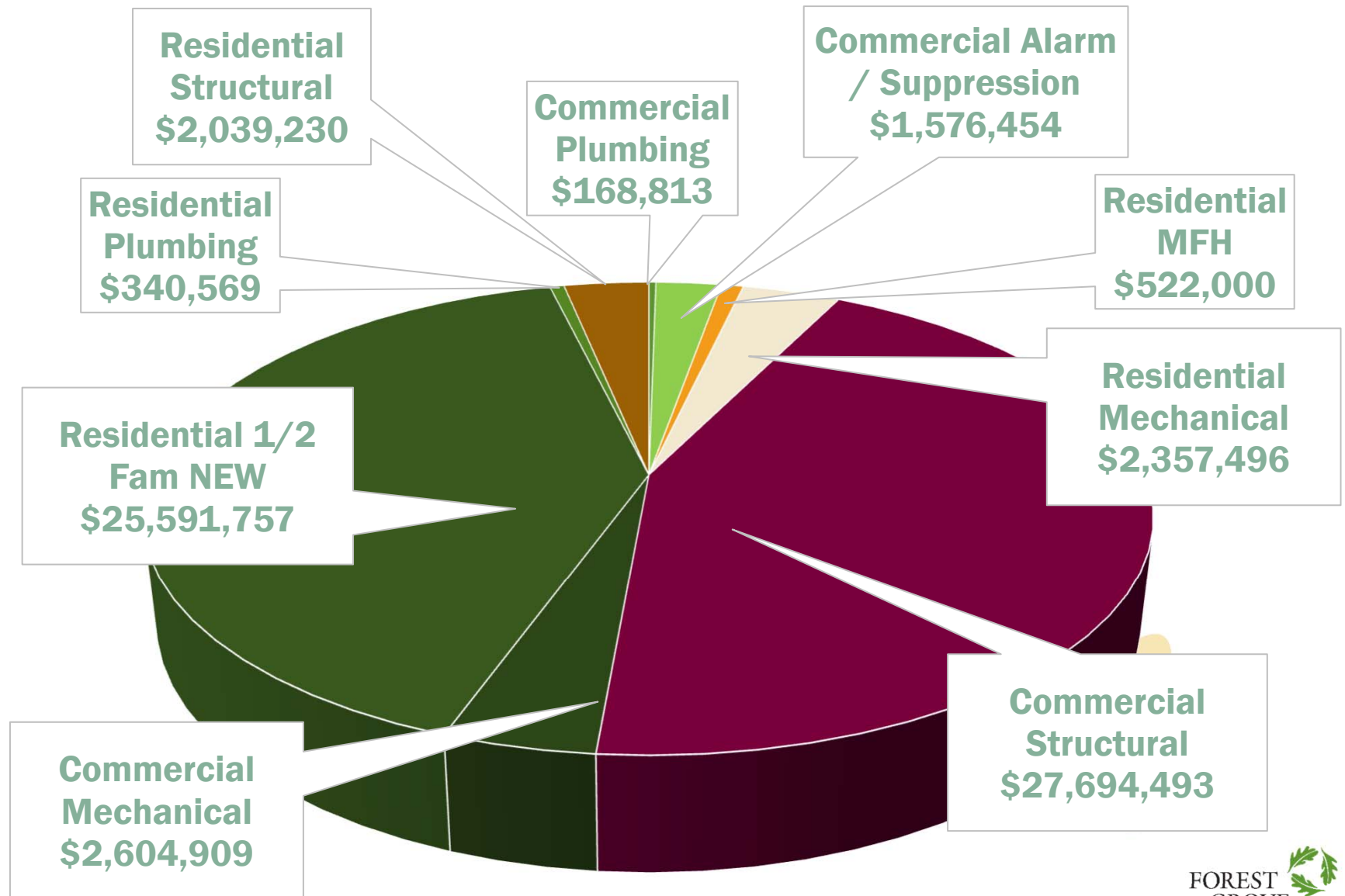
2023 Building Stats

- ❖ Total number of permits
 - ❖ 806
- ❖ Number of new single-family dwellings
 - ❖ 64
- ❖ Number of inspections
 - ❖ 3,389
- ❖ Total valuation (all construction types)
 - ❖ \$62,895,681
- ❖ Total permit and System Development Charge revenue
 - ❖ \$3,387,682
- ❖ Total permit revenue
 - ❖ \$604,009 (17.8% of total)

Total Permits Issued (806 total)



Construction Valuation (\$62,895,721 Total)





Significant Projects:

- ❖ Browns Farm
- ❖ Parkview Terrace
- ❖ Annexation of Evers property
- ❖ Kyle Park rezoning
- ❖ Pod Village
- ❖ Bailey Meadows
- ❖ Ritchey Ridge
- ❖ Street tree planting

Council Objective: Implementation of Housing Needs Analysis (HNA)

- ❖ **Work Sessions on 3/20/23 and 7/10/23**
- ❖ **Already Adopted:**
 - ❖ Density incentives
 - ❖ Non-profit property tax exemption
 - ❖ Vertical Housing Development Zone
 - ❖ Deferral of city-controlled SDCs for affordable housing
 - ❖ Reduced fees for ADU's: apply manufactured home rate for Trans. Development Tax and no sewer SDC if using same water meter
- ❖ **Consensus to consider further:**
 - ❖ Annexation agreements (being considered in state short session)
 - ❖ Construction Excise Tax
- ❖ **Housing Capacity Analysis moved to 2027 by State**

Council Objective: Develop a 2040 Quality of Life Plan

- ❖ Presented to Council on 8/28/23
 - ❖ Reviewed Plans from Hillsboro and Beaverton
- ❖ RFP issued February 9, 2024
- ❖ Consultant selection in April, 2024
- ❖ Plan to update every 5 years



Council Objective: Main Street

- ❖ Presented to Council on 1/8/24
- ❖ Work session 1/22/24
- ❖ Council passed resolution supporting City Club's application at affiliated level



Council Objective: Update Economic Opportunities Analysis (EOA)

- ❖ Presented to Council on 12/11/23
- ❖ RFQ issued February 9, 2024



Council Objective: URA Owned Properties

- ❖ URA Work Session 12/11/23 for Site B
- ❖ Consensus to move forward with open RFP, prioritizing grocery store / boutique hotel
- ❖ RFP issued February 2, 2024
- ❖ Proposals due April 4, 2024





Questions?



A place where families and businesses thrive.

CITY RECORDER USE ONLY:

AGENDA ITEM #: F.1.

MEETING DATE: 02.12.2024

FINAL ACTION: 2nd READING
ORD 2023-07

CITY COUNCIL STAFF MEMORANDUM

TO: City Council

FROM: Jesse VanderZanden, City Manager
Henry Reimann, Chief of Police

MEETING DATE: February 12, 2024

SUBJECT TITLE: Second Reading and Public Hearing of Ordinance 2023-07 amending the Forest Grove Code of Ordinances Title IX (General Regulations) by adding Chapter 91, Drone Regulations

ACTION REQUESTED:	☒ Ordinance	☐ Order	☐ Resolution	☐ Motion	☐ Informational
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X all that apply

ADDENDUM FOR FEBRUARY 12, 2024 COUNCIL MEETING

On December 11, 2023 the Forest Grove City Council held the first reading for Ordinance 2023-07, and unanimously advanced the Ordinance to a second reading. If approved, Ordinance 2023-07 will outline the duties of a drone pilot and enable the Forest Grove Police Department to enforce said rules under City Code.

STAFF REPORT FROM DECEMBER 11, 2023

BACKGROUND:

The City Council conducted a work session on October 9, 2023 to discuss unmanned aerial systems (UAS) or drone regulations for public recreation use within city limits.

UAS's are aircraft without a human pilot onboard that are controlled by an operator on the ground, and are operated without the possibility of direct human intervention from within or on the aircraft. Drones can be operated for a variety of reasons including for commercial purposes, recreational use or in support of public agency services. Drones are often flown by hobbyists for recreation and used by the public for commercial film and photography.

Because drones utilize the airspace, which is regulated by the federal government, the Federal Aviation Authority (FAA) regulates and sets guidelines for the safe operation of drones in the United States. Further, the FAA has a mandate from Congress to develop a comprehensive plan to accelerate the integration of civic UAS into the national airspace system.

In this regard, the FAA requires recreational drone operators to register and mark their drones and to operate them under a number of best practice guidelines. The FAA also requires commercial drone operators to learn specific drone rules (Title 14 Code of Federal Regulations Part 107), obtain a Remote Pilot Certificate, and obtain an FAA tracking number. In addition to these federal requirements, the City requires a business permit for commercial filming by drone.

In addition to federal regulations, the State of Oregon regulates drones under Oregon Revised Statute (ORS) Chapter 837. These regulations pertain to definitions, registration, fees, and prohibited uses. For example, state law prohibits the operation of a drone over privately owned premises in a manner that harasses and over critical infrastructure such as power, chemical, petroleum, water, electrical facilities, and more.

Staff reviewed the draft ordinance with the City's Parks and Recreation, Fire, Public Works, Light and Power, and the City Attorney to ensure the proposed regulations would not negatively affect their drone operations or infringe on federal regulations.

DRONE ORDINANCE:

The proposed ordinance requires both recreational and commercial drone operators to fly drones in compliance with federal and state laws. Due to the complexity and length of federal and state law, these laws and rules are included by reference in the ordinance but not specifically spelled out.

The ordinance does outline the duties of a drone operator and the penalties if the drone operator causes injury to a person, damage to property, and violates federal and state law while operating a drone. The ordinance also lists protected sites within the city; sites that are also broadly outlined in federal and state law.

Adoption of the proposed ordinance will allow the city to enforce federal, state, and city drone laws and regulations. Violations of the ordinance's provisions will be done in accordance with the enforcement procedures contained in city code, CFR Part 107, and ORS Chapter 837, which may include a general penalty, misdemeanor or administrative citation.

FISCAL IMPACT:

None.

STAFF RECOMMENDATION:

Staff recommends the City Council conduct a second reading of Ordinance 2023-07. If passed, staff will embark on a public information effort to assure all persons are aware of the new regulations.

ATTACHMENTS:

- 1) Proposed Ordinance 2023-07 with Exhibit A, Chapter 91, Drone Regulations
- 2) CFR Part 107
- 3) ORS Chapter 837

ORDINANCE 2023-07

ORDINANCE ADOPTING REGULATIONS PERTAINING TO RECREATIONAL AND COMMERCIAL DRONE OPERATION WITHIN THE CITY OF FOREST GROVE UNDER SECTION 91 OF CITY CODE.

WHEREAS, the Council conducted work session on October 9, 2023 to review and discuss unmanned aerial systems (UAS) or drone regulations for public recreation and commercial operation use within the City limits; and

WHEREAS, the proposed ordinance is responsive to City Council Objective 18 to “research regulations for drone use within city limits”; and

WHEREAS, Council requested staff develop an ordinance that would standardize UAS usage within city limits and outline the duties and responsibilities of drone operators in conjunction with federal and state law; and

WHEREAS, The Federal Aviation Authority (FAA) regulates and sets guidelines for the safe operation of drones in the United States under the Code of Federal Regulations Part 101 and Part 107; and

WHEREAS, The State of Oregon regulates and sets guidelines for the safe operation of drones in Oregon under Oregon Revised Statue (ORS) 837; and

WHEREAS, ORS 837 prohibits a local government from enacting drone regulations that are more restrictive than federal and state law and the proposed ordinance does not infringe on the operation or ownership of a drone or otherwise restrict drone operation more than federal and state law; and

WHEREAS, Adoption of the proposed ordinance will allow the City to enforce federal and state regulations and violation of the ordinance’s provisions will be done in accordance with the enforcement procedures contained in city code, federal and state law, and may include a general penalty, misdemeanor or administrative citations.

NOW THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

Section 1: The City Council adopts Exhibit A, Regulations Pertaining to Drone Usage within City Limits, and directs staff to incorporate the regulations into city code.

Section 2: The City Council directs city staff to publish the regulations and conduct an outreach effort to assure the regulations are broadly known.

This ordinance will take effect on the 30th day after enactment.

PRESENTED AND PASSED, the first reading this 11th day of December, 2023.

PASSED the second reading this 12th day of February, 2024.

Mariah S. Woods, City Recorder

APPROVED by the Mayor this 12th day of February, 2024.

Malynda H. Wenzl, Mayor

EXHIBIT A: REGULATIONS PERTAINING TO DRONE USAGE WITHIN CITY LIMITS

§ 91.016 Purpose and intent.

The purpose of this chapter is to standardize unmanned aircraft systems or drone usage within the City of Forest Grove. This chapter does not preempt and is intended to operate in conjunction with federal and state laws and regulations regarding drones.

All ordinances herein are intended to protect the privacy, public safety, and welfare of the public and address specific areas of municipal concern where a drone incident could cause harm and injury.

§ 91.017 Definitions.

For purposes of this chapter, the following definitions shall apply:

FAA means the Federal Aviation Administration.

Unmanned aircraft system or drone means an aircraft without a human pilot on board, that is controlled from an operator on the ground, and operates without the possibility of direct human intervention from within, or on, the aircraft.

§91.018 Operating requirements and restrictions.

Drones are allowed for recreational purposes in city parks, subject to the restrictions listed in this section and federal and state laws and regulations regarding drones. No person shall operate a drone in a manner that is prohibited by any federal and state laws and regulations. Drone operators may be required to produce a valid FAA registration upon request while operating the drone in a city park.

- A. Any person who causes injury to another person while operating a drone shall:
 - 1. Notify the City's Police Department of the injury within 24 hours of the incident.
 - 2. Provide the operator's name and current residential address to the City's Police Department and present a valid form of identification issued by the federal or state government.
 - 3. Each failure to report shall constitute a separate violation of this chapter.
- B. Any person who causes damage to property while operating a drone shall:
 - 1. Immediately locate and notify the owner or person in charge of the damaged property of the name and current residential address of the drone operator and of the owner of the drone involved.
 - 2. Provide the operator's name and current residential address to the City's Police Department and present a valid form of identification issued by the federal or state government.

3. In the event the owner or person in charge of the damaged property cannot reasonably be ascertained or located, the drone operator shall leave in a conspicuous place on the property damaged a written notice giving the name and current residential address of the drone operator and of the owner of the drone involved, as well as a statement of the circumstances of the incident resulting in the property damage. The drone operator must also provide this information to the City Police Department within 24 hours of the incident.
4. Each failure to report shall constitute a separate violation of this chapter.

§ 91.019 Protected sites.

- A. No person shall operate a drone within the airspace above or within a 200-foot horizontal distance of the following:
 - a. Police building(s), unless authorized by the Chief of Police.
 - b. Public utility facilities, including, but not limited to, any water, sewage, or electrical generating facility, unless authorized by the chief administrator of the facility.
 - c. Communication and utility structures, including, but not limited to, cell towers or similar equipment for the transmission of sounds, signal, or data, unless authorized by the chief administrator of the facility.
- B. No person shall operate a drone in a manner that disrupts or disturbs wildlife.

§ 91.020 Exemptions.

- A. The provisions of this chapter shall not apply to a drone that is used or operated by or on behalf of a government agency in compliance with applicable federal, state, county, and city laws and regulations.

§ 91.021 Violations—Penalties.

- A. All violations of the Code of Federal Regulations defined in Title 14 C.F.R. Part 101 and Title 14 C.F.R. Part 107 will be reported to the FAA.
- B. All violations of Oregon Revised Statute (ORS) Chapter 837 may be punished under ORS 837.990 and ORS 837.995.
- C. Any condition created, caused, committed, or maintained in violation of any provision of this chapter is hereby declared to be unlawful and a public nuisance.
- D. Any person who engages in a violation of this section, or who owns, possesses, manages, controls, or has charge of any drone in violation of this section, shall be subject to the penalties and remedies provided by this section.
- E. Any violation of this section shall constitute a separate offense for each day the violation persists.
- F. Any intentional injury or property damage caused while operating a drone will be referred to the County District Attorney for criminal prosecution.
- G. Upon any violation of this section, any Emergency Responder, or law enforcement officer (Officer) shall be authorized to use reasonable force to cause the violating drone to land on the ground. Neither the City, nor the Officers involved, shall be liable

for any damage to a drone caused by an Officer while enforcing this section if such damage was reasonably necessary to ensure unhindered performance of emergency services.

- H. Any drone found to be operated in violation of this section may be impounded and held as evidence in any enforcement proceeding, including a proceeding brought under this section.
- I. The expenses of seizing, eradicating, destroying, or taking remedial action with respect to any impounded drone shall not be recoverable from the owner and operator of the drone. Proof of liability for any forfeiture petition under this chapter shall be by a preponderance of the evidence.
- J. These penalties and remedies are cumulative, in addition to any other penalties and remedies available to the city.

This content is from the eCFR and is authoritative but unofficial.

Title 14 —Aeronautics and Space

Chapter I —Federal Aviation Administration, Department of Transportation

Subchapter F —Air Traffic and General Operating Rules

Part 107 Small Unmanned Aircraft Systems

Subpart A General

- § 107.1 Applicability.
- § 107.2 Applicability of certification procedures for products and articles.
- § 107.3 Definitions.
- § 107.5 Falsification, reproduction, or alteration.
- § 107.7 Inspection, testing, and demonstration of compliance.
- § 107.9 Safety event reporting.

Subpart B Operating Rules

- § 107.11 Applicability.
- § 107.12 Requirement for a remote pilot certificate with a small UAS rating.
- § 107.13 Registration.
- § 107.15 Condition for safe operation.
- § 107.17 Medical condition.
- § 107.19 Remote pilot in command.
- § 107.21 In-flight emergency.
- § 107.23 Hazardous operation.
- § 107.25 Operation from a moving vehicle or aircraft.
- § 107.27 Alcohol or drugs.
- § 107.29 Operation at night.
- § 107.31 Visual line of sight aircraft operation.
- § 107.33 Visual observer.
- § 107.35 Operation of multiple small unmanned aircraft.
- § 107.36 Carriage of hazardous material.
- § 107.37 Operation near aircraft; right-of-way rules.
- § 107.39 Operation over human beings.
- § 107.41 Operation in certain airspace.
- § 107.43 Operation in the vicinity of airports.
- § 107.45 Operation in prohibited or restricted areas.
- § 107.47 Flight restrictions in the proximity of certain areas designated by notice to airmen.
- § 107.49 Preflight familiarization, inspection, and actions for aircraft operation.
- § 107.51 Operating limitations for small unmanned aircraft.

Subpart C Remote Pilot Certification

- § 107.52 ATC transponder equipment prohibition.
- § 107.53 Automatic Dependent Surveillance-Broadcast (ADS-B) Out prohibition.
- § 107.56 Applicability.
- § 107.57 Offenses involving alcohol or drugs.
- § 107.59 Refusal to submit to an alcohol test or to furnish test results.
- § 107.61 Eligibility.

§ 107.63 Issuance of a remote pilot certificate with a small UAS rating.

§ 107.64 Temporary certificate.

§ 107.65 Aeronautical knowledge recency.

§ 107.67 Knowledge tests: General procedures and passing grades.

§ 107.69 Knowledge tests: Cheating or other unauthorized conduct.

§ 107.71 Retesting after failure.

§ 107.73 Knowledge and training.

§ 107.74 Small unmanned aircraft system training.

§ 107.77 Change of name or address.

§ 107.79 Voluntary surrender of certificate.

Subpart D Operations Over Human Beings

§ 107.100 Applicability.

§ 107.105 Limitations on operations over human beings.

§ 107.110 Category 1 operations.

§ 107.115 Category 2 operations: Operating requirements.

§ 107.120 Category 2 operations: Eligibility of small unmanned aircraft and other applicant requirements.

§ 107.125 Category 3 operations: Operating requirements.

§ 107.130 Category 3 operations: Eligibility of small unmanned aircraft and other applicant requirements.

§ 107.135 Labeling by remote pilot in command for Category 2 and 3 operations.

§ 107.140 Category 4 operations.

§ 107.145 Operations over moving vehicles.

§ 107.150 Variable mode and variable configuration of small unmanned aircraft systems.

§ 107.155 Means of compliance.

§ 107.160 Declaration of compliance.

§ 107.165 Record retention.

Subpart E Waivers

§ 107.200 Waiver policy and requirements.

§ 107.205 List of regulations subject to waiver.

PART 107—SMALL UNMANNED AIRCRAFT SYSTEMS

Authority: 49 U.S.C. 106(f), 40101 note, 40103(b), 44701(a)(5), 46105(c), 46110, 44807.

Source: Docket FAA–2015–0150, Amdt. 107–1, 81 FR 42209, June 28, 2016, unless otherwise noted.

Subpart A—General

§ 107.1 Applicability.

- (a) Except as provided in paragraph (b) of this section, this part applies to the registration, airman certification, and operation of civil small unmanned aircraft systems within the United States. This part also applies to the eligibility of civil small unmanned aircraft systems to operate over human beings in the United States.
- (b) This part does not apply to the following:
 - (1) Air carrier operations;
 - (2) Any aircraft subject to the provisions of 49 U.S.C. 44809;
 - (3) Any operation that the holder of an exemption under section 333 of Public Law 112–95 or 49 U.S.C. 44807 elects to conduct pursuant to the exemption, unless otherwise specified in the exemption; or
 - (4) Any operation that a person elects to conduct under part 91 of this chapter with a small unmanned aircraft system that has been issued an airworthiness certificate.

[Amdt. No. 107–8, 86 FR 4381, Jan. 15, 2021]

§ 107.2 Applicability of certification procedures for products and articles.

The provisions of part 21 of this chapter do not apply to small unmanned aircraft systems operated under this part unless the small unmanned aircraft system will operate over human beings in accordance with § 107.140.

[Amdt. No. 107–8, 86 FR 4381, Jan. 15, 2021]

§ 107.3 Definitions.

The following definitions apply to this part. If there is a conflict between the definitions of this part and definitions specified in § 1.1 of this chapter, the definitions in this part control for purposes of this part:

Control station means an interface used by the remote pilot to control the flight path of the small unmanned aircraft.

Corrective lenses means spectacles or contact lenses.

Declaration of compliance means a record submitted to the FAA that certifies the small unmanned aircraft conforms to the Category 2 or Category 3 requirements under subpart D of this part.

Small unmanned aircraft means an unmanned aircraft weighing less than 55 pounds on takeoff, including everything that is on board or otherwise attached to the aircraft.

Small unmanned aircraft system (small UAS) means a small unmanned aircraft and its associated elements (including communication links and the components that control the small unmanned aircraft) that are required for the safe and efficient operation of the small unmanned aircraft in the national airspace system.

Unmanned aircraft means an aircraft operated without the possibility of direct human intervention from within or on the aircraft.

Visual observer means a person who is designated by the remote pilot in command to assist the remote pilot in command and the person manipulating the flight controls of the small UAS to see and avoid other air traffic or objects aloft or on the ground.

[Docket FAA–2015–0150, Amdt. 107–1, 81 FR 42209, June 28, 2016, as amended by Amdt. No. 107–8, 86 FR 4381, Jan. 15, 2021]

§ 107.5 Falsification, reproduction, or alteration.

- (a) No person may make or cause to be made—
 - (1) Any fraudulent or intentionally false record or report that is required to be made, kept, or used to show compliance with any requirement under this part.
 - (2) Any reproduction or alteration, for fraudulent purpose, of any certificate, rating, authorization, record or report under this part.
- (b) The commission by any person of an act prohibited under paragraph (a) of this section is a basis for any of the following:
 - (1) Denial of an application for a remote pilot certificate or a certificate of waiver;
 - (2) Denial of a declaration of compliance;
 - (3) Suspension or revocation of any certificate, waiver, or declaration of compliance issued or accepted by the Administrator under this part and held by that person; or
 - (4) A civil penalty.

[Docket FAA–2015–0150, Amdt. 107–1, 81 FR 42209, June 28, 2016, as amended by Amdt. No. 107–8, 86 FR 4381, Jan. 15, 2021]

§ 107.7 Inspection, testing, and demonstration of compliance.

- (a) A remote pilot in command, owner, or person manipulating the flight controls of a small unmanned aircraft system must—
 - (1) Have in that person's physical possession and readily accessible the remote pilot certificate with a small UAS rating and identification when exercising the privileges of that remote pilot certificate.
 - (2) Present his or her remote pilot certificate with a small UAS rating and identification that contains the information listed at § 107.67(b)(1) through (3) for inspection upon a request from—
 - (i) The Administrator;
 - (ii) An authorized representative of the National Transportation Safety Board;
 - (iii) Any Federal, State, or local law enforcement officer; or
 - (iv) An authorized representative of the Transportation Security Administration.
 - (3) Make available, upon request, to the Administrator any document, record, or report required to be kept under the regulations of this chapter.

- (b) The remote pilot in command, visual observer, owner, operator, or person manipulating the flight controls of a small unmanned aircraft system must, upon request, allow the Administrator to make any test or inspection of the small unmanned aircraft system, the remote pilot in command, the person manipulating the flight controls of a small unmanned aircraft system, and, if applicable, the visual observer to determine compliance with this part.
- (c) Any person holding an FAA-accepted declaration of compliance under subpart D of this part must, upon request, make available to the Administrator:
 - (1) The declaration of compliance required under subpart D of this part; and
 - (2) Any other document, record, or report required to be kept under the regulations of this chapter.
- (d) Any person holding an FAA-accepted declaration of compliance under subpart D of this part must, upon request, allow the Administrator to inspect its facilities, technical data, and any manufactured small UAS and witness any tests necessary to determine compliance with that subpart.

[Amdt. No. 107–8, 86 FR 4381, Jan. 15, 2021]

§ 107.9 Safety event reporting.

No later than 10 calendar days after an operation that meets the criteria of either paragraph (a) or (b) of this section, a remote pilot in command must report to the FAA, in a manner acceptable to the Administrator, any operation of the small unmanned aircraft involving at least:

- (a) Serious injury to any person or any loss of consciousness; or
- (b) Damage to any property, other than the small unmanned aircraft, unless one of the following conditions is satisfied:
 - (1) The cost of repair (including materials and labor) does not exceed \$500; or
 - (2) The fair market value of the property does not exceed \$500 in the event of total loss.

Subpart B—Operating Rules

§ 107.11 Applicability.

This subpart applies to the operation of all civil small unmanned aircraft systems subject to this part.

§ 107.12 Requirement for a remote pilot certificate with a small UAS rating.

- (a) Except as provided in paragraph (c) of this section, no person may manipulate the flight controls of a small unmanned aircraft system unless:
 - (1) That person has a remote pilot certificate with a small UAS rating issued pursuant to subpart C of this part and satisfies the requirements of § 107.65; or
 - (2) That person is under the direct supervision of a remote pilot in command and the remote pilot in command has the ability to immediately take direct control of the flight of the small unmanned aircraft.

- (b) Except as provided in paragraph (c) of this section, no person may act as a remote pilot in command unless that person has a remote pilot certificate with a small UAS rating issued pursuant to Subpart C of this part and satisfies the requirements of § 107.65.
- (c) The Administrator may, consistent with international standards, authorize an airman to operate a civil foreign-registered small unmanned aircraft without an FAA-issued remote pilot certificate with a small UAS rating.

§ 107.13 Registration.

A person operating a civil small unmanned aircraft system for purposes of flight must comply with the provisions of § 91.203(a)(2) of this chapter.

§ 107.15 Condition for safe operation.

- (a) No person may operate a civil small unmanned aircraft system unless it is in a condition for safe operation. Prior to each flight, the remote pilot in command must check the small unmanned aircraft system to determine whether it is in a condition for safe operation.
- (b) No person may continue flight of the small unmanned aircraft when he or she knows or has reason to know that the small unmanned aircraft system is no longer in a condition for safe operation.

§ 107.17 Medical condition.

No person may manipulate the flight controls of a small unmanned aircraft system or act as a remote pilot in command, visual observer, or direct participant in the operation of the small unmanned aircraft if he or she knows or has reason to know that he or she has a physical or mental condition that would interfere with the safe operation of the small unmanned aircraft system.

§ 107.19 Remote pilot in command.

- (a) A remote pilot in command must be designated before or during the flight of the small unmanned aircraft.
- (b) The remote pilot in command is directly responsible for and is the final authority as to the operation of the small unmanned aircraft system.
- (c) The remote pilot in command must ensure that the small unmanned aircraft will pose no undue hazard to other people, other aircraft, or other property in the event of a loss of control of the small unmanned aircraft for any reason.
- (d) The remote pilot in command must ensure that the small UAS operation complies with all applicable regulations of this chapter.
- (e) The remote pilot in command must have the ability to direct the small unmanned aircraft to ensure compliance with the applicable provisions of this chapter.

[Docket FAA–2015–0150, Amdt. 107–1, 81 FR 42209, June 28, 2016, as amended by Amdt. No. 107–8, 86 FR 4382, Jan. 15, 2021]

§ 107.21 In-flight emergency.

- (a) In an in-flight emergency requiring immediate action, the remote pilot in command may deviate from any rule of this part to the extent necessary to meet that emergency.

- (b) Each remote pilot in command who deviates from a rule under paragraph (a) of this section must, upon request of the Administrator, send a written report of that deviation to the Administrator.

§ 107.23 Hazardous operation.

No person may:

- (a) Operate a small unmanned aircraft system in a careless or reckless manner so as to endanger the life or property of another; or
- (b) Allow an object to be dropped from a small unmanned aircraft in a manner that creates an undue hazard to persons or property.

§ 107.25 Operation from a moving vehicle or aircraft.

No person may operate a small unmanned aircraft system—

- (a) From a moving aircraft; or
- (b) From a moving land or water-borne vehicle unless the small unmanned aircraft is flown over a sparsely populated area and is not transporting another person's property for compensation or hire.

§ 107.27 Alcohol or drugs.

A person manipulating the flight controls of a small unmanned aircraft system or acting as a remote pilot in command or visual observer must comply with the provisions of §§ 91.17 and 91.19 of this chapter.

§ 107.29 Operation at night.

- (a) Except as provided in paragraph (d) of this section, no person may operate a small unmanned aircraft system at night unless—
 - (1) The remote pilot in command of the small unmanned aircraft has completed an initial knowledge test or training, as applicable, under § 107.65 after April 6, 2021; and
 - (2) The small unmanned aircraft has lighted anti-collision lighting visible for at least 3 statute miles that has a flash rate sufficient to avoid a collision. The remote pilot in command may reduce the intensity of, but may not extinguish, the anti-collision lighting if he or she determines that, because of operating conditions, it would be in the interest of safety to do so.
- (b) No person may operate a small unmanned aircraft system during periods of civil twilight unless the small unmanned aircraft has lighted anti-collision lighting visible for at least 3 statute miles that has a flash rate sufficient to avoid a collision. The remote pilot in command may reduce the intensity of, but may not extinguish, the anti-collision lighting if he or she determines that, because of operating conditions, it would be in the interest of safety to do so.
- (c) For purposes of paragraph (b) of this section, civil twilight refers to the following:
 - (1) Except for Alaska, a period of time that begins 30 minutes before official sunrise and ends at official sunrise;
 - (2) Except for Alaska, a period of time that begins at official sunset and ends 30 minutes after official sunset; and
 - (3) In Alaska, the period of civil twilight as defined in the Air Almanac.

- (d) After May 17, 2021, no person may operate a small unmanned aircraft system at night in accordance with a certificate of waiver issued prior to April 21, 2021 under § 107.200. The certificates of waiver issued prior to March 16, 2021 under § 107.200 that authorize deviation from § 107.29 terminate on May 17, 2021.

[Docket FAA-2015-0150, Amdt. 107-1, 81 FR 42209, June 28, 2016, as amended by Amdt. No. 107-8, 86 FR 4382, Jan. 15, 2021; 86 FR 13631, Mar. 10, 2020]

§ 107.31 Visual line of sight aircraft operation.

- (a) With vision that is unaided by any device other than corrective lenses, the remote pilot in command, the visual observer (if one is used), and the person manipulating the flight control of the small unmanned aircraft system must be able to see the unmanned aircraft throughout the entire flight in order to:
 - (1) Know the unmanned aircraft's location;
 - (2) Determine the unmanned aircraft's attitude, altitude, and direction of flight;
 - (3) Observe the airspace for other air traffic or hazards; and
 - (4) Determine that the unmanned aircraft does not endanger the life or property of another.
- (b) Throughout the entire flight of the small unmanned aircraft, the ability described in paragraph (a) of this section must be exercised by either:
 - (1) The remote pilot in command and the person manipulating the flight controls of the small unmanned aircraft system; or
 - (2) A visual observer.

§ 107.33 Visual observer.

If a visual observer is used during the aircraft operation, all of the following requirements must be met:

- (a) The remote pilot in command, the person manipulating the flight controls of the small unmanned aircraft system, and the visual observer must maintain effective communication with each other at all times.
- (b) The remote pilot in command must ensure that the visual observer is able to see the unmanned aircraft in the manner specified in § 107.31.
- (c) The remote pilot in command, the person manipulating the flight controls of the small unmanned aircraft system, and the visual observer must coordinate to do the following:
 - (1) Scan the airspace where the small unmanned aircraft is operating for any potential collision hazard; and
 - (2) Maintain awareness of the position of the small unmanned aircraft through direct visual observation.

§ 107.35 Operation of multiple small unmanned aircraft.

A person may not manipulate flight controls or act as a remote pilot in command or visual observer in the operation of more than one unmanned aircraft at the same time.

[Amdt. No. 107-8, 86 FR 4382, Jan. 15, 2021]

§ 107.36 Carriage of hazardous material.

A small unmanned aircraft may not carry hazardous material. For purposes of this section, the term hazardous material is defined in 49 CFR 171.8.

§ 107.37 Operation near aircraft; right-of-way rules.

- (a) Each small unmanned aircraft must yield the right of way to all aircraft, airborne vehicles, and launch and reentry vehicles. Yielding the right of way means that the small unmanned aircraft must give way to the aircraft or vehicle and may not pass over, under, or ahead of it unless well clear.
- (b) No person may operate a small unmanned aircraft so close to another aircraft as to create a collision hazard.

§ 107.39 Operation over human beings.

No person may operate a small unmanned aircraft over a human being unless—

- (a) That human being is directly participating in the operation of the small unmanned aircraft;
- (b) That human being is located under a covered structure or inside a stationary vehicle that can provide reasonable protection from a falling small unmanned aircraft; or
- (c) The operation meets the requirements of at least one of the operational categories specified in subpart D of this part.

[Amdt. No. 107–8, 86 FR 4382, Jan. 15, 2021]

§ 107.41 Operation in certain airspace.

No person may operate a small unmanned aircraft in Class B, Class C, or Class D airspace or within the lateral boundaries of the surface area of Class E airspace designated for an airport unless that person has prior authorization from Air Traffic Control (ATC).

§ 107.43 Operation in the vicinity of airports.

No person may operate a small unmanned aircraft in a manner that interferes with operations and traffic patterns at any airport, heliport, or seaplane base.

§ 107.45 Operation in prohibited or restricted areas.

No person may operate a small unmanned aircraft in prohibited or restricted areas unless that person has permission from the using or controlling agency, as appropriate.

§ 107.47 Flight restrictions in the proximity of certain areas designated by notice to airmen.

A person acting as a remote pilot in command must comply with the provisions of §§ 91.137 through 91.145 and 99.7 of this chapter.

§ 107.49 Preflight familiarization, inspection, and actions for aircraft operation.

Prior to flight, the remote pilot in command must:

- (a) Assess the operating environment, considering risks to persons and property in the immediate vicinity both on the surface and in the air. This assessment must include:
 - (1) Local weather conditions;
 - (2) Local airspace and any flight restrictions;
 - (3) The location of persons and property on the surface; and
 - (4) Other ground hazards.
- (b) Ensure that all persons directly participating in the small unmanned aircraft operation are informed about the operating conditions, emergency procedures, contingency procedures, roles and responsibilities, and potential hazards;
- (c) Ensure that all control links between ground control station and the small unmanned aircraft are working properly;
- (d) If the small unmanned aircraft is powered, ensure that there is enough available power for the small unmanned aircraft system to operate for the intended operational time;
- (e) Ensure that any object attached or carried by the small unmanned aircraft is secure and does not adversely affect the flight characteristics or controllability of the aircraft; and
- (f) If the operation will be conducted over human beings under subpart D of this part, ensure that the aircraft meets the requirements of § 107.110, § 107.120(a), § 107.130(a), or § 107.140, as applicable.

[Docket FAA–2015–0150, Amdt. 107–1, 81 FR 42209, June 28, 2016, as amended by Amdt. No. 107–8, 86 FR 4382, Jan. 15, 2021]

§ 107.51 Operating limitations for small unmanned aircraft.

A remote pilot in command and the person manipulating the flight controls of the small unmanned aircraft system must comply with all of the following operating limitations when operating a small unmanned aircraft system:

- (a) The groundspeed of the small unmanned aircraft may not exceed 87 knots (100 miles per hour).
- (b) The altitude of the small unmanned aircraft cannot be higher than 400 feet above ground level, unless the small unmanned aircraft:
 - (1) Is flown within a 400-foot radius of a structure; and
 - (2) Does not fly higher than 400 feet above the structure's immediate uppermost limit.
- (c) The minimum flight visibility, as observed from the location of the control station must be no less than 3 statute miles. For purposes of this section, flight visibility means the average slant distance from the control station at which prominent unlighted objects may be seen and identified by day and prominent lighted objects may be seen and identified by night.
- (d) The minimum distance of the small unmanned aircraft from clouds must be no less than:
 - (1) 500 feet below the cloud; and
 - (2) 2,000 feet horizontally from the cloud.

Subpart C—Remote Pilot Certification

§ 107.52 ATC transponder equipment prohibition.

Unless otherwise authorized by the Administrator, no person may operate a small unmanned aircraft system under this part with a transponder on.

[Amdt. No. 107–7, 86 FR 4513, Jan. 15, 2021]

§ 107.53 Automatic Dependent Surveillance-Broadcast (ADS-B) Out prohibition.

Unless otherwise authorized by the Administrator, no person may operate a small unmanned aircraft system under this part with ADS-B Out equipment in transmit mode.

[Amdt. No. 107–7, 86 FR 4513, Jan. 15, 2021]

§ 107.56 Applicability.

This subpart prescribes the requirements for issuing a remote pilot certificate with a small UAS rating.

[Docket FAA–2015–0150, Amdt. 107–1, 81 FR 42209, June 28, 2016. Redesignated by Amdt. No. 107–7, 86 FR 4513, Jan. 15, 2021]

§ 107.57 Offenses involving alcohol or drugs.

- (a) A conviction for the violation of any Federal or State statute relating to the growing, processing, manufacture, sale, disposition, possession, transportation, or importation of narcotic drugs, marijuana, or depressant or stimulant drugs or substances is grounds for:
 - (1) Denial of an application for a remote pilot certificate with a small UAS rating for a period of up to 1 year after the date of final conviction; or
 - (2) Suspension or revocation of a remote pilot certificate with a small UAS rating.
- (b) Committing an act prohibited by § 91.17(a) or § 91.19(a) of this chapter is grounds for:
 - (1) Denial of an application for a remote pilot certificate with a small UAS rating for a period of up to 1 year after the date of that act; or
 - (2) Suspension or revocation of a remote pilot certificate with a small UAS rating.

§ 107.59 Refusal to submit to an alcohol test or to furnish test results.

A refusal to submit to a test to indicate the percentage by weight of alcohol in the blood, when requested by a law enforcement officer in accordance with § 91.17(c) of this chapter, or a refusal to furnish or authorize the release of the test results requested by the Administrator in accordance with § 91.17(c) or (d) of this chapter, is grounds for:

- (a) Denial of an application for a remote pilot certificate with a small UAS rating for a period of up to 1 year after the date of that refusal; or
- (b) Suspension or revocation of a remote pilot certificate with a small UAS rating.

§ 107.61 Eligibility.

Subject to the provisions of §§ 107.57 and 107.59, in order to be eligible for a remote pilot certificate with a small UAS rating under this subpart, a person must:

- (a) Be at least 16 years of age;
- (b) Be able to read, speak, write, and understand the English language. If the applicant is unable to meet one of these requirements due to medical reasons, the FAA may place such operating limitations on that applicant's certificate as are necessary for the safe operation of the small unmanned aircraft;
- (c) Not know or have reason to know that he or she has a physical or mental condition that would interfere with the safe operation of a small unmanned aircraft system; and
- (d) Demonstrate aeronautical knowledge by satisfying one of the following conditions, in a manner acceptable to the Administrator:
 - (1) Pass an initial aeronautical knowledge test covering the areas of knowledge specified in § 107.73; or
 - (2) If a person holds a pilot certificate (other than a student pilot certificate) issued under part 61 of this chapter and meets the flight review requirements specified in § 61.56, complete training covering the areas of knowledge specified in § 107.74.

[Docket FAA–2015–0150, Amdt. 107–1, 81 FR 42209, June 28, 2016, as amended by Amdt. No. 107–8, 86 FR 4382, Jan. 15, 2021]

§ 107.63 Issuance of a remote pilot certificate with a small UAS rating.

An applicant for a remote pilot certificate with a small UAS rating under this subpart must make the application in a form and manner acceptable to the Administrator.

- (a) The application must include either:
 - (1) Evidence showing that the applicant passed an initial aeronautical knowledge test. If applying using a paper application, this evidence must be an airman knowledge test report showing passage of the knowledge test; or
 - (2) If a person holds a pilot certificate (other than a student pilot certificate) issued under part 61 of this chapter and meets the flight review requirements specified in § 61.56, a certificate of completion of an initial training course under this part that covers the areas of knowledge specified in § 107.74.
- (b) If the application is being made pursuant to paragraph (a)(2) of this section:
 - (1) The application must be submitted to the responsible Flight Standards office, a designated pilot examiner, an airman certification representative for a pilot school, a certificated flight instructor, or other person authorized by the Administrator;
 - (2) The person accepting the application submission must verify the identity of the applicant in a manner acceptable to the Administrator; and
 - (3) The person making the application must, by logbook endorsement or other manner acceptable to the Administrator, show the applicant meets the flight review requirements specified in § 61.56 of this chapter.

[Docket FAA-2015-0150, Amdt. 107-1, 81 FR 42209, June 28, 2016, as amended by Docket FAA-2018-0119, Amdt. 107-2, 83 FR 9172, Mar. 5, 2018; Amdt. No. 107-8, 86 FR 4382, Jan. 15, 2021]]

§ 107.64 Temporary certificate.

- (a) A temporary remote pilot certificate with a small UAS rating is issued for up to 120 calendar days, at which time a permanent certificate will be issued to a person whom the Administrator finds qualified under this part.
- (b) A temporary remote pilot certificate with a small UAS rating expires:
 - (1) On the expiration date shown on the certificate;
 - (2) Upon receipt of the permanent certificate; or
 - (3) Upon receipt of a notice that the certificate sought is denied or revoked.

§ 107.65 Aeronautical knowledge recency.

A person may not exercise the privileges of a remote pilot in command with small UAS rating unless that person has accomplished one of the following in a manner acceptable to the Administrator within the previous 24 calendar months:

- (a) Passed an initial aeronautical knowledge test covering the areas of knowledge specified in § 107.73;
- (b) Completed recurrent training covering the areas of knowledge specified in § 107.73; or
- (c) If a person holds a pilot certificate (other than a student pilot certificate) issued under part 61 of this chapter and meets the flight review requirements specified in § 61.56, completed training covering the areas of knowledge specified in § 107.74.
- (d) A person who has passed a recurrent aeronautical knowledge test in a manner acceptable to the Administrator or who has satisfied the training requirement of paragraph (c) of this section prior to April 6, 2021 within the previous 24 calendar months is considered to be in compliance with the requirement of paragraph (b) or (c) of this section, as applicable.

[Amdt. No. 107-8, 86 FR 4382, Jan. 15, 2021; 86 FR 13631, Mar. 10, 2021]

§ 107.67 Knowledge tests: General procedures and passing grades.

- (a) Knowledge tests prescribed by or under this part are given by persons and in the manner designated by the Administrator.
- (b) An applicant for a knowledge test must have proper identification at the time of application that contains the applicant's:
 - (1) Photograph;
 - (2) Signature;
 - (3) Date of birth, which shows the applicant meets or will meet the age requirements of this part for the certificate and rating sought before the expiration date of the airman knowledge test report; and
 - (4) Permanent mailing address. If the applicant's permanent mailing address is a post office box number, then the applicant must also provide a current residential address.

- (c) The minimum passing grade for the knowledge test will be specified by the Administrator.

§ 107.69 Knowledge tests: Cheating or other unauthorized conduct.

- (a) An applicant for a knowledge test may not:
 - (1) Copy or intentionally remove any knowledge test;
 - (2) Give to another applicant or receive from another applicant any part or copy of a knowledge test;
 - (3) Give or receive assistance on a knowledge test during the period that test is being given;
 - (4) Take any part of a knowledge test on behalf of another person;
 - (5) Be represented by, or represent, another person for a knowledge test;
 - (6) Use any material or aid during the period that the test is being given, unless specifically authorized to do so by the Administrator; and
 - (7) Intentionally cause, assist, or participate in any act prohibited by this paragraph.
- (b) An applicant who the Administrator finds has committed an act prohibited by paragraph (a) of this section is prohibited, for 1 year after the date of committing that act, from:
 - (1) Applying for any certificate, rating, or authorization issued under this chapter; and
 - (2) Applying for and taking any test under this chapter.
- (c) Any certificate or rating held by an applicant may be suspended or revoked if the Administrator finds that person has committed an act prohibited by paragraph (a) of this section.

§ 107.71 Retesting after failure.

An applicant for a knowledge test who fails that test may not reapply for the test for 14 calendar days after failing the test.

§ 107.73 Knowledge and training.

An initial aeronautical knowledge test and recurrent training covers the following areas of knowledge:

- (a) Applicable regulations relating to small unmanned aircraft system rating privileges, limitations, and flight operation;
- (b) Airspace classification, operating requirements, and flight restrictions affecting small unmanned aircraft operation;
- (c) Aviation weather sources and effects of weather on small unmanned aircraft performance;
- (d) Small unmanned aircraft loading;
- (e) Emergency procedures;
- (f) Crew resource management;
- (g) Radio communication procedures;
- (h) Determining the performance of the small unmanned aircraft;
- (i) Physiological effects of drugs and alcohol;

- (j) Aeronautical decision-making and judgment;
- (k) Airport operations;
- (l) Maintenance and preflight inspection procedures; and
- (m) Operation at night.

[Amdt. No. 107–8, 86 FR 4383, Jan. 15, 2021]

§ 107.74 Small unmanned aircraft system training.

Training for pilots who hold a pilot certificate (other than a student pilot certificate) issued under part 61 of this chapter and meet the flight review requirements specified in § 61.56 covers the following areas of knowledge:

- (a) Applicable regulations relating to small unmanned aircraft system rating privileges, limitations, and flight operation;
- (b) Effects of weather on small unmanned aircraft performance;
- (c) Small unmanned aircraft loading;
- (d) Emergency procedures;
- (e) Crew resource management;
- (f) Determining the performance of the small unmanned aircraft;
- (g) Maintenance and preflight inspection procedures; and
- (h) Operation at night.

[Amdt. No. 107–8, 86 FR 4383, Jan. 15, 2021]

§ 107.77 Change of name or address.

- (a) **Change of name.** An application to change the name on a certificate issued under this subpart must be accompanied by the applicant's:
 - (1) Remote pilot certificate with small UAS rating; and
 - (2) A copy of the marriage license, court order, or other document verifying the name change.
- (b) The documents in paragraph (a) of this section will be returned to the applicant after inspection.
- (c) **Change of address.** The holder of a remote pilot certificate with small UAS rating issued under this subpart who has made a change in permanent mailing address may not, after 30 days from that date, exercise the privileges of the certificate unless the holder has notified the FAA of the change in address using one of the following methods:
 - (1) By letter to the FAA Airman Certification Branch, P.O. Box 25082, Oklahoma City, OK 73125 providing the new permanent mailing address, or if the permanent mailing address includes a post office box number, then the holder's current residential address; or

- (2) By using the FAA Web site portal at www.faa.gov providing the new permanent mailing address, or if the permanent mailing address includes a post office box number, then the holder's current residential address.

§ 107.79 Voluntary surrender of certificate.

- (a) The holder of a certificate issued under this subpart may voluntarily surrender it for cancellation.
- (b) Any request made under paragraph (a) of this section must include the following signed statement or its equivalent: "I voluntarily surrender my remote pilot certificate with a small UAS rating for cancellation. This request is made for my own reasons, with full knowledge that my certificate will not be reissued to me unless I again complete the requirements specified in §§ 107.61 and 107.63."

Subpart D—Operations Over Human Beings

Source: Amdt. No. 107–8, 86 FR 4382, Jan. 15, 2021

§ 107.100 Applicability.

This subpart prescribes the eligibility and operating requirements for civil small unmanned aircraft to operate over human beings or over moving vehicles in the United States, in addition to those operations permitted by § 107.39(a) and (b).

§ 107.105 Limitations on operations over human beings.

Except as provided in §§ 107.39(a) and (b) and 107.145, a remote pilot in command may conduct operations over human beings only in accordance with the following, as applicable: § 107.110 for Category 1 operations; §§ 107.115 and 107.120 for Category 2 operations; §§ 107.125 and 107.130 for Category 3 operations; or § 107.140 for Category 4 operations.

§ 107.110 Category 1 operations.

To conduct Category 1 operations—

- (a) A remote pilot in command must use a small unmanned aircraft that—
 - (1) Weighs 0.55 pounds or less on takeoff and throughout the duration of each operation under Category 1, including everything that is on board or otherwise attached to the aircraft; and
 - (2) Does not contain any exposed rotating parts that would lacerate human skin upon impact with a human being.
- (b) No remote pilot in command may operate a small unmanned aircraft in sustained flight over open-air assemblies of human beings unless the operation meets the requirements of either § 89.110 or § 89.115(a) of this chapter.

[Amdt. No. 107–8, 86 FR 4382, Jan. 15, 2021, as amended by 86 FR 62473, Nov. 10, 2021]

§ 107.115 Category 2 operations: Operating requirements.

To conduct Category 2 operations—

- (a) A remote pilot in command must use a small unmanned aircraft that—
 - (1) Is eligible for Category 2 operations pursuant to § 107.120(a);
 - (2) Is listed on an FAA-accepted declaration of compliance as eligible for Category 2 operations in accordance with § 107.160; and
 - (3) Is labeled as eligible to conduct Category 2 operations in accordance with § 107.120(b)(1).
- (b) No remote pilot in command may operate a small unmanned aircraft in sustained flight over open-air assemblies of human beings unless the operation meets the requirements of either § 89.110 or § 89.115(a) of this chapter.

§ 107.120 Category 2 operations: Eligibility of small unmanned aircraft and other applicant requirements.

- (a) To be eligible for use in Category 2 operations, the small unmanned aircraft must be designed, produced, or modified such that it—
 - (1) Will not cause injury to a human being that is equivalent to or greater than the severity of injury caused by a transfer of 11 foot-pounds of kinetic energy upon impact from a rigid object;
 - (2) Does not contain any exposed rotating parts that would lacerate human skin upon impact with a human being; and
 - (3) Does not contain any safety defects.
- (b) The applicant for a declaration of compliance for a small unmanned aircraft that is eligible for use in Category 2 operations in accordance with paragraph (a) of this section, must meet all of the following requirements for the applicant's unmanned aircraft to be used in Category 2 operations:
 - (1) Display a label on the small unmanned aircraft indicating eligibility to conduct Category 2 operations. The label must be in English and be legible, prominent, and permanently affixed to the small unmanned aircraft.
 - (2) Have remote pilot operating instructions that apply to the operation of the small unmanned aircraft system. The applicant for a declaration of compliance must make available these instructions upon sale or transfer of the aircraft or use of the aircraft by someone other than the applicant who submitted a declaration of compliance pursuant to § 107.160. Such instructions must address, at a minimum—
 - (i) A system description that includes the required small unmanned aircraft system components, any system limitations, and the declared category or categories of operation;
 - (ii) Modifications that will not change the ability of the small unmanned aircraft system to meet the requirements for the category or categories of operation the small unmanned aircraft system is eligible to conduct; and
 - (iii) Instructions for how to verify and change the mode or configuration of the small unmanned aircraft system, if they are variable.

- (3) Maintain a product support and notification process. The applicant for a declaration of compliance must maintain product support and notification procedures to notify the public and the FAA of—
 - (i) Any defect or condition that causes the small unmanned aircraft to no longer meet the requirements of this subpart; and
 - (ii) Any identified safety defect that causes the small unmanned aircraft to exceed a low probability of casualty.

§ 107.125 Category 3 operations: Operating requirements.

To conduct Category 3 operations, a remote pilot in command—

- (a) Must use a small unmanned aircraft that—
 - (1) Is eligible for Category 3 operations pursuant to § 107.130(a);
 - (2) Is listed on an FAA-accepted declaration of compliance as eligible for Category 3 operations in accordance with § 107.160; and
 - (3) Is labeled as eligible for Category 3 operations in accordance with § 107.130(b)(1);
- (b) Must not operate the small unmanned aircraft over open-air assemblies of human beings; and
- (c) May only operate the small unmanned aircraft above any human being if operation meets one of the following conditions:
 - (1) The operation is within or over a closed- or restricted-access site and all human beings located within the closed- or restricted-access site must be on notice that a small unmanned aircraft may fly over them; or
 - (2) The small unmanned aircraft does not maintain sustained flight over any human being unless that human being is—
 - (i) Directly participating in the operation of the small unmanned aircraft; or
 - (ii) Located under a covered structure or inside a stationary vehicle that can provide reasonable protection from a falling small unmanned aircraft.

[Amdt. No. 107–8, 86 FR 4382, Jan. 15, 2021, as amended by 86 FR 62473, Nov. 10, 2021]

§ 107.130 Category 3 operations: Eligibility of small unmanned aircraft and other applicant requirements.

- (a) To be eligible for use in Category 3 operations, the small unmanned aircraft must be designed, produced, or modified such that it—
 - (1) Will not cause injury to a human being that is equivalent to or greater than the severity of the injury caused by a transfer of 25 foot-pounds of kinetic energy upon impact from a rigid object;
 - (2) Does not contain any exposed rotating parts that would lacerate human skin upon impact with a human being; and
 - (3) Does not contain any safety defects.

- (b) The applicant for a declaration of compliance for a small unmanned aircraft that is eligible for use in Category 3 operations in accordance with paragraph (a) of this section, must meet all of the following requirements for the applicant's small unmanned aircraft to be used in Category 3 operations:
 - (1) Display a label on the small unmanned aircraft indicating eligibility to conduct Category 3 operations. The label must be in English and be legible, prominent, and permanently affixed to the small unmanned aircraft.
 - (2) Have remote pilot operating instructions that apply to the operation of the small unmanned aircraft system. The applicant for a declaration of compliance must make available these instructions upon sale or transfer of the aircraft or use of the aircraft by someone other than the applicant who submitted a declaration of compliance pursuant to § 107.160. Such instructions must address, at a minimum—
 - (i) A system description that includes the required small unmanned aircraft system components, any system limitations, and the declared category or categories of operation;
 - (ii) Modifications that will not change the ability of the small unmanned aircraft system to meet the requirements for the category or categories of operation the small unmanned aircraft system is eligible to conduct; and
 - (iii) Instructions for how to verify and change the mode or configuration of the small unmanned aircraft system, if they are variable.
 - (3) Maintain a product support and notification process. The applicant for a declaration of compliance must maintain product support and notification procedures to notify the public and the FAA of—
 - (i) Any defect or condition that causes the small unmanned aircraft to no longer meet the requirements of this subpart; and
 - (ii) Any identified safety defect that causes the small unmanned aircraft to exceed a low probability of fatality.

§ 107.135 Labeling by remote pilot in command for Category 2 and 3 operations.

If a Category 2 or Category 3 label affixed to a small unmanned aircraft is damaged, destroyed, or missing, a remote pilot in command must label the aircraft in English such that the label is legible, prominent, and will remain on the small unmanned aircraft for the duration of the operation before conducting operations over human beings. The label must correctly identify the category or categories of operation over human beings that the small unmanned aircraft is qualified to conduct in accordance with this subpart.

§ 107.140 Category 4 operations.

- (a) *Remote pilot in command requirements.* To conduct Category 4 operations—
 - (1) A remote pilot in command—
 - (i) Must use a small unmanned aircraft that is eligible for Category 4 operations pursuant to paragraph (b) of this section; and
 - (ii) Must operate the small unmanned aircraft in accordance with all operating limitations that apply to the small unmanned aircraft, as specified by the Administrator.

- (2) No remote pilot in command may operate a small unmanned aircraft in sustained flight over open-air assemblies of human beings unless the operation meets the requirements of either § 89.110 or § 89.115(a) of this chapter.
- (b) **Small unmanned aircraft requirements for Category 4.** To be eligible to operate over human beings under this section, the small unmanned aircraft must—
 - (1) Have an airworthiness certificate issued under part 21 of this chapter.
 - (2) Be operated in accordance with the operating limitations specified in the approved Flight Manual or as otherwise specified by the Administrator. The operating limitations must not prohibit operations over human beings.
 - (3) Have maintenance, preventive maintenance, alterations, or inspections performed in accordance with paragraph (c)(1) of this section.
- (c) **Maintenance requirements for Category 4.** The owner must (unless the owner enters into an agreement with an operator to meet the requirements of this paragraph (c), then the operator must) meet the requirements of this paragraph (c):
 - (1) Ensure the person performing any maintenance, preventive maintenance, alterations, or inspections:
 - (i) Uses the methods, techniques, and practices prescribed in the manufacturer's current maintenance manual or Instructions for Continued Airworthiness that are acceptable to the Administrator, or other methods, techniques, and practices acceptable to the Administrator;
 - (ii) Has the knowledge, skill, and appropriate equipment to perform the work;
 - (iii) Performs the maintenance, preventive maintenance, or alterations on the small unmanned aircraft in a manner using the methods, techniques, and practices prescribed in the manufacturer's current maintenance manual or Instructions for Continued Airworthiness prepared by its manufacturer, or other methods, techniques, and practices acceptable to the Administrator;
 - (iv) Inspects the small unmanned aircraft in accordance with the manufacturer's instructions or other instructions acceptable to the Administrator; and
 - (v) Performs the maintenance, preventive maintenance, or alterations using parts of such a quality that the condition of the aircraft will be at least equal to its original or properly altered condition.
 - (2) Maintain all records of maintenance, preventive maintenance, and alterations performed on the aircraft and ensure the records are documented in a manner acceptable to the Administrator. The records must contain the description of the work performed, the date the work was completed, and the name of the person who performed the work.
 - (3) Maintain all records containing—
 - (i) The status of life-limited parts that are installed on, or part of, the small unmanned aircraft;
 - (ii) The inspection status of the aircraft; and
 - (iii) The status of applicable airworthiness directives including the method of compliance, the airworthiness directive number, and revision date. If the airworthiness directive involves recurring action, the record must contain the time and date of the next required action.

- (4) Retain the records required under paragraphs (c)(2) and (3) of this section, as follows:
 - (i) The records documenting maintenance, preventive maintenance, or alterations performed must be retained for 1 year from when the work is completed or until the maintenance is repeated or superseded by other work.
 - (ii) The records documenting the status of life-limited parts, compliance with airworthiness directives, and inspection status of the small unmanned aircraft must be retained and transferred with the aircraft upon change in ownership.
- (5) Ensure all records under paragraphs (c)(2) and (3) of this section are available for inspection upon request from the Administrator or any authorized representative of the National Transportation Safety Board (NTSB).
- (d) **Compliance with parts 43 and 91 of this chapter.** Compliance with part 43 and part 91, subpart E, of this chapter fulfills the requirements in paragraphs (b)(3) and (c) of this section.

[Amdt. No. 107–8, 86 FR 4383, Jan. 15, 2021; 86 FR 13633, Mar. 10, 2021]

§ 107.145 Operations over moving vehicles.

No person may operate a small unmanned aircraft over a human being located inside a moving vehicle unless the following conditions are met:

- (a) The operation occurs in accordance with § 107.110 for Category 1 operations; § 107.115 for Category 2 operations; § 107.125 for Category 3 operations; or § 107.140 for Category 4 operations.
- (b) For an operation under Category 1, Category 2, or Category 3, the small unmanned aircraft, throughout the operation—
 - (1) Must remain within or over a closed- or restricted-access site, and all human beings located inside a moving vehicle within the closed- or restricted-access site must be on notice that a small unmanned aircraft may fly over them; or
 - (2) Must not maintain sustained flight over moving vehicles.
- (c) For a Category 4 operation, the small unmanned aircraft must—
 - (1) Have an airworthiness certificate issued under part 21 of this chapter.
 - (2) Be operated in accordance with the operating limitations specified in the approved Flight Manual or as otherwise specified by the Administrator. The operating limitations must not prohibit operations over human beings located inside moving vehicles.

§ 107.150 Variable mode and variable configuration of small unmanned aircraft systems.

A small unmanned aircraft system may be eligible for one or more categories of operation over human beings under this subpart, as long as a remote pilot in command cannot inadvertently switch between modes or configurations.

§ 107.155 Means of compliance.

- (a) **Establishment of compliance.** To meet the requirements of § 107.120(a) for operations in Category 2, or the requirements of § 107.130(a) for operations in Category 3, the means of compliance must consist of test, analysis, or inspection.

- (b) **Required information.** An applicant requesting FAA acceptance of a means of compliance must submit the following information to the FAA in a manner specified by the Administrator:
 - (1) **Procedures.** Detailed description of the means of compliance, including applicable test, analysis, or inspection procedures to demonstrate how the small unmanned aircraft meets the requirements of § 107.120(a) for operations in Category 2 or the requirements of § 107.130(a) for operations in Category 3. The description should include conditions, environments, and methods, as applicable.
 - (2) **Compliance explanation.** Explanation of how application of the means of compliance fulfills the requirements of § 107.120(a) for operations in Category 2 or the requirements of § 107.130(a) for operations in Category 3.
- (c) **FAA acceptance.** If the FAA determines the applicant has demonstrated compliance with paragraphs (a) and (b) of this section, it will notify the applicant that it has accepted the means of compliance.
- (d) **Rescission.**
 - (1) A means of compliance is subject to ongoing review by the Administrator. The Administrator may rescind its acceptance of a means of compliance if the Administrator determines that a means of compliance does not meet any or all of the requirements of this subpart.
 - (2) The Administrator will publish a notice of rescission in the FEDERAL REGISTER.
- (e) **Inapplicability of part 13, subpart D, of this chapter.** Part 13, subpart D, of this chapter does not apply to the procedures of paragraph (a) of this section.

§ 107.160 Declaration of compliance.

- (a) **Required information.** In order for an applicant to declare a small unmanned aircraft is compliant with the requirements of this subpart for Category 2 or Category 3 operations, an applicant must submit a declaration of compliance for acceptance by the FAA, in a manner specified by the Administrator, that includes the following information:
 - (1) Applicant's name;
 - (2) Applicant's physical address;
 - (3) Applicant's email address;
 - (4) The small unmanned aircraft make and model name, and series, if applicable;
 - (5) The small unmanned aircraft serial number or range of serial numbers that are the subject of the declaration of compliance;
 - (6) Whether the declaration of compliance is an initial declaration or an amended declaration;
 - (7) If the declaration of compliance is an amended declaration, the reason for the re-submittal;
 - (8) The accepted means of compliance the applicant used to fulfill requirements of § 107.120(a) or § 107.130(a) or both;
 - (9) A declaration that the applicant—
 - (i) Has demonstrated that the small unmanned aircraft, or specific configurations of that aircraft, satisfies § 107.120(a) or § 107.130(a) or both, through the accepted means of compliance identified in paragraph (a)(8) of this section;

- (ii) Has verified that the unmanned aircraft does not contain any safety defects;
- (iii) Has satisfied § 107.120(b)(3) or § 107.130(b)(3), or both; and
- (iv) Will, upon request, allow the Administrator to inspect its facilities, technical data, and any manufactured small unmanned aircraft and witness any tests necessary to determine compliance with this subpart; and

(10) Other information as required by the Administrator.

(b) **FAA acceptance.** If the FAA determines the applicant has demonstrated compliance with the requirements of this subpart, it will notify the applicant that it has accepted the declaration of compliance.

(c) **Notification of a safety issue.** Prior to initiating rescission proceedings pursuant to paragraphs (d)(1) through (3) of this section, the FAA will notify the applicant if a safety issue has been identified for the declaration of compliance.

(d) **Rescission.**

(1) No person may operate a small unmanned aircraft identified on a declaration of compliance that the FAA has rescinded pursuant to this subpart while that declaration of compliance is rescinded.

(2) The FAA may rescind a declaration of compliance if any of the following conditions occur:

- (i) A small unmanned aircraft for which a declaration of compliance was accepted no longer complies with § 107.120(a) or § 107.130(a);
- (ii) The FAA finds a declaration of compliance is in violation of § 107.5(a); or
- (iii) The Administrator determines an emergency exists related to safety in accordance with the authority in 49 U.S.C. 46105.

(3) If a safety issue identified under paragraph (c) of this section has not been resolved, the FAA may rescind the declaration of compliance as follows:

- (i) The FAA will issue a notice proposing to rescind the declaration of compliance. The notice will set forth the Agency's basis for the proposed rescission and provide the holder of the declaration of compliance with 30 calendar days from the date of issuance of the proposed notice to submit evidentiary information to refute the proposed notice.
- (ii) The holder of the declaration of compliance must submit information demonstrating how the small unmanned aircraft meets the requirements of this subpart within 30 calendar days from the date of issuance of the proposed notice.
- (iii) If the FAA does not receive the information required by paragraph (d)(3)(ii) of this section within 30 calendar days from the date of the issuance of the proposed notice, the FAA will issue a notice rescinding the declaration of compliance.

(4) If the Administrator determines that an emergency exists in accordance with paragraph (d)(2)(iii) of this section, the FAA will exercise its authority under 49 U.S.C. 46105(c) to issue an order rescinding a declaration of compliance without initiating the process in paragraph (d)(3) of this section.

(e) **Petition to reconsider the rescission of a declaration of compliance.** A person subject to an order of rescission under paragraph (d)(3) of this section may petition the FAA to reconsider the rescission of a declaration of compliance by submitting a request to the FAA in a manner specified by the Administrator within 60 days of the date of issuance of the rescission.

- (1) A petition to reconsider the rescission of a declaration of compliance must demonstrate at least one of the following:
 - (i) A material fact that was not present in the original response to the notification of the safety issue and an explanation for why it was not present in the original response;
 - (ii) The FAA made a material factual error in the decision to rescind the declaration of compliance; or
 - (iii) The FAA did not correctly interpret a law, regulation, or precedent.
- (2) Upon consideration of the information submitted under paragraph (e)(1) of this section, the FAA will issue a notice either affirming the rescission or withdrawing the rescission.
- (f) ***Inapplicability of part 13, subpart D, of this chapter.*** Part 13, subpart D, of this chapter does not apply to the procedures of paragraphs (d) and (e) of this section.

§ 107.165 Record retention.

- (a) A person who submits a declaration of compliance under this subpart must retain and make available to the Administrator, upon request, the information described in paragraph (a)(1) of this section for the period of time described in paragraph (a)(2) of this section.
 - (1) All supporting information used to demonstrate the small unmanned aircraft meets the requirements of §§ 107.120(a), for operations in Category 2, and 107.130(a), for operations in Category 3.
 - (2) The following time periods apply:
 - (i) If the person who submits a declaration of compliance produces a small unmanned aircraft, that person must retain the information described in paragraph (a)(1) of this section for two years after the cessation of production of the small unmanned aircraft system for which the person declared compliance.
 - (ii) If the person who submits a declaration of compliance designs or modifies a small unmanned aircraft, that person must retain the information described in paragraph (a)(1) of this section for two years after the person submitted the declaration of compliance.
- (b) A person who submits a means of compliance under this subpart must retain and make available to the Administrator, upon request, and for as long as the means of compliance remains accepted, the detailed description of the means of compliance and justification showing how the means of compliance meets the requirements of §§ 107.120(a), for operations in Category 2, and 107.130(a), for operations in Category 3.

Subpart E—Waivers

§ 107.200 Waiver policy and requirements.

- (a) The Administrator may issue a certificate of waiver authorizing a deviation from any regulation specified in § 107.205 if the Administrator finds that a proposed small UAS operation can safely be conducted under the terms of that certificate of waiver.
- (b) A request for a certificate of waiver must contain a complete description of the proposed operation and justification that establishes that the operation can safely be conducted under the terms of a certificate of waiver.

- (c) The Administrator may prescribe additional limitations that the Administrator considers necessary.
- (d) A person who receives a certificate of waiver issued under this section:
 - (1) May deviate from the regulations of this part to the extent specified in the certificate of waiver; and
 - (2) Must comply with any conditions or limitations that are specified in the certificate of waiver.

§ 107.205 List of regulations subject to waiver.

A certificate of waiver issued pursuant to § 107.200 may authorize a deviation from the following regulations of this part:

- (a) Section 107.25—Operation from a moving vehicle or aircraft. However, no waiver of this provision will be issued to allow the carriage of property of another by aircraft for compensation or hire.
- (b) Section 107.29(a)(2) and (b)—Anti-collision light required for operations at night and during periods of civil twilight.
- (c) Section 107.31—Visual line of sight aircraft operation. However, no waiver of this provision will be issued to allow the carriage of property of another by aircraft for compensation or hire.
- (d) Section 107.33—Visual observer.
- (e) Section 107.35—Operation of multiple small unmanned aircraft systems.
- (f) Section 107.37(a)—Yielding the right of way.
- (g) Section 107.39—Operation over people.
- (h) Section 107.41—Operation in certain airspace.
- (i) Section 107.51—Operating limitations for small unmanned aircraft.
- (j) Section 107.145—Operations over moving vehicles.

[Docket FAA–2015–0150, Amdt. 107–1, 81 FR 42209, June 28, 2016, as amended by Amdt. No. 107–8, 86 FR 4387, Jan. 15, 2021]

Chapter 837 — Aircraft Operation

2021 EDITION

AIRCRAFT OPERATION

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GENERALLY

837.005 Exemptions of certain aircraft from requirements of registration; rules. ORS 837.015 and 837.040 to 837.070 do not apply to:

- (1) Aircraft owned by any person, firm or corporation and certificated by the appropriate federal agency for domestic or foreign scheduled air commerce;
 - (2) Military aircraft of the United States of America;
 - (3) Aircraft licensed by a foreign country with which the United States has reciprocal relations exempting aircraft registered by the United States, or any political subdivision thereof, from registration within such foreign country; or
 - (4) Classes of aircraft designated as exempt by rules adopted by the State Aviation Board.
- [Formerly 493.010; 2005 c.22 §520; 2005 c.75 §1]

837.010 Federal pilot certificate required. No person shall fly aircraft in this state unless holding a pilot certificate of competency issued by the appropriate federal agency. [Formerly 493.020]

837.015 Registration of aircraft. Unless exempted by ORS 837.005, no person shall fail to register any aircraft when required by ORS 837.040 to 837.070. [Formerly 493.030]

837.020 [Formerly 493.040; 1991 c.186 §1; 2007 c.768 §57; 2016 c.35 §2; repealed by 2017 c.226 §1]

837.025 [Formerly 493.050; 1991 c.206 §1; 1997 c.585 §3; 2009 c.694 §1; 2015 c.450 §1; repealed by 2017 c.226 §1]

837.030 Exhibition of certificate on demand. Every pilot operating within this state shall present a federal certificate of competency on demand. The certificate shall be kept in the personal possession of the licensee when operating aircraft within this state and must be presented for inspection upon demand of any passenger, peace officer, official manager in charge of any airport, other aircraft operator or federal or state agent. [Formerly 493.060; 2017 c.226 §3]

837.035 [Formerly 493.070; 1993 c.741 §94; 1997 c.263 §3; 1999 c.935 §38; 2007 c.740 §41; repealed by 2017 c.226 §1]

837.040 Persons required to register aircraft; application; timing; late fees; rules. (1) Except as provided in subsection (2) of this section, the following are required to register civil aircraft with the Oregon Department of Aviation:

- (a) The owner of a civil aircraft that is capable of flight and that is based in this state.
- (b) The owner of a civil aircraft that is used for commercial operations in this state.
- (2) An owner need not register a civil aircraft that is:
 - (a) Exempted by the provisions of ORS 837.005; or
 - (b) Subject to assessment and taxation under ORS 308.558.
- (3) An owner who is otherwise required to comply with subsection (1) of this section is not exempt from compliance because the aircraft has an appropriate, effective permit or license issued by the United States.
- (4) An owner applying for registration of an aircraft under this section shall file an application form supplied by the department. The State Aviation Board may adopt rules specifying the information that

may be required on the application form.

(5)(a) The owner of a civil aircraft that is based in Oregon shall register the aircraft within 60 days of the date the aircraft becomes subject to registration. The owner of a civil aircraft that is not based in Oregon but that is used in Oregon for commercial operations shall register the aircraft prior to the first time the aircraft is used in Oregon for commercial operations.

(b) The department may impose a late fee on a person who fails to register an aircraft within the time required by this subsection. The board may determine by rule the amount of late fees that may be imposed under this paragraph. The board may adopt a graduated schedule of late fees, but the maximum amount of a late fee may not be more than the amount of the registration fee.

(6) An application for registration must be accompanied by the registration fee specified in ORS 837.045 and, if a late fee is imposed under subsection (5) of this section, by the late fee.

(7) Registration under this section is not complete until the owner receives a notice of registration from the department. [Formerly 493.080; 1993 c.741 §95; 2005 c.75 §2]

837.045 Fee schedule. (1) The registration fee to be paid under ORS 837.040, and the fee to be paid upon renewal of registration under ORS 837.060, is as follows:

AIRCRAFT CLASSIFICATION AND FEE SCHEDULE	
Single engine fixed wing, piston	\$ 65
Single engine fixed wing, turboprop	250
Multiengine fixed wing, piston	150
Multiengine fixed wing, turboprop	300
Turbojet fixed wing	700
Helicopter piston engine	65
Helicopter turbine engine	175
Lighter than air, home built, sailplane, experimental or gyrocopter	55
Ultralight aircraft	55
Ex-military multiengine or turbojet/ ex-air carrier	300

(2) Any registration fees and penalties due in a previous year but not paid remain due and payable and may be collected by the Oregon Department of Aviation prior to renewal of registration of the aircraft in the current year. [Formerly 493.090; 1991 c.186 §2; 1997 c.585 §8; 2005 c.75 §3; 2009 c.693 §1; 2015 c.450 §2]

837.050 Transfer of aircraft registration moneys to State Aviation Account. Notwithstanding ORS 293.445, the Oregon Department of Aviation may transfer to the State Aviation Account any and all moneys paid for aircraft registration under ORS 837.040 and 837.045 if the registration is not completed due to the failure of the aircraft owner to pay the appropriate registration fee or penalty due. This section applies to all moneys paid, but not yet refunded and to future payments. [Formerly 493.095]

837.055 Assignment of number; delivery of certificate of registration; duplicate certificates; applications as public records. (1) Upon receipt of an application for registration of any aircraft and payment of the required license fee, the Director of the Oregon Department of Aviation shall assign to the application and the aircraft to be registered a distinctive number and register the facts stated in the application and the number in an index to be kept for that purpose.

(2) A certificate of registration, bearing the same number assigned to the application, and in a form and design to be determined by the Oregon Department of Aviation, shall be delivered to the owner of the aircraft without further expense to such applicant.

(3) The following apply to the use and display of certificates of registration and other signs denoting registration for aircraft:

(a) The certificate of registration shall be carried in the aircraft at all times.

(b) No sign to denote registration of aircraft by the State of Oregon, other than those furnished by the director, shall be used.

(4) Duplicate certificates of registration may be obtained, upon proof of loss or destruction of the original, by application therefor to the department and the payment of \$15 for each additional certificate. The facts stated in any application for registration shall be a public record and open to inspection by the public during reasonable office hours.

(5) Registration of an aircraft does not require, nor does it constitute, evidence of legal ownership of the aircraft. [Formerly 493.100; 1993 c.161 §1; 1993 c.741 §96; 1997 c.585 §4]

837.060 Expiration and renewal of registrations; late fees. (1) All registrations under ORS 837.040 expire annually on the anniversary of the date the aircraft is originally registered with the Oregon Department of Aviation.

(2) The owner of an aircraft subject to renewal of registration shall renew the registration on or before the date of expiration by filing a form provided by the department and paying the fee for renewal of registration established in ORS 837.045. The department may impose a late fee on a person who fails to renew registration within the time required in the same manner and in the same amounts as late fees imposed under ORS 837.040. [Formerly 493.110; 1991 c.186 §3; 1997 c.585 §9; 2005 c.75 §4]

837.065 Effect of paying aircraft registration fee with worthless check. If any person pays the aircraft registration fee to the Oregon Department of Aviation with a bank check and the check is returned to the department as uncollectible, the Director of the Oregon Department of Aviation shall charge the person the fee for dishonored checks under ORS 30.701 (5). If the person does not pay the fee charged under this section, the director may do all of the following:

(1) Suspend the registration in payment of which the check was presented; and

(2) Authorize any department employee or police officer to seize and recover the registration certificate and any other evidence of the suspended registration certificate. [Formerly 493.120; 1997 c.585 §5; 2017 c.226 §5]

837.070 Notice of sale of aircraft; transfer of registration; fee. (1) Upon the purchase of any aircraft registered in accordance with ORS 837.040, title to the certificate of registration assigned thereto shall vest in the purchaser. Within 10 days after the date of:

(a) Purchase, the purchaser shall file with the Oregon Department of Aviation an application to transfer the registration, stating the name and business address of the purchaser, the name of the seller, the registration number assigned to the aircraft, and a brief description of the aircraft as required for an original registration.

(b) Sale, the seller shall notify the Director of the Oregon Department of Aviation of the sale with the name and address of the purchaser, registration number assigned to the aircraft and a brief description of the aircraft as required for an original registration.

(2) Upon the receipt of the application and the payment of a fee of \$15, the director shall transfer the license and registration number to the purchaser, and shall record the transfer. No sale or transfer of any aircraft registered under ORS 837.040 shall be valid without compliance with the provisions of this section. If an aircraft is not registered at the time of purchase, even though the aircraft may have been purchased within the state, new or used, the purchaser shall register it in accordance with ORS 837.040 and 837.045. [Formerly 493.130; 1993 c.741 §97; 1997 c.585 §6]

837.075 Aircraft dealer's license; fee. (1) Any dealer in new or used aircraft, or both, shall apply to the Oregon Department of Aviation for a dealer's license. Upon such application, the department shall issue an aircraft dealer's license to the applicant for an annual fee of \$250. The dealer's license shall be in lieu of all other licenses or registration required by ORS 837.040 upon the dealer's aircraft within this state, so long as they are kept for resale and are not used in commercial operations within this state.

(2) This section does not prohibit the registering of a dealer's aircraft under ORS 837.040.

(3) Upon the sale by a dealer of an aircraft which is not registered under ORS 837.040, the dealer shall advise the purchaser of the registration requirements under ORS 837.040 to 837.070 and furnish the purchaser with the proper application forms. [Formerly 493.140; 1997 c.585 §7]

837.080 Prohibited operation of aircraft. (1) A person commits the offense of prohibited operation of an aircraft if the person operates an aircraft in the air, or on the ground or water:

(a) While the person is under the influence of intoxicating liquor, drugs or controlled substances.

(b) In a careless or reckless manner so as to endanger the life or property of another.

(2) The offense described in this section, prohibited operation of an aircraft, is punishable as provided under ORS 837.990. [Formerly 493.160]

837.085 Dropping articles without permit prohibited; exceptions. (1) Unless a permit is granted by the Director of the Oregon Department of Aviation or except in an emergency, no person shall throw or drop any missile or other article or substance from any aircraft in flight, except over ground temporarily or permanently devoted to flying, or over open water.

(2) This section does not prohibit, or require a permit for, the use of an airplane for crop dusting or any other agricultural purposes or for seeding any agricultural or horticultural crop or for dusting or spraying in furtherance of insect and pest control. Any such use of an airplane shall be made with due regard for the safety of others. [Formerly 493.170]

837.090 Landings on public highways and grounds prohibited. Except in an emergency, no person shall land aircraft on highways or public parks or other public grounds without permission from the authorities in charge thereof. [Formerly 493.180]

837.095 Flying over military and naval establishments; photographs from airplanes. No person shall fly over a government fort or tract of land set aside for military or naval purpose, nor shall any person make any photograph or map of such fort or land from any aircraft without written permission having been obtained from the person in command of the fort or land. [Formerly 493.190]

837.100 Issuance of citations for violations. In addition to any other persons permitted to enforce violations, the Director of the Oregon Department of Aviation and any employee specifically designated by the director may issue citations for violations established under ORS 837.990 in the manner provided by ORS chapter 153. [Formerly 493.225; 1991 c.460 §11; 1999 c.1051 §114; 2011 c.597 §148]

837.105 [Formerly 493.230; repealed by 1999 c.440 §1]

UNMANNED AIRCRAFT SYSTEMS

(Definitions)

837.300 Definitions. As used in ORS 837.300 to 837.390 and 837.995:

(1) "Aircraft" has the meaning given that term in ORS 836.005.

(2) "Law enforcement agency" means an agency that employs peace officers, as defined in ORS 133.005, or that prosecutes offenses.

(3) “Public body” has the meaning given that term in ORS 174.109.

(4) “Unmanned aircraft system” means an unmanned flying machine, commonly known as a drone, and its associated elements, including communication links and the components that control the machine.

(5) “Warrant” means a warrant issued under ORS 133.525 to 133.703. [2013 c.686 §1; 2015 c.315 §1; 2016 c.72 §1]

Note: 837.300 to 837.390 and 837.995 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 837 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Use of Unmanned Aircraft Systems by Law Enforcement Agencies)

837.310 Restrictions; exceptions. (1) Except as otherwise provided in ORS 837.310 to 837.345, a law enforcement agency may not operate an unmanned aircraft system, acquire information through the operation of an unmanned aircraft system or disclose information acquired through the operation of an unmanned aircraft system.

(2) Any image or other information that is acquired through the use of an unmanned aircraft system by a law enforcement agency in violation of ORS 837.310 to 837.345, and any evidence derived from that image or information:

(a) Is not admissible in, and may not be disclosed in, a judicial proceeding, administrative proceeding, arbitration proceeding or other adjudicatory proceeding; and

(b) May not be used to establish reasonable suspicion or probable cause to believe that an offense has been committed. [2013 c.686 §2; 2015 c.315 §2]

Note: See note under 837.300.

837.320 Authorized use upon issuance of warrant; exigent circumstances. (1) A law enforcement agency may operate an unmanned aircraft system, acquire information through the operation of an unmanned aircraft system, or disclose information acquired through the operation of an unmanned aircraft system, if:

(a) A warrant is issued authorizing use of an unmanned aircraft system; or

(b) The law enforcement agency has probable cause to believe that a person has committed a crime, is committing a crime or is about to commit a crime, and exigent circumstances exist that make it unreasonable for the law enforcement agency to obtain a warrant authorizing use of an unmanned aircraft system.

(2) A warrant authorizing the use of an unmanned aircraft system must specify the period for which operation of the unmanned aircraft system is authorized. In no event may a warrant provide for the operation of an unmanned aircraft system for a period of more than 30 days. Upon motion and good cause shown, a court may renew a warrant after the expiration of the 30-day period. [2013 c.686 §3; 2015 c.315 §3]

Note: See note under 837.300.

837.330 Written consent. A law enforcement agency may operate an unmanned aircraft system for the purpose of acquiring information about an individual, or about the individual’s property, if the individual has given written consent to the use of an unmanned aircraft system for those purposes. [2013 c.686 §4; 2015 c.315 §4]

Note: See note under 837.300.

837.335 Search and rescue; use in emergencies. (1) A law enforcement agency may operate an unmanned aircraft system, acquire information through the operation of an unmanned aircraft system, or disclose information acquired through the operation of an unmanned aircraft system, for the purpose of search and rescue activities, as defined in ORS 404.200.

(2) A law enforcement agency may operate an unmanned aircraft system, acquire information through the operation of an unmanned aircraft system, or disclose information acquired through the operation of an unmanned aircraft system, for the purpose of assisting an individual in an emergency if:

(a) The law enforcement agency reasonably believes that there is an imminent threat to the life or safety of the individual, and documents the factual basis for that belief; and

(b) Not more than 48 hours after the emergency operation begins, an official of the law enforcement agency files a sworn statement with the circuit court that describes the nature of the emergency and the need for use of an unmanned aircraft system.

(3) A law enforcement agency may operate an unmanned aircraft system, acquire information through the operation of an unmanned aircraft system, or disclose information acquired through the operation of an unmanned aircraft system, during a state of emergency that is declared by the Governor under ORS chapter 401 if:

(a) The unmanned aircraft system is used only for the purposes of preserving public safety, protecting property or conducting surveillance for the assessment and evaluation of environmental or weather related damage, erosion or contamination; and

(b) The unmanned aircraft system is operated only in the geographical area specified in a proclamation pursuant to ORS 401.165 (5). [2013 c.686 §5; 2015 c.315 §5]

Note: See note under 837.300.

837.340 Investigations of crimes and accidents. (1) A law enforcement agency may operate an unmanned aircraft system, acquire information through the operation of an unmanned aircraft system, or disclose information acquired through the operation of an unmanned aircraft system, for the purpose of reconstruction of a specific crime scene or accident scene, or similar physical assessment, related to a specific investigation.

(2) The period that a law enforcement agency may operate an unmanned aircraft system under this section may not exceed five days for the purpose of reconstruction of a specific crime scene or accident scene, or similar physical assessment, related to a specific investigation. [2013 c.686 §6; 2015 c.315 §6; 2017 c.502 §2]

Note: See note under 837.300.

837.345 Training. (1) A law enforcement agency may operate an unmanned aircraft system for the purpose of training in:

(a) The use of unmanned aircraft systems; and

(b) The acquisition of information through the operation of an unmanned aircraft system.

(2) Any image or other information that is acquired through the use of an unmanned aircraft system by a law enforcement agency under this section, and any evidence derived from that image or information:

(a) Is not admissible in, and may not be disclosed in, a judicial proceeding, administrative proceeding, arbitration proceeding or other adjudicatory proceeding; and

(b) May not be used to establish reasonable suspicion or probable cause to believe that an offense has been committed. [2013 c.686 §7; 2015 c.315 §7]

Note: See note under 837.300.

(Use of Unmanned Aircraft Systems in State Parks)

837.350 Restrictions; authorized use; rules. (1) The State Parks and Recreation Commission shall adopt rules managing the use of unmanned aircraft systems by people in state parks to protect natural, cultural, scenic and recreational resources in a park property or adjacent areas while providing for enjoyment of recreational use of unmanned aircraft systems.

(2) Subject to ORS 837.300 to 837.390, rules adopted under this section may allow:

(a) The State Parks and Recreation Department and the department's agents and contractors to use unmanned aircraft systems in carrying out the duties of the department.

(b) The use of unmanned aircraft systems for the purpose of resource management, emergency operations or protection of property. [2021 c.172 §2]

Note: See note under 837.300.

(Public Bodies)

837.360 Restrictions; exception for educational institution; civil penalties; registration; fees; rules. (1) As used in this section, "educational institution" means an education service district, school district, public charter school, community college or public university listed in ORS 352.002.

(2)(a) A public body, other than an educational institution, may not operate an unmanned aircraft system in the airspace over this state without registering the unmanned aircraft system with the Oregon Department of Aviation.

(b) An educational institution may not operate an unmanned aircraft system in the airspace over this state without registering as a user of unmanned aircraft systems with the department. The department may not require an educational institution to register individual unmanned aircraft systems under this section.

(3) The Oregon Department of Aviation may impose a civil penalty of up to \$10,000 against a public body that violates subsection (2) of this section.

(4) Evidence obtained by a public body through the use of an unmanned aircraft system in violation of subsection (2) of this section is not admissible in any judicial or administrative proceeding and may not be used to establish reasonable suspicion or probable cause to believe that an offense has been committed.

(5)(a) The Oregon Department of Aviation shall establish a registry of unmanned aircraft systems registered under subsection (2)(a) of this section and may charge a fee sufficient to reimburse the department for the maintenance of the registry.

(b) The department may not charge a fee to an educational institution under this subsection.

(6) The Oregon Department of Aviation shall require the following information for registration of an unmanned aircraft system under subsection (2)(a) of this section:

(a) The name of the public body that owns or operates the unmanned aircraft system.

(b) The name and contact information of the individuals who operate the unmanned aircraft system.

(c) Identifying information for the unmanned aircraft system as required by the department by rule.

(7)(a) A public body that registers one or more unmanned aircraft systems under subsection (2)(a) of this section shall provide an annual report to the Oregon Department of Aviation that:

(A) Summarizes the frequency of use of the unmanned aircraft systems by the public body during the preceding calendar year;

(B) Summarizes the purposes for which the unmanned aircraft systems have been used by the public body during the preceding calendar year; and

(C) Indicates how the public can access the policies and procedures established under ORS 837.362.

(b) The department shall adopt rules requiring an educational institution that registers as a user of unmanned aircraft systems under subsection (2)(b) of this section to maintain records of the educational institution's use of unmanned aircraft systems.

(8) The State Aviation Board may adopt all rules necessary for the registration of unmanned aircraft systems in Oregon that are consistent with federal laws and regulations. [2013 c.686 §8; 2015 c.315 §8;

2016 c.72 §8; 2019 c.337 §2]

Note: See note under 837.300.

837.362 Policies and procedures for use of data. (1) A public body that operates an unmanned aircraft system shall establish policies and procedures for the use, storage, accessing, sharing and retention of data, including but not limited to video and audio recordings, resulting from the operation of the unmanned aircraft system.

(2) The public body shall post the following information on the public body's website or otherwise make the following information available to the public:

(a) The policies and procedures established under this section.

(b) The text of ORS 192.345.

(3) The policies and procedures established under this section must include:

(a) The length of time data will be retained by the public body.

(b) Specifications for third party storage of data, including handling, security and access to the data by the third party.

(c) A policy on disclosure of data through intergovernmental agreements. [2016 c.72 §7]

Note: See note under 837.300.

(Offenses)

837.365 Weaponized unmanned aircraft systems; penalties. (1) Except as provided in subsection (3) of this section, a person may not intentionally, knowingly or recklessly operate or cause to be operated an unmanned aircraft system that is:

(a) Capable of firing a bullet or projectile; or

(b) Specifically designed or modified to cause, and is presently capable of causing, serious physical injury as defined in ORS 161.015.

(2)(a) Except as provided in paragraphs (b) and (c) of this subsection, violation of subsection (1) of this section is a Class A misdemeanor.

(b) Violation of subsection (1) of this section is a Class C felony if the person intentionally, knowingly or recklessly operates an unmanned aircraft system and the unmanned aircraft system fires a bullet or projectile.

(c) Violation of subsection (1) of this section is a Class B felony if the person intentionally, knowingly or recklessly operates an unmanned aircraft system and the unmanned aircraft system:

(A) Fires a bullet or projectile that causes serious physical injury, as defined in ORS 161.015, to another person; or

(B)(i) Is specifically designed or modified to cause, and is presently capable of causing, serious physical injury as defined in ORS 161.015; and

(ii) The design or modification causes serious physical injury, as defined in ORS 161.015, to another person.

(3) Subsection (1) of this section does not apply if:

(a) The person uses the unmanned aircraft system to release, discharge, propel or eject a nonlethal projectile for purposes other than to injure or kill persons or animals;

(b) The person uses the unmanned aircraft system for nonrecreational purposes in compliance with specific authorization from the Federal Aviation Administration;

(c) The person notifies the Oregon Department of Aviation, the Oregon State Police and any other agency that issues a permit or license for the activity requiring the use of the unmanned aircraft system of the time and location at which the person intends to use an unmanned aircraft system that is capable of releasing, discharging, propelling or ejecting a projectile at least five days before the person uses the system;

(d) If the person intends to use an unmanned aircraft system that is capable of releasing, discharging, propelling or ejecting a projectile in an area open to the public, the person provides reasonable notice to the public of the time and location at which the person intends to use the unmanned aircraft system; and

(e) The person maintains a liability insurance policy in an amount not less than \$1 million that covers injury resulting from use of the unmanned aircraft system.

(4) The notification requirement of subsection (3)(c) of this section does not apply to:

(a) A career school licensed under ORS 345.010 to 345.450;

(b) A community college as defined in ORS 341.005;

(c) A school;

(d) The Oregon Health and Science University;

(e) A public university listed in ORS 352.002; or

(f) An institution that is exempt from ORS 348.594 to 348.615 under ORS 348.597 (2).

(5) Notwithstanding subsection (3) of this section, a person may not use an unmanned aircraft system that is capable of releasing, discharging, propelling or ejecting a projectile for purposes of crowd management.

(6) As used in this section, “school” means a public or private institution of learning providing instruction at levels kindergarten through grade 12, or their equivalents. [2013 c.686 §10; 2015 c.315 §9; 2016 c.72 §2; 2017 c.502 §1; 2018 c.120 §6]

Note: See note under 837.300.

837.370 Operation over privately owned premises; penalties. (1) Except as provided in subsection (2) of this section, a person may not operate an unmanned aircraft system over the boundaries of privately owned premises in a manner so as to intentionally, knowingly or recklessly harass or annoy the owner or occupant of the privately owned premises.

(2) Subsection (1) of this section does not apply to the use of an unmanned aircraft system by a law enforcement agency under ORS 837.335.

(3)(a) Except as provided in paragraphs (b) and (c) of this subsection, violation of subsection (1) of this section is a Class B violation.

(b) If, at the time of the offense, the person has one prior conviction under this section, violation of subsection (1) of this section is a Class A violation.

(c) If, at the time of the offense, the person has two or more prior convictions under this section, violation of subsection (1) of this section is a Class B misdemeanor.

(d) If the court imposes a sentence of probation for a violation under paragraph (c) of this subsection, the court may order as a condition of probation that the person may not possess an unmanned aircraft system. [2017 c.502 §4]

Note: See note under 837.300.

837.372 Operation over critical infrastructure facility; penalty. (1) As used in this section, “critical infrastructure facility” means any of the following facilities, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if marked with a sign conspicuously posted on the property that indicates that entry is forbidden:

(a) A petroleum or alumina refinery;

(b) An electrical power generating facility, substation, switching station or electrical control center;

(c) A chemical, polymer or rubber manufacturing facility;

(d) A water intake structure, water treatment facility, wastewater treatment plant or pump station;

(e) A natural gas compressor station;

(f) A liquid natural gas terminal or storage facility;

(g) A telecommunications central switching office;

(h) A port, railroad switching yard, trucking terminal or other freight transportation facility;

- (i) A gas processing plant, including a plant used in the processing, treatment or fractionation of natural gas;
 - (j) A transmission facility used by a federally licensed radio or television station;
 - (k) A steelmaking facility that uses an electric arc furnace to make steel;
 - (L) A dam that is classified as a high hazard by the Water Resources Department;
 - (m) Any portion of an aboveground oil, gas or chemical pipeline that is enclosed by a fence or other physical barrier that is obviously designed to exclude intruders; or
 - (n) A correctional facility or law enforcement facility.
- (2) Except as provided in subsection (3) of this section, a person commits a Class A violation if the person intentionally or knowingly:
- (a) Operates an unmanned aircraft system over a critical infrastructure facility at an altitude not higher than 400 feet above ground level; or
 - (b) Allows an unmanned aircraft system to make contact with a critical infrastructure facility, including any person or object on the premises of or within the facility.
- (3) This section does not apply to:
- (a) The federal government.
 - (b) A public body.
 - (c) A law enforcement agency.
 - (d) A person under contract with or otherwise acting under the direction or on behalf of the federal government, a public body or a law enforcement agency.
 - (e) An owner or operator of the critical infrastructure facility.
 - (f) A person who has the prior written consent of the owner or operator of the critical infrastructure facility.
 - (g) The owner or occupant of the property on which the critical infrastructure facility is located.
 - (h) A person who has the prior written consent of the owner or occupant of the property on which the critical infrastructure facility is located.
 - (i) A person operating an unmanned aircraft system for commercial purposes in compliance with authorization granted by the Federal Aviation Administration. [2016 c.72 §13]

Note: See note under 837.300.

837.374 Reckless interference with aircraft; penalties. (1) A person commits a Class A violation if the person possesses or controls an unmanned aircraft system and recklessly causes the unmanned aircraft system to:

- (a) Direct a laser at an aircraft while the aircraft is in the air;
 - (b) Crash into an aircraft while the aircraft is in the air; or
 - (c) Prevent the takeoff or landing of an aircraft.
- (2) A person commits a Class A misdemeanor if the person possesses or controls an unmanned aircraft system and knowingly or intentionally causes the unmanned aircraft system to:
- (a) Direct a laser at an aircraft while the aircraft is in the air;
 - (b) Crash into an aircraft while the aircraft is in the air; or
 - (c) Prevent the takeoff or landing of an aircraft.
- (3) Notwithstanding subsection (1) of this section, a person commits a Class A misdemeanor if the person violates subsection (1) of this section and the person has one or more convictions under subsection (1) of this section at the time of the offense.
- (4) In addition to and not in lieu of any other sentence the court may impose, upon a person's second or subsequent conviction under this section, the court shall, at the time of sentencing, declare the unmanned aircraft system used in the offense to be contraband and order that the unmanned aircraft system be forfeited. [2016 c.72 §5; 2019 c.337 §1]

Note: See note under 837.300.

(Civil Remedies)

837.375 Interference with an unmanned aircraft system; unauthorized control. In addition to any other remedies allowed by law, a person who intentionally interferes with, or gains unauthorized control over, an unmanned aircraft system licensed by the Federal Aviation Administration, or operated by the Armed Forces of the United States as defined in ORS 352.313, an agency of the United States or a federal, state or local law enforcement agency, is liable to the owner of the unmanned aircraft system in an amount of not less than \$5,000. The court shall award reasonable attorney fees to a prevailing plaintiff in an action under this section. [2013 c.686 §14; 2015 c.315 §10]

Note: See note under 837.300.

837.380 Action by owner of real property; Attorney General. (1) Except as provided in subsections (2) and (3) of this section, a person who owns or lawfully occupies real property in this state may bring an action against any person or public body that operates an unmanned aircraft system that is flown over the property if:

(a) The operator of the unmanned aircraft system has flown the unmanned aircraft system over the property on at least one previous occasion; and

(b) The person notified the owner or operator of the unmanned aircraft system that the person did not want the unmanned aircraft system flown over the property.

(2) A person may not bring an action under this section if:

(a) The unmanned aircraft system is lawfully in the flight path for landing at an airport, airfield or runway; and

(b) The unmanned aircraft system is in the process of taking off or landing.

(3) A person may not bring an action under this section if the unmanned aircraft system is operated for commercial purposes in compliance with authorization granted by the Federal Aviation Administration. This subsection does not preclude a person from bringing another civil action, including but not limited to an action for invasion of privacy or an action for invasion of personal privacy under ORS 30.831.

(4) A prevailing plaintiff may recover treble damages for any injury to the person or the property by reason of a trespass by an unmanned aircraft system as described in this section, and may be awarded injunctive relief in the action.

(5) A prevailing plaintiff may recover attorney fees under ORS 20.080 if the amount pleaded in an action under this section is \$10,000 or less.

(6) The Attorney General, on behalf of the State of Oregon, may bring an action or claim for relief alleging nuisance or trespass arising from the operation of an unmanned aircraft system in the airspace over this state. A court shall award reasonable attorney fees to the Attorney General if the Attorney General prevails in an action under this section. [2013 c.686 §15; 2015 c.315 §11; 2016 c.72 §10]

Note: See note under 837.300.

(Preemption)

837.385 Preemption of local laws regulating unmanned aircraft systems. Except as expressly authorized by state statute, the authority to regulate the ownership or operation of unmanned aircraft systems is vested solely in the Legislative Assembly. Except as expressly authorized by state statute, a local government, as defined ORS 174.116, may not enact an ordinance or resolution that regulates the ownership or operation of unmanned aircraft systems or otherwise engage in the regulation of the ownership or operation of unmanned aircraft systems. [2013 c.686 §17; 2015 c.315 §12]

Note: See note under 837.300.

(Armed Forces of the United States)

837.390 Applicability. ORS 837.300 to 837.390 and 837.995 and section 11, chapter 686, Oregon Laws 2013, do not apply to the Armed Forces of the United States as defined in ORS 352.313. [2013 c.686 §16]

Note: See note under 837.300.

PENALTIES

837.990 Penalties. (1) Except as otherwise provided in this section and subject to ORS 153.022, a person commits a Class A violation if the person violates any provision of this chapter or any rule adopted, or order issued, under this chapter.

(2) The offense described in ORS 837.080, prohibited operation of an aircraft, is a Class B misdemeanor. [Formerly 493.991; 1999 c.1051 §115; 2005 c.75 §5; 2007 c.71 §248]

837.995 Crimes involving unmanned aircraft systems; penalties. (1) A person commits a Class A felony if the person possesses or controls an unmanned aircraft system and intentionally causes, or attempts to cause, the unmanned aircraft system to:

- (a) Fire a bullet or other projectile at an aircraft while the aircraft is in the air;
- (b) Direct a laser at an aircraft while the aircraft is in the air; or
- (c) Crash into an aircraft while the aircraft is in the air.

(2) A person who intentionally interferes with, or gains unauthorized control over, an unmanned aircraft system licensed by the Federal Aviation Administration, or operated by the Armed Forces of the United States as defined in ORS 352.313, an agency of the United States or a federal, state or local law enforcement agency, commits a Class C felony. [2013 c.686 §13; 2015 c.315 §13]

Note: See note under 837.300.

837.998 Civil penalties. (1) Except as provided in subsection (2) of this section, in addition to any other penalty provided by law, the Director of the Oregon Department of Aviation may impose a civil penalty not to exceed \$720 for each violation of any provision of this chapter or any rule adopted, or order issued, under this chapter.

(2) The director may impose a civil penalty not to exceed \$2,500 for violation of ORS 837.080 or any rule adopted, or order issued, under this chapter to enforce ORS 837.080.

(3) The director shall impose civil penalties under this section in the manner provided in ORS 183.745. [2013 c.403 §2]

**City Council - Public Hearing Script
February 12, 2024**

**Second Reading of Ordinance 2023-07
Drone Operation Within City Limits**

Instructional Note: Only read text in **blue**.

Second Reading:

GAVEL – I will now re-open the public hearing for a second reading on Ordinance Number 2023-07, adopting regulations pertaining to recreational and commercial drone operation within the City of Forest Grove under section 91 of City Code.

The City Council passed a motion during the December 11th, 2023 Council meeting continuing the public hearing and advancing Ordinance Number 2023-07 to a second reading.

If approved by the City Council, the ordinance will amend the Forest Grove City Code to include regulations pertaining to recreational and commercial drone use within the City of Forest Grove.

Question for staff – Are there additional comments or evidence that staff would like to enter into the record?

Does the Council have any questions for staff?

Public hearing and testimony – I will now call on persons who signed up to comment on the ordinance. Comments are limited to 3 minutes. Please state your name and address for the record. Call on proponents, opponents, and other comments.

Close the hearing – The hearing is now closed. **GAVEL**

Is there a motion from Council to approve the second reading of Ordinance number 2023-07?

Are there additional questions or further discussion from Council on the motion before we proceed with the roll call vote?

City Manager please read Ordinance 2023-07 by title only.

City Recorder please call the roll.

The vote is _____. Ordinance 2023-07 is adopted (or fails).

CITY RECORDER USE ONLY:

AGENDA ITEM #: F.2

MEETING DATE: 02.12.2024

FINAL ACTION: _____

CITY COUNCIL STAFF REPORT

TO: *City Council*

FROM: *Jesse VanderZanden, City Manager*

PROJECT TEAM: *Mariah Woods, City Recorder*

MEETING DATE: *12 February, 2024*

SUBJECT TITLE: *Update HLB & CFC Codes*

ACTION REQUESTED:

X	Ordinance	Order	Resolution	Motion	Informational
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ISSUE STATEMENT:

On November 13, 2023, the Forest Grove City Council passed Resolution No. 2023-54 updating section 14 of Council Rules relating to boards and commissions. Per the City Charter, § 11, and Council Rules of Procedure, § 14.15, these updates require that the bylaws for each advisory group be updated and subsequently approved by the Council.

The Council passed Resolution 2024-01 on January 8, 2024, which approved the bylaws for the Committee for Community Engagement, Economic Development Commission, Library Commission, Parks & Recreation Commission, and Public Arts Commission. The remaining two groups, the Historic Landmarks Board (HLB) and Community Forestry Commission (CFC), were not included in that resolution because their bylaws are incorporated into the city code and therefore require an ordinance to be updated.

In order to simplify the process for any future bylaw updates by the Council, staff is recommending that the code be updated so that the administrative aspects of the bylaws are not enumerated in their entirety in the code. It is not typical for advisory group bylaws to be included in the code, so removing them would align with standard practices. Instead, proposed language has been added to the code indicating that the bylaws will follow the City issued template. The sections of the text regarding the function and scope of both groups have been left in, as well as any portions unique to the groups and their specific requirements. Lastly, some minor edits were made for clarity and consistence.

At the second reading of this Ordinance, a corresponding Resolution will be brought before the Council to pass the bylaws for CFC and HLB.

To enable a review of the proposed changes, the following template is provided:

- Regular text indicates existing code language.
- **Highlighted** text indicates proposed new code language.
- ~~Strikethrough~~ indicates proposed deleted existing code language.

PROPOSED CHANGES WITH MARK-UP:

HISTORIC LANDMARKS BOARD

§ 35.065 PURPOSE.

(A) The purpose of the Historic Landmarks Board (HLB) is to encourage broad-based community representation and to advise City Council on public policy issues affecting Forest Grove and Council-adopted Goals and Objectives. The HLB is directly responsible to the Council.

(B) The further purpose of the HLB is to maintain a comprehensive program to identify, designate, and protect the history, culture, archaeology, and landscape of the City.

(Prior Code, § 9.105) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-02, passed 5-26-2020)

§ 35.066 BYLAWS.

The City Council shall adopt rules of procedure for the Historic Landmarks Board following a standard template provided by the City.

~~§ 35.066 MEMBERSHIP.~~

~~(A) Members of the HLB shall be composed of seven members and one student member who shall be appointed by City Council.~~

~~(B) Two members may reside outside of corporate limits of the city.~~

~~(C) All members shall have a demonstrated positive interest, competence or knowledge of historic preservation.~~

~~(D) Members are required to attend training courses as assigned and approved by City Council.~~

~~(E) An individual member may not act in official capacity.~~

~~(F) The City Council may in its discretion at any time remove a member for any reason, including inefficiency, neglect in duty, or malfeasances in office.~~

~~(G) Commission members serve without compensation.~~

~~(Prior Code, § 9.110) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-02, passed 5-26-2020)~~

~~§ 35.067 TERMS OF OFFICE.~~

~~(A) HLB members shall be voting members and shall serve four year terms.~~

~~(B) Student members shall be voting member and shall serve a two year term. Student appointee must be high school grade level and residing or attending school, including home schooled, in Forest Grove.~~

~~(C) Terms shall be staggered evenly amongst the membership, beginning January 1 and ending December 31.~~

~~(D) Once the assigned term of office is completed, the member is excused from the appointment unless City Council reappoints the member for another term of service.~~

~~(E) HLB members must apply during open recruitment and be interviewed by City Council after each term to continue service. HLB members who fail to attend a scheduled interview may forfeit the opportunity for appointment or reappointment.~~

~~(F) Members may not serve on more than two Boards or Commissions at the same time.~~

~~(G) Appointments to vacant positions shall be filled by City Council for the unexpired term.~~

~~(Prior Code, § 9.115) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-02, passed 5-26-2020)~~

~~§ 35.068 OFFICERS.~~

~~(A) The Chair and Vice Chair shall be elected by the voting members at the first regularly scheduled HLB meeting of each year.~~

~~(B) The Chair may not serve more than 48 consecutive months.~~

~~(C) In the absence of the Chair and Vice Chair, at a meeting where a quorum is present, the member with the longest continuous service shall serve as Presiding Officer pro tem until such time the meeting is adjourned.~~

~~(D) The Chair shall:~~

~~(1) Preside over and facilitate all meetings, preserve order, enforce rules and determine the order of business.~~

~~(2) Compose the meeting agenda in consultation with the staff liaison, specifying the time, place and purpose of the meeting and listing the subjects anticipated to be considered.~~

~~(3) An HLB member may propose placing an item on the agenda at a regularly scheduled meeting. If approved by a majority of voting members present, the agenda item will be placed on the next regularly scheduled meeting agenda or an agreed upon future meeting agenda.~~

~~(4) The agenda shall follow a standard template provided by the City.~~

~~(5) Ensure that all actions are properly taken and recorded and, if required, sign findings and decisions.~~

~~(6) Present recommendations to the City Council and other bodies as designated by the Mayor, Council, or Council Liaison.~~

~~(7) The Chair shall submit and present an Annual Report to the City Council listing the HLB's major activities for the past year and objectives for the coming year.~~

~~(E) The Vice Chair shall preside in the absence of the Chair and acts as Chair when the Chair is unable to perform duties.~~

~~(Prior Code, § 9.120) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-02, passed 5-26-2020)~~

§ 35.069 35.067 EXPENSES.

Commission members shall be reimbursed for duly authorized expenses.

~~(Prior Code, § 9.125) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-02, passed 5-26-2020)~~

§ 35.070 MEETING PROCEDURES AND QUORUM.

~~(A) Meetings.~~

~~(1) Unless otherwise required by state law or city code, the HLB shall hold meetings no less than four times a year unless more frequently as established by the HLB.~~

~~(2) In January of each year, the HLB shall adopt a schedule of its meetings and schedule its Annual Report presentation to City Council for the upcoming year, including meeting dates for holidays and canceled meetings.~~

~~(3) The HLB meeting agenda and packet shall be distributed to the HLB at least five days prior to the meeting.~~

~~(4) All meetings are open to the public. Anyone wishing to speak to the HLB may do so under Citizen Communications. In the interest of time, comments may be limited to three minutes unless additional time is granted by the presiding officer.~~

~~(5) The student member may provide a report at every meeting.~~

~~(6) A public meeting is defined as two or more members meeting who have been delegated authority by the HLB to advise or make recommendations to the HLB.~~

~~(7) Special meetings may be called by a vote of the HLB at any regularly scheduled meeting, by the request of the Chair, Council Liaison, or written petition by three or more HLB members.~~

~~(8) All meetings and hearings shall be held at a designated date, place and time in compliance with Public Meetings Law (O.R.S. Chapter 192) and subject to Public Records Law (O.R.S. Chapter 192).~~

~~(B) Minutes.~~

~~(1) The HLB may appoint a secretary at the first regularly scheduled HLB meeting of each year to take the HLB meeting minutes.~~

~~(2) Written minutes are required for all meetings.~~

~~(3) The minutes shall follow a standard template provided by the city.~~

~~(4) The meeting minutes shall briefly summarizing what took place and must include: 1) any action items; 2) attendance, and 3) vote of each member. Verbatim minutes are not required.~~

~~(5) Staff may take minutes if the HLB requests the City to do so.~~

~~(6) Staff shall review the minutes to ensure compliance with state law.~~

~~(7) Staff shall post the approved minutes to the website as soon as possible.~~

~~(C) Attendance.~~

~~(1) Members are expected to attend every meeting.~~

~~(2) Members shall notify the staff liaison prior to the regular meeting to report an absence.~~

~~(3) The Chair, with the consent of the HLB, may submit a recommendation to City Council to deem a member's position vacant for three or more absences in a 12-month period.~~

~~(4) The City Recorder's Office shall notify any member who has three or more absences in a 12-month period that their position may be subject to vacancy.~~

~~(5) Quorum. Unless otherwise required by state law, a majority of the total number of voting B/C members constitutes a quorum.~~

~~(D) Voting and decision making.~~

~~(1) Roberts Rules of Order Newly Revised shall govern all proceedings unless they conflict with these rules.~~

~~(2) The Chair has the right to vote whenever a vote is cast. In the case of a tie vote with the Chair voting, the motion fails.~~

~~(3) The HLB shall operate in the general public interest serving the community as a whole. The HLB shall serve no special interest(s) or endorse any commercial product or enterprise.~~

~~(E) Conflicts of interest and ethics law.~~

~~(1) HLB members are considered public officials subject to the Oregon Government Ethics Law(O.R.S. Chapter 244), which seeks to prevent a public official from receiving financial gain or avoiding a financial detriment because of their status as a public official.~~

~~(2) HLB members are subject to the Restrictions on Political Campaigning when acting in official capacity (O.R.S. § 260.432).~~

~~(3) A civil penalty may be imposed by the State for each violation of any provision of the O.R.S.~~

~~(F) Role of Council Liaison.~~

~~(1) The Council Liaison shall be appointed by the Mayor, with the consent of the City Council, and shall be a non-voting member.~~

~~(2) Council Liaison's role is to collaborate between the City Council and the HLB to ensure each group's collective interest is accurately and effectively represented to the other, including actively attending and reporting to each entity at their regular scheduled meetings.~~

~~(3) The Council Liaison shall have the freedom of the floor at all times to present Council's views and to comment or suggest actions to the HLB.~~

~~(G) Role of staff liaison.~~

~~(1) The staff liaison shall be appointed by the City Manager and shall be non-voting. The staff liaison shall assist the HLB by utilizing their expertise regarding city policy and process.~~

~~(2) The staff liaison shall:~~

~~(a) Orient newly appointed members prior to the first meeting on the duties and responsibilities of being a HLB.~~

~~(b) Review the agenda in consultation with the HLB Chair. The agenda shall follow a standard template provided by the City.~~

~~(c) Prepare, post and distribute the HLB packet at least five days prior to the meeting. Post the final agenda on the bulletin board at the meeting location.~~

~~(d) Prepare HLB meeting minutes, briefly summarizing what took place and must include any action items, attendance and vote of each member.~~

~~(e) Report any member who has three or more absences in a 12-month period to the City Recorder's Office.~~

~~(3) Additional staff liaison duties and responsibilities may be found in the Council Rules, Section 14.~~

~~(H) Registry. The City Recorder's Office shall maintain a current roster of all members, including appointment date, length of unexpired term, and contact information. The roster may be subject to Public Records Law (O.R.S. Chapter 192). A copy of the roster shall be provided to Council and staff liaison at least once per year or upon any substantial change in membership.~~

~~(I) Amending bylaws.~~

~~(1) A majority of all members must vote affirmatively to modify the HLB bylaws on at least two separate readings at two separate meetings.~~

~~(2) A final decision on a bylaw change shall not be made until at least the next regular meeting following the introduction and second of the motion.~~

~~(3) All bylaws or rules, including changes, must be approved by the City Council.~~

~~(4) Bylaws shall follow a standard template provided by the city.~~

~~(Prior Code, § 9.130) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-02, passed 5-26-2020)~~

§ 35.071 35.068 POWERS AND DUTIES.

The HLB is authorized to:

(A) Maintain the City's Register of Historic and Cultural Landmarks (Historic Register), by recommending to the City Council:

(1) ~~Recommending to the City Council~~ the designation of historic or cultural landmark properties that meet the criteria for designation. All such designated landmarks shall be included in the Historic Register; and

(2) ~~Recommending to the City Council~~ the removal of a landmark from the Historic Register.

(B) Regulate and protect landmarks through the review and approval or disapproval of certain proposed changes in accordance with the criteria for alterations or demolition of landmarks as contained in the Development Code;

(C) Review proposed activities by the City and other agencies that may seriously affect designated landmarks and advise the Planning Commission and City Council regarding such matters;

(D) Perform other activities relating to historic and cultural landmark preservation, including, but not limited to:

- (1) Providing public education on the historic, scenic, and cultural landmarks of the city;
- (2) Providing advice to the City Council and other city boards on preservation of historic and cultural landmarks;
- (3) Providing technical economic information on preservation of historic and cultural landmarks;
- (4) Making recommendations to the City Council for historic and cultural landmark preservation programs, such as tax incentives to preserve designated landmarks;
- (5) Securing the views of the public and owners of landmarks regarding the community's cultural, historic, and scenic values;
- (6) Maintaining criteria for inventory and evaluation to implement the purposes of this section;
- (7) Periodically reviewing and making recommendations for updating the Historic Register; and
- (8) Recommending to the City Council the acceptance of donations of funds and property, including partial interest in property such as facade easements.

~~(E) Adopt rules and procedures for the operation of the HLB.~~

(Prior Code, § 9.135) (Ord. 2009-04, passed 3-9-2009)

§ ~~35.072~~ 35.069 CRITERIA FOR LANDMARK DESIGNATION.

~~The Historic Landmarks Board may recommend to the City Council for designation as an historic or cultural landmark and for inclusion in the Historic Register any structure, archaeological or prehistoric site, or historic site, upon a finding by the Board that the subject property:~~

The HLB may recommend that the City Council designate as a historic or cultural landmark and include in the Historic Register any structure, archaeological or prehistoric site, or historic site, upon a finding by the HLB that the subject property:

- (A) Is associated with events that have made a significant contribution to the history of the city, the county, the state, or the nation;
- (B) Is associated with the lives of persons holding a significant place in the history of the city, the county, the state, or the nation;
- (C) Embodies distinguishing architectural characteristics, in exterior design, of a period, style, method of construction, craftsmanship, or in use of indigenous materials;

(D) Is representative of the work of a designer, architect, or master builder who influenced the development and appearance of the city, the state, the Pacific Northwest, or the nation; and

(E) In the case of proposed designation of a site, yields or may be likely to yield information in history, prehistory, or archaeology.

(Prior Code, § 9.150) (Ord. 2009-04, passed 3-9-2009)

§ 35.073 35.070 PROCEDURE FOR LANDMARK DESIGNATION.

(A) Designation of property as a historic or cultural landmark may be proposed by a property owner or his or her authorized agent, by the HLB, or by the City Council. An application shall be filed with the Community Development Department, using forms provided by the Director.

(B) Designation of property as a historic or cultural landmark is classified as a Type IV procedure, and is subject to all of the procedures and timelines outlined in the Development Code. Designation requires public hearings before the following review bodies:

(1) ~~Historic Landmarks Board~~ HLB; and

(2) City Council.

(C) If the HLB acts to reject a proposed designation, no further action shall be taken unless the applicant files an appeal of the action with the City Council.

(D) If the City Council acts to approve the proposed designation, or to approve the proposal with modifications, it shall adopt an ordinance setting forth the findings of fact on which such approval is based, and order an amendment of the zoning map to label the designated property with the **Historic Landmarks** (HL) overlay zone. Immediately upon designation of the property as a landmark, the designated landmark (not the entire tax lot) shall be subject to the provisions of this subchapter.

(E) Individual historic resources listed on the National Register of Historic Places shall automatically receive landmark designation on the date the property is listed. However, a landmark that is removed from the National Register of Historic Places will retain its local landmark designation unless the designation is removed through the procedures listed in this subchapter.

(Prior Code, § 9.155) (Ord. 2009-04, passed 3-9-2009)

§ 35.074 35.071 PROCEDURE FOR REMOVAL OF A LANDMARK DESIGNATION.

(A) Removal of a designated landmark from the **Historic** Register may be proposed by a property owner or his or her authorized agent, by the HLB, or by the City Council. An application shall be filed with the Community Development Department.

(B) Removal of a designated landmark from the **Historic** Register is classified as a Type IV procedure, and is subject to all of the notice procedures and timelines outlined in the Development Code. Removal of the ~~HL overlay~~ **landmark** designation requires two sequential public hearings before the following review bodies:

(1) Historic Landmarks Board; and

(2) City Council.

(C) The HLB shall make its decision on the basis of the criteria contained in § ~~35.073~~ **35.070** and shall make specific findings of fact as to whether the landmark has lost its historic or cultural value based on these criteria.

(D) If the ~~Board~~ **HLB** acts to deny a request for removal of a landmark from the **Historic** Register, no further action shall be taken unless the applicant files an appeal of the ~~Board~~ **HLB**'s action with the City Council.

(E) Within 60 days from the date of the recommendation by the HLB to approve a request to remove a landmark from the **Historic** Register, the City Council shall conduct a public hearing to consider the request and recommendation of the HLB. Public notice shall be provided in accordance with Type IV procedures. Following the public hearing, the **City** Council shall act to approve the removal of the landmark designation as requested, or to remove some portion of the landmark from the **Historic** Register, or to deny the request. When removing a landmark designation from the **Historic** Register, the ordinance shall amend the zoning map to remove the HL overlay zone from the property.

(Prior Code, § 9.160) (Ord. 2009-04, passed 3-9-2009)

§ ~~35.075~~ **35.072 ANNUAL NOTIFICATION.**

(A) Once each year, between January 1 and April 1, the Director shall mail notice to the owners and occupants on which each Historic Register landmark is located **and to all owners of properties located within designated historic districts.**

(B) The list of owners shall be drawn from the most recent tax roll of the County Assessor. The list of residents shall be drawn from the most recent listings posted in the unified billing accounts of the city.

(C) The purpose of the notice shall be to inform or remind the owners and occupants of each landmark listed on the Historic Register that such landmark has been found by the city to be a significant historic or cultural landmark, and that its listing on the Historic Register subjects the property to certain review requirements.

(D) The notice shall also include, at a minimum, the following:

- (1) A brief explanation of the existence and function of the City's Register of Historic and Cultural Landmarks;
 - (2) A statement that particular actions affecting the exterior appearance of landmarks will require prior review and action by the HLB or city staff, as provided in this subchapter;
 - (3) A statement that the HLB is available and willing to review on an informal basis any plans that may affect the historic or architectural integrity of the landmark; and
 - (3) A statement that the Community Development Department has access to resource materials and persons to provide guidance in developing plans for work that may affect the historic or architectural integrity of the landmark, and to assist in researching the history of the landmark.
- (Prior Code, § 9.165) (Ord. 2009-04, passed 3-9-2009)

COMMUNITY FORESTRY COMMISSION

§ 35.090 PURPOSE.

(A) The purpose of the Community Forestry Commission (CFC) is to encourage broad-based community representation and to advise City Council on public policy issues affecting Forest Grove and Council adopted Goals and Objectives related to the urban forest. The CFC is directly responsible to the Council.

(B) The CFC shall also serve as the City's Tree Board for Tree City USA® qualification.

(Prior Code, § 9.205) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-04, passed 8-10-2020)

§ 35.091 BYLAWS.

The City Council shall adopt rules of procedure for the Community Forestry Commission following a standard template provided by the City.

§ 35.091 MEMBERSHIP.

~~(A) Members of the CFC shall be composed of seven members and one student member who shall be appointed by the City Council.~~

~~(B) Three members may reside outside the corporate limits of the city.~~

~~(C) Members shall be selected from a variety of organizations, interest groups, people with expertise in the growing, planting, and maintenance of trees, and the public at large.~~

~~(D) Members are required to attend training courses as assigned and approved by City Council.~~

~~(E) An individual member may not act in official capacity.~~

~~(F) The City Council may in its discretion at any time remove a member for any reason, including inefficiency, neglect of duty, or malfeasances in office.~~

~~(G) Commission members serve without compensation.~~

~~(Ord. 2020-04, passed 8-10-2020)~~

~~§ 35.092 TERMS OF OFFICE.~~

~~(A) CFC members shall be voting members and shall serve four year terms.~~

~~(B) Student members shall be voting members and shall serve two year terms. Student appointees must be high school grade level and residing or attending school, including home-schooled, in Forest Grove.~~

~~(C) Terms shall be staggered evenly amongst the membership, beginning January 1 and ending December 31.~~

~~(D) Once the assigned term of office is completed, the member is excused from the appointment unless City Council reappoints the member for another term of service.~~

~~(E) CFC Members must apply during open recruitment and be interviewed by City Council after each term to continue service. CFC members who fail to attend a scheduled interview may forfeit the opportunity for appointment or reappointment.~~

~~(F) Members may not serve on more than two Boards or Commissions at the same time.~~

~~(G) Appointments to vacant positions shall be filled by City Council for the unexpired term.~~

~~(Prior Code, § 9.210) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-04, passed 8-10-2020)~~

~~§ 35.093 OFFICERS.~~

~~(A) The Chair and Vice Chair shall be elected by the voting members at the first regularly scheduled CFC meeting each year.~~

~~(B) The Chair may not serve more than 48 consecutive months.~~

~~(C) In the absence of the Chair and Vice Chair, at a meeting where a quorum is present, the member with the longest continuous service shall serve as Presiding Officer pro tem until such time the meeting is adjourned.~~

~~(D) The Chair shall:~~

~~(1) Preside over and facilitate all meetings, preserve order, enforce rules and determine the order of business.~~

~~(2) Compose the meeting agenda in consultation with the staff liaison, specifying the time, place and purpose of the meeting and listing the subjects anticipated to be considered.~~

~~(3) A CFC member may propose placing an item on the agenda at a regularly scheduled meeting. If approved by a majority of voting members present, the agenda item will be placed on the next regularly scheduled meeting agenda or an agreed upon future meeting agenda.~~

~~(4) The agenda shall follow a standard template provided by the City.~~

~~(5) Ensure that all actions are properly taken and recorded and, if required, sign findings and decisions.~~

~~(6) Present recommendations to the City Council and other bodies as designated by the Mayor, Council, or Council Liaison.~~

~~(7) The Chair shall submit and present an Annual Report to the City Council listing the CFC's major activities for the past year and objectives for the coming year.~~

~~(E) The Vice Chair shall preside in the absence of the Chair and acts as Chair when the Chair is unable to perform duties.~~

~~(Prior Code, § 9.215) (Ord. 2009-04, passed 3-9-2009; Ord 2020-04, passed 8-10-2020)~~

§ 35.094 35.092 EXPENSES.

Commission members shall be reimbursed for duly authorized expenses.

~~(Prior Code, § 9.220) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-04, passed 8-10-2020)~~

§ 35.095 MEETINGS PROCEDURES AND QUORUM.

~~(A) Meetings.~~

~~(1) Unless otherwise required by state law or city code, the CFC shall hold meetings no less than four times a year unless more frequently as established by the CFC.~~

~~(2) At the first regularly scheduled CFC meeting each year, the CFC shall adopt a schedule of its meetings and schedule its Annual Report presentation to City Council for the upcoming year, including meeting dates for holidays and canceled meetings.~~

~~(3) The CFC meeting agenda and packet shall be distributed to the CFC at least five days prior to the meeting.~~

~~(4) All meetings are open to the public. Anyone wishing to speak to the CFC may do so under *Citizen Communications*. In the interest of time, comments may be limited to three minutes unless additional time is granted by the presiding officer.~~

~~(5) The student member may provide a report at every meeting.~~

~~(6) A public meeting is defined as two or more members meeting who have been delegated authority by the CFC to advise or make recommendations to the CFC.~~

~~(7) Special meetings may be called by a vote of the CFC at any regularly scheduled meeting, by the request of the Chair, Council Liaison, or written petition by three or more CFC members.~~

~~(8) All meetings and hearings shall be held at a designated date, place and time in compliance with Public Meetings Law (O.R.S. Chapter 192) and subject to Public Records Law (O.R.S. Chapter 192).~~

~~(B) Minutes.~~

~~(1) The CFC may appoint a secretary at the first regularly scheduled CFC meeting of each year to take the CFC meeting minutes.~~

~~(2) Written minutes are required for all meetings.~~

~~(3) The minutes shall follow a standard template provided by the city.~~

~~(4) The meeting minutes shall briefly summarize what took place and must include: 1) any action items, 2) attendance, and 3) vote of each member. Verbatim minutes are not required~~

~~(5) Staff may take minutes if the CFC requests the city to do so.~~

~~(6) Staff shall review the minutes to assure compliance with state law.~~

~~(7) Staff shall post the approved minutes to the website as soon as possible.~~

~~(C) Attendance.~~

~~(1) Members are expected to attend every meeting.~~

~~(2) Members shall notify the staff liaison prior to the regular meeting to report an absence.~~

~~(3) The Chair, with the consent of the CFC, may submit a recommendation to City Council to deem a member's position vacant for three or more absences in a 12-month period.~~

~~(4) The City Recorder's Office shall notify any member who has three or more absences in a 12-month period that their position may be subject to vacancy.~~

~~(D) Quorum. Unless otherwise required by state law, a majority of the total number of voting CFC members constitutes a quorum.~~

~~(E) Voting and decision making.~~

~~(1) Roberts Rules of Order Newly Revised shall govern all proceedings unless they conflict with these rules.~~

~~(2) The Chair has the right to vote whenever a vote is cast. In the case of a tie vote with the Chair voting, the motion fails.~~

~~(3) The CFC shall operate in the general public interest serving the community as a whole. The CFC shall serve no special interest(s) or endorse any commercial product or enterprise.~~

~~(F) Conflicts of interest and ethics law.~~

~~(1) CFC members are considered public officials subject to the Oregon Government Ethics Law (O.R.S. Ch. 244), which seeks to prevent a public official from receiving financial gain or avoiding a financial detriment because of their status as a public official.~~

~~(2) CFC members are subject to the Restrictions on Political Campaigning when acting in official capacity (O.R.S. § 260.432).~~

~~(3) A civil penalty may be imposed by the State for each violation of any provision of the O.R.S.~~

~~(G) Role of Council Liaison.~~

~~(1) The Council Liaison shall be appointed by the Mayor, with the consent of the City Council, and shall be a non-voting member.~~

~~(2) Council Liaison's role is to collaborate between the City Council and the CFC to assure each group's collective interest is accurately and effectively represented to the other, including actively attending and reporting to each entity at their regular scheduled meetings.~~

~~(3) The Council Liaison shall have the freedom of the floor at all times to present Council's views and to comment or suggest actions to the CFC.~~

~~(H) Role of staff liaison.~~

~~(1) The staff liaison shall be appointed by the City Manager and shall be non-voting. The staff liaison shall assist the CFC by utilizing their expertise regarding city policy and process.~~

~~(2) The staff liaison shall:~~

~~(a) Orient newly appointed members prior to the first meeting on the duties and responsibilities of being a CFC.~~

~~(b) Review the agenda in consultation with the CFC Chair. The agenda shall follow a standard template provided by the city.~~

~~(c) Prepare, post and distribute the CFC packet at least five days prior to the meeting. Post the final agenda on the bulletin board at the meeting location.~~

~~(d) Prepare CFC meeting minutes, briefly summarizing what took place and must include any action items, attendance and vote of each member.~~

~~(e) Report any member who has three or more absences in a 12-month period to the City Recorder's Office.~~

~~(f) Additional staff liaison duties and responsibilities may be found in the Council Rules, § 14.~~

~~(I) Registry. The City Recorder's Office shall maintain a current roster of all members, including appointment date, length of unexpired term, and contact information. The roster may be subject to Public Records Law (O.R.S. Chapter 192). A copy of the roster shall be provided to Council and staff liaison at least once per year or upon any substantial change in membership.~~

~~(J) Amending bylaws.~~

~~(1) A majority of all members must vote affirmatively to modify the CFC bylaws on at least two separate readings at two separate meetings.~~

~~(2) A final decision on a bylaw change shall not be made until at least the next regular meeting following the introduction and second of the motion.~~

~~(3) All bylaws or rules, including changes, must be approved by the City Council.~~

~~(4) Bylaws shall follow a standard template provided by the city.~~

~~(Prior Code, § 9.225) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-04, passed 8-10-2020)~~

§ 35.096 35.093 POWERS AND DUTIES.

The CFC is authorized to:

(A) Maintain the city's Significant Tree Register (Tree Register) by:

(1) Holding public hearings for designation of register trees and making recommendations to the City Council consistent with this subchapter.

(2) Holding public hearings for the removal of register tree designation and making recommendations to the City Council consistent with this subchapter.

- (B) Promote protection and care of register trees in accordance with best arboriculture practices;
- (C) Review proposed activities by the city that may affect protected trees and advise the Director, the Planning Commission, and City Council regarding such matters;
- (D) Consider appeals of administrative decisions and Director referrals related to permits for removal or pruning protected trees. Appeals of CFC decisions shall be considered by City Council following the procedures set forth in the Development Code for Type I (Administrative Decisions).
- (E) Perform other activities relating to urban forest including, but not limited to:
 - (1) Providing public education on the history and importance of the Tree Register;
 - (2) Providing advice to the City Council and other city boards on tree care and best management practices;
 - (3) Recommending to City Council or Planning Commission revisions to the Forest Grove Tree Protection ordinance contained in the Development Code;
 - (4) Providing technical information related to community tree issues;
 - (5) Making recommendations to the City Council for community forestry related programs and policies;
 - (6) Assist with the preparation and implementation of an urban forestry plan;
 - (7) Periodically reviewing and making recommendations for updating the Tree Register and urban forestry plan;
 - (8) Coordinating the city's annual Arbor Day celebration; and
 - (9) Recommending to the City Council the acceptance of grant funds and donations toward the protection and planting of trees in the community.
- ~~(F) Adopt rules and procedures for the operation of the CFC.~~

(Prior Code, § 9.230) (Ord. 200904, passed 3-9-2009; Ord. 2020-04, passed 8-10-2020)

§ ~~35.097~~ 35.094 CRITERIA AND PROCEDURE FOR DESIGNATION OF REGISTER TREES.

- (A) The criteria for designation of register trees are as follows:
 - (1) *Register Tree criteria.* A tree may be recommended for Tree Register designation if the CFC finds:
 - (a) The tree has a distinctive size, shape, or location which warrants a significant status;

- (b) The tree has a special botanical significance as a specimen in the city area;
- (c) The tree possesses exceptional beauty which warrants a significant status;
- (d) The tree is significant due to a functional or aesthetic relationship to a natural resource;
- (e) Along with one of the above, the tree is significant based upon its association with historic figures, properties, or the general growth and development of the city.

(2) *Grove criteria.* A grove may be recommended for Tree Register designation if the CFC finds:

- (a) The grove is relatively mature and evenly aged;
- (b) The grove has a purity of species composition, is of a rare or unusual nature, or is an exceptional example of a type of forest such as riparian or woodland;
- (c) The grove is in a healthy growing condition;
- (d) The grove has a crucial functional and/or aesthetic relationship to a natural resource; or
- (e) The grove has a historic significance based upon its association with historic figures, properties, or the general growth and development of the city.

(B) *Update of Tree Register.* Provisions shall be made for periodic updates of the Tree Register as required by changes in the number and condition of significant trees.

(C) *Notification.* Prior to the public hearings specified in division (D) below, each property owner of the tree(s) or grove under consideration for Register Tree status shall be notified by mail. The notice shall inform tree or grove owners that they can request in writing that the tree(s) on their property not be considered for Register status. Attached to the recommendation to Council shall be a list of current property owners who have requested their tree(s) not be placed on the Register. The notice shall also include, at a minimum, the following:

- (1) A brief explanation of the existence and function of the city's Tree Register;
- (2) A statement that particular actions affecting the tree or grove will require prior review and action by the CFC or city staff, as provided in the Development Code;
- (3) A statement that the CFC is available and willing to review on an informal basis any plans that may be prepared for work which might affect the tree or grove; and
- (4) A statement that the city can provide resource materials and guidance in developing plans for work which may affect the tree or grove.

(D) *Public hearings*. The designation and updating of the Tree Register is classified as a Type IV procedure and is subject to all of the procedures and timelines outlined in § 17.1.710 of the Development Code. Designation requires public hearing before the following review bodies:

(1) Community Forestry Commission; and

(2) City Council.

(Prior Code, § 9.305) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-04, passed 8-10-2020)

§ ~~35.098~~ 35.095 CRITERIA AND PROCEDURE FOR REMOVAL OF REGISTER TREE DESIGNATION.

(A) Removal of a designated tree from the Tree Register may be proposed by a property owner or his or her authorized agent, by the CFC, by the Director, or by the City Council. In proposing removal, an application shall be prepared and filed with the city, using prescribed forms. Notice of the public hearing shall be given as prescribed in §§ 17.1.610 and 17.1.620 of the Development Code for a Type III review.

(B) The CFC shall hold a public hearing, adopt findings addressing the criteria and make are commendation to the City Council.

(1) The CFC shall make its decision on the basis of the criteria contained in § 17.5.140(C) of the Development Code and shall make specific findings of fact as to whether the tree has lost its significant value based on these criteria.

(Prior Code, § 9.310) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-04, passed 8-10-2020)

§ ~~35.099~~ 35.096 ANNUAL NOTIFICATION OF REGISTER TREE OWNERS.

(A) Once each year, between January 1 and April 1, the city shall mail a notice to the owners and occupants of the property on which each register tree is located.

(B) The list of owners shall be drawn from the most recent tax roll of the County Assessor. The list of occupants shall be drawn from the most recent listings posted in the unified billing accounts of the city.

(C) The purpose of the notice shall be to inform or to remind the owners and occupants of the property that such tree or grove has been found by the city to be a significant tree or grove, and that its listing on the Tree Register subjects the tree or grove to certain review requirements and may require permit and city approval.

(Prior Code, § 9.315) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-04, passed 8-10-2020)

PROPOSED CHANGES WITHOUT MARK-UP:

HISTORIC LANDMARKS BOARD

§ 35.065 PURPOSE.

(A) The purpose of the Historic Landmarks Board (HLB) is to encourage broad-based community representation and to advise City Council on public policy issues affecting Forest Grove and Council-adopted Goals and Objectives. The HLB is directly responsible to the Council.

(B) The further purpose of the HLB is to maintain a comprehensive program to identify, designate, and protect the history, culture, archaeology, and landscape of the City.

(Prior Code, § 9.105) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-02, passed 5-26-2020)

§ 35.066 BYLAWS.

The City Council shall adopt rules of procedure for the Historic Landmarks Board following a standard template provided by the City.

§ 35.067 EXPENSES.

Commission members shall be reimbursed for duly authorized expenses.

(Prior Code, § 9.125) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-02, passed 5-26-2020)

§ 35.068 POWERS AND DUTIES.

The HLB is authorized to:

(A) Maintain the City's Register of Historic and Cultural Landmarks (Historic Register), by recommending to the City Council:

(1) the designation of historic or cultural landmark properties that meet the criteria for designation. All such designated landmarks shall be included in the Historic Register; and

(2) the removal of a landmark from the Historic Register.

(B) Regulate and protect landmarks through the review and approval or disapproval of certain proposed changes in accordance with the criteria for alterations or demolition of landmarks as contained in the Development Code;

(C) Review proposed activities by the City and other agencies that may seriously affect designated landmarks and advise the Planning Commission and City Council regarding such matters;

(D) Perform other activities relating to historic and cultural landmark preservation, including, but not limited to:

- (1) Providing public education on the historic, scenic, and cultural landmarks of the city;
- (2) Providing advice to the City Council and other city boards on preservation of historic and cultural landmarks;
- (3) Providing technical economic information on preservation of historic and cultural landmarks;
- (4) Making recommendations to the City Council for historic and cultural landmark preservation programs, such as tax incentives to preserve designated landmarks;
- (5) Securing the views of the public and owners of landmarks regarding the community's cultural, historic, and scenic values;
- (6) Maintaining criteria for inventory and evaluation to implement the purposes of this section;
- (7) Periodically reviewing and making recommendations for updating the Historic Register; and
- (8) Recommending to the City Council the acceptance of donations of funds and property, including partial interest in property such as facade easements.

(Prior Code, § 9.135) (Ord. 2009-04, passed 3-9-2009)

§ 35.069 CRITERIA FOR LANDMARK DESIGNATION.

The HLB may recommend that the City Council designate as a historic or cultural landmark and include in the Historic Register: any structure; archaeological or prehistoric site; or historic site, upon a finding by the HLB that the subject property:

- (A) Is associated with events that have made a significant contribution to the history of the city, the county, the state, or the nation;
- (B) Is associated with the lives of persons holding a significant place in the history of the city, the county, the state, or the nation;
- (C) Embodies distinguishing architectural characteristics, in exterior design, of a period, style, method of construction, craftsmanship, or in use of indigenous materials;
- (D) Is representative of the work of a designer, architect, or master builder who influenced the development and appearance of the city, the state, the Pacific Northwest, or the nation; and
- (E) In the case of proposed designation of a site, yields or may be likely to yield information in history, prehistory, or archaeology.

(Prior Code, § 9.150) (Ord. 2009-04, passed 3-9-2009)

§ 35.070 PROCEDURE FOR LANDMARK DESIGNATION.

(A) Designation of property as a historic or cultural landmark may be proposed by a property owner or his or her authorized agent, by the HLB, or by the City Council. An application shall be filed with the Community Development Department, using forms provided by the Director.

(B) Designation of property as a historic or cultural landmark is classified as a Type IV procedure, and is subject to all of the procedures and timelines outlined in the Development Code. Designation requires public hearings before the following review bodies:

(1) HLB; and

(2) City Council.

(C) If the HLB acts to reject a proposed designation, no further action shall be taken unless the applicant files an appeal of the action with the City Council.

(D) If the City Council acts to approve the proposed designation, or to approve the proposal with modifications, it shall adopt an ordinance setting forth the findings of fact on which such approval is based, and order an amendment of the zoning map to label the designated property with the Historic Landmarks (HL) overlay zone. Immediately upon designation of the property as a landmark, the designated landmark (not the entire tax lot) shall be subject to the provisions of this subchapter.

(E) Individual historic resources listed on the National Register of Historic Places shall automatically receive landmark designation on the date the property is listed. However, a landmark that is removed from the National Register of Historic Places will retain its local landmark designation unless the designation is removed through the procedures listed in this subchapter.

(Prior Code, § 9.155) (Ord. 2009-04, passed 3-9-2009)

§ 35.071 PROCEDURE FOR REMOVAL OF A LANDMARK DESIGNATION.

(A) Removal of a designated landmark from the Historic Register may be proposed by a property owner or his or her authorized agent, by the HLB, or by the City Council. An application shall be filed with the Community Development Department.

(B) Removal of a designated landmark from the Historic Register is classified as a Type IV procedure, and is subject to all of the notice procedures and timelines outlined in the Development Code. Removal of the landmark designation requires two sequential public hearings before the following review bodies:

(1) Historic Landmarks Board; and

(2) City Council.

(C) The HLB shall make its decision on the basis of the criteria contained in § 35.070 and shall make specific findings of fact as to whether the landmark has lost its historic or cultural value based on these criteria.

(D) If the HLB acts to deny a request for removal of a landmark from the Historic Register, no further action shall be taken unless the applicant files an appeal of the Board HLB's action with the City Council.

(E) Within 60 days from the date of the recommendation by the HLB to approve a request to remove a landmark from the Historic Register, the City Council shall conduct a public hearing to consider the request and recommendation of the HLB. Public notice shall be provided in accordance with Type IV procedures. Following the public hearing, the City Council shall act to approve the removal of the landmark designation as requested, or to remove some portion of the landmark from the Historic Register, or to deny the request. When removing a landmark designation from the Historic Register, the ordinance shall amend the zoning map to remove the HL overlay zone from the property.

(Prior Code, § 9.160) (Ord. 2009-04, passed 3-9-2009)

§ 35.072 ANNUAL NOTIFICATION.

(A) Once each year, between January 1 and April 1, the Director shall mail notice to the owners and occupants on which each Historic Register landmark is located and to all owners of properties located within designated historic districts.

(B) The list of owners shall be drawn from the most recent tax roll of the County Assessor. The list of residents shall be drawn from the most recent listings posted in the unified billing accounts of the city.

(C) The purpose of the notice shall be to inform or remind the owners and occupants of each landmark listed on the Historic Register that such landmark has been found by the city to be a significant historic or cultural landmark, and that its listing on the Historic Register subjects the property to certain review requirements.

(D) The notice shall also include, at a minimum, the following:

(1) A brief explanation of the existence and function of the City's Register of Historic and Cultural Landmarks;

(2) A statement that particular actions affecting the exterior appearance of landmarks will require prior review and action by the HLB or city staff, as provided in this subchapter;

(3) A statement that the HLB is available and willing to review on an informal basis any plans that may affect the historic or architectural integrity of the landmark; and

(3) A statement that the Community Development Department has access to resource materials and persons to provide guidance in developing plans for work that may affect the historic or architectural integrity of the landmark, and to assist in researching the history of the landmark.

(Prior Code, § 9.165) (Ord. 2009-04, passed 3-9-2009)

COMMUNITY FORESTRY COMMISSION

§ 35.090 PURPOSE.

(A) The purpose of the Community Forestry Commission (CFC) is to encourage broad-based community representation and to advise City Council on public policy issues affecting Forest Grove and Council adopted Goals and Objectives related to the urban forest. The CFC is directly responsible to the Council.

(B) The CFC shall also serve as the City's Tree Board for Tree City USA® qualification.

(Prior Code, § 9.205) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-04, passed 8-10-2020)

§ 35.091 BYLAWS.

The City Council shall adopt rules of procedure for the Community Forestry Commission following a standard template provided by the City.

§ 35.092 EXPENSES.

Commission members shall be reimbursed for duly authorized expenses.

(Prior Code, § 9.220) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-04, passed 8-10-2020)

§ 35.093 POWERS AND DUTIES.

The CFC is authorized to:

(A) Maintain the city's Significant Tree Register (Tree Register) by:

(1) Holding public hearings for designation of register trees and making recommendations to the City Council consistent with this subchapter.

(2) Holding public hearings for the removal of register tree designation and making recommendations to the City Council consistent with this subchapter.

(B) Promote protection and care of register trees in accordance with best arboriculture practices;

(C) Review proposed activities by the city that may affect protected trees and advise the Director, the Planning Commission, and City Council regarding such matters;

(D) Consider appeals of administrative decisions and Director referrals related to permits for removal or pruning protected trees. Appeals of CFC decisions shall be considered by City Council following the procedures set forth in the Development Code for Type I (Administrative Decisions).

(E) Perform other activities relating to urban forest including, but not limited to:

(1) Providing public education on the history and importance of the Tree Register;

(2) Providing advice to the City Council and other city boards on tree care and best management practices;

(3) Recommending to City Council or Planning Commission revisions to the Forest Grove Tree Protection ordinance contained in the Development Code;

(4) Providing technical information related to community tree issues;

(5) Making recommendations to the City Council for community forestry related programs and policies;

(6) Assist with the preparation and implementation of an urban forestry plan;

(7) Periodically reviewing and making recommendations for updating the Tree Register and urban forestry plan;

(8) Coordinating the city's annual Arbor Day celebration; and

(9) Recommending to the City Council the acceptance of grant funds and donations toward the protection and planting of trees in the community.

(Prior Code, § 9.230) (Ord. 200904, passed 3-9-2009; Ord. 2020-04, passed 8-10-2020)

§ 35.094 CRITERIA AND PROCEDURE FOR DESIGNATION OF REGISTER TREES.

(A) The criteria for designation of register trees are as follows:

(1) *Register Tree criteria.* A tree may be recommended for Tree Register designation if the CFC finds:

(a) The tree has a distinctive size, shape, or location which warrants a significant status;

(b) The tree has a special botanical significance as a specimen in the city area;

(c) The tree possesses exceptional beauty which warrants a significant status;

(d) The tree is significant due to a functional or aesthetic relationship to a natural resource;

(e) Along with one of the above, the tree is significant based upon its association with historic figures, properties, or the general growth and development of the city.

(2) *Grove criteria.* A grove may be recommended for Tree Register designation if the CFC finds:

(a) The grove is relatively mature and evenly aged;

(b) The grove has a purity of species composition, is of a rare or unusual nature, or is an exceptional example of a type of forest such as riparian or woodland;

(c) The grove is in a healthy growing condition;

(d) The grove has a crucial functional and/or aesthetic relationship to a natural resource; or

(e) The grove has a historic significance based upon its association with historic figures, properties, or the general growth and development of the city.

(B) *Update of Tree Register.* Provisions shall be made for periodic updates of the Tree Register as required by changes in the number and condition of significant trees.

(C) *Notification.* Prior to the public hearings specified in division (D) below, each property owner of the tree(s) or grove under consideration for Register Tree status shall be notified by mail. The notice shall inform tree or grove owners that they can request in writing that the tree(s) on their property not be considered for Register status. Attached to the recommendation to Council shall be a list of current property owners who have requested their tree(s) not be placed on the Register. The notice shall also include, at a minimum, the following:

(1) A brief explanation of the existence and function of the city's Tree Register;

(2) A statement that particular actions affecting the tree or grove will require prior review and action by the CFC or city staff, as provided in the Development Code;

(3) A statement that the CFC is available and willing to review on an informal basis any plans that may be prepared for work which might affect the tree or grove; and

(4) A statement that the city can provide resource materials and guidance in developing plans for work which may affect the tree or grove.

(D) *Public hearings.* The designation and updating of the Tree Register is classified as a Type IV procedure and is subject to all of the procedures and timelines outlined in § 17.1.710 of the Development Code. Designation requires public hearing before the following review bodies:

(1) Community Forestry Commission; and

(2) City Council.

(Prior Code, § 9.305) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-04, passed 8-10-2020)

§ 35.095 CRITERIA AND PROCEDURE FOR REMOVAL OF REGISTER TREE DESIGNATION.

(A) Removal of a designated tree from the Tree Register may be proposed by a property owner or his or her authorized agent, by the CFC, by the Director, or by the City Council. In proposing removal, an application shall be prepared and filed with the city, using prescribed forms. Notice of the public hearing shall be given as prescribed in §§ 17.1.610 and 17.1.620 of the Development Code for a Type III review.

(B) The CFC shall hold a public hearing, adopt findings addressing the criteria and make are commendation to the City Council.

(1) The CFC shall make its decision on the basis of the criteria contained in § 17.5.140(C) of the Development Code and shall make specific findings of fact as to whether the tree has lost its significant value based on these criteria.

(Prior Code, § 9.310) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-04, passed 8-10-2020)

§ 35.096 ANNUAL NOTIFICATION OF REGISTER TREE OWNERS.

(A) Once each year, between January 1 and April 1, the city shall mail a notice to the owners and occupants of the property on which each register tree is located.

(B) The list of owners shall be drawn from the most recent tax roll of the County Assessor. The list of occupants shall be drawn from the most recent listings posted in the unified billing accounts of the city.

(C) The purpose of the notice shall be to inform or to remind the owners and occupants of the property that such tree or grove has been found by the city to be a significant tree or grove, and that its listing on the Tree Register subjects the tree or grove to certain review requirements and may require permit and city approval.

(Prior Code, § 9.315) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-04, passed 8-10-2020)

FISCAL IMPACT:

Adoption of the ordinance will have no fiscal impact on the City.

STAFF RECOMMENDATION:

Staff recommends City Council approve the attached ordinance and corresponding bylaws.

ATTACHMENT:

- Ordinance 2024-03 with Exhibit A: Amended Code
- Proposed CFC Bylaws
- Proposed HLB Bylaws

ORDINANCE NO. 2024-03

**ORDINANCE AMENDING TITLE III (ADMINISTRATION), CHAPTER 35
(CITY ORGANIZATIONS), §35.065 THROUGH §35.095 OF CITY CODE,
RELATING TO HISTORIC LANDMARKS BOARD AND
COMMUNITY FORESTRY COMMISSION**

WHEREAS, the Historic Landmarks Board (HLB) was established by Ordinance No. 1980-15, which was adopted by the City Council on September 8, 1980, and its current bylaws set by Ordinance 2020-02; and

WHEREAS, the Community Forestry Commission (CFC) was established by Resolution No. 1992-23, which was adopted by the City Council on May 26, 1992, and its current bylaws set by Ordinance 2020-04; and

WHEREAS, pursuant to Resolution No. 2023-54, the Council amended its Council Rules of Procedure, §14, relating to the Advisory Boards, Commissions and Committees (B/C); and

WHEREAS, as set forth in the Council Rules of Procedure, § 14.15, bylaws shall follow a standard template provided by the City and must be approved by Council Resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE
AS FOLLOWS:**

Section 1. The City Council hereby amends Forest Grove Code of Ordinances Title III (Administration) §35.065 through §35.095 to read as shown in Exhibit A.

Section 2. This Ordinance is effective 30 days following its enactment by the City Council.

PRESENTED AND PASSED first reading this 12th day of February, 2024.

PASSED the second reading this 26th day of February, 2024.

Mariah S. Woods, City Recorder

APPROVED by the Mayor this 26th day of February, 2024.

Malynda H. Wenzl, Mayor

HISTORIC LANDMARKS BOARD

§ 35.065 PURPOSE.

(A) The purpose of the Historic Landmarks Board (HLB) is to encourage broad-based community representation and to advise City Council on public policy issues affecting Forest Grove and Council-adopted Goals and Objectives. The HLB is directly responsible to the Council.

(B) The further purpose of the HLB is to maintain a comprehensive program to identify, designate, and protect the history, culture, archaeology, and landscape of the City.

(Prior Code, § 9.105) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-02, passed 5-26-2020)

§ 35.066 BYLAWS.

The City Council shall adopt rules of procedure for the Historic Landmarks Board following a standard template provided by the City.

§ 35.067 EXPENSES.

Commission members shall be reimbursed for duly authorized expenses.

(Prior Code, § 9.125) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-02, passed 5-26-2020)

§ 35.068 POWERS AND DUTIES.

The HLB is authorized to:

(A) Maintain the City's Register of Historic and Cultural Landmarks (Historic Register), by recommending to the City Council:

(1) the designation of historic or cultural landmark properties that meet the criteria for designation. All such designated landmarks shall be included in the Historic Register; and

(2) the removal of a landmark from the Historic Register.

(B) Regulate and protect landmarks through the review and approval or disapproval of certain proposed changes in accordance with the criteria for alterations or demolition of landmarks as contained in the Development Code;

(C) Review proposed activities by the City and other agencies that may seriously affect designated landmarks and advise the Planning Commission and City Council regarding such matters;

(D) Perform other activities relating to historic and cultural landmark preservation, including, but not limited to:

(1) Providing public education on the historic, scenic, and cultural landmarks of the city;

(2) Providing advice to the City Council and other city boards on preservation of historic and cultural landmarks;

(3) Providing technical economic information on preservation of historic and cultural landmarks;

(4) Making recommendations to the City Council for historic and cultural landmark preservation programs, such as tax incentives to preserve designated landmarks;

(5) Securing the views of the public and owners of landmarks regarding the community's cultural, historic, and scenic values;

(6) Maintaining criteria for inventory and evaluation to implement the purposes of this section;

(7) Periodically reviewing and making recommendations for updating the Historic Register; and

(8) Recommending to the City Council the acceptance of donations of funds and property, including partial interest in property such as facade easements.

(Prior Code, § 9.135) (Ord. 2009-04, passed 3-9-2009)

§ 35.069 CRITERIA FOR LANDMARK DESIGNATION.

The HLB may recommend that the City Council designate as a historic or cultural landmark and include in the Historic Register: any structure; archaeological or prehistoric site; or historic site, upon a finding by the HLB that the subject property:

(A) Is associated with events that have made a significant contribution to the history of the city, the county, the state, or the nation;

(B) Is associated with the lives of persons holding a significant place in the history of the city, the county, the state, or the nation;

(C) Embodies distinguishing architectural characteristics, in exterior design, of a period, style, method of construction, craftsmanship, or in use of indigenous materials;

(D) Is representative of the work of a designer, architect, or master builder who influenced the development and appearance of the city, the state, the Pacific Northwest, or the nation; and

(E) In the case of proposed designation of a site, yields or may be likely to yield information in history, prehistory, or archaeology.

(Prior Code, § 9.150) (Ord. 2009-04, passed 3-9-2009)

§ 35.070 PROCEDURE FOR LANDMARK DESIGNATION.

(A) Designation of property as a historic or cultural landmark may be proposed by a property owner or his or her authorized agent, by the HLB, or by the City Council. An application shall be filed with the Community Development Department, using forms provided by the Director.

(B) Designation of property as a historic or cultural landmark is classified as a Type IV procedure, and is subject to all of the procedures and timelines outlined in the Development Code. Designation requires public hearings before the following review bodies:

(1) HLB; and

(2) City Council.

(C) If the HLB acts to reject a proposed designation, no further action shall be taken unless the applicant files an appeal of the action with the City Council.

(D) If the City Council acts to approve the proposed designation, or to approve the proposal with modifications, it shall adopt an ordinance setting forth the findings of fact on which such approval is based, and order an amendment of the zoning map to label the designated property with the Historic Landmarks (HL) overlay zone. Immediately upon designation of the property as a landmark, the designated landmark (not the entire tax lot) shall be subject to the provisions of this subchapter.

(E) Individual historic resources listed on the National Register of Historic Places shall automatically receive landmark designation on the date the property is listed. However, a landmark that is removed from the National Register of Historic Places will retain its local landmark designation unless the designation is removed through the procedures listed in this subchapter.

(Prior Code, § 9.155) (Ord. 2009-04, passed 3-9-2009)

§ 35.071 PROCEDURE FOR REMOVAL OF A LANDMARK DESIGNATION.

(A) Removal of a designated landmark from the Historic Register may be proposed by a property owner or his or her authorized agent, by the HLB, or by the City Council. An application shall be filed with the Community Development Department.

(B) Removal of a designated landmark from the Historic Register is classified as a Type IV procedure, and is subject to all of the notice procedures and timelines outlined in the Development Code. Removal of the landmark designation requires two sequential public hearings before the following review bodies:

(1) Historic Landmarks Board; and

(2) City Council.

(C) The HLB shall make its decision on the basis of the criteria contained in § 35.070 and shall make specific findings of fact as to whether the landmark has lost its historic or cultural value based on these criteria.

(D) If the HLB acts to deny a request for removal of a landmark from the Historic Register, no further action shall be taken unless the applicant files an appeal of the ~~Board~~ HLB's action with the City Council.

(E) Within 60 days from the date of the recommendation by the HLB to approve a request to remove a landmark from the Historic Register, the City Council shall conduct a public hearing to consider the request and recommendation of the HLB. Public notice shall be provided in accordance with Type IV procedures. Following the public hearing, the City Council shall act to approve the removal of the landmark designation as requested, or to remove some portion of the landmark from the Historic Register, or to deny the request. When removing a landmark designation from the Historic Register, the ordinance shall amend the zoning map to remove the HL overlay zone from the property.

(Prior Code, § 9.160) (Ord. 2009-04, passed 3-9-2009)

§ 35.072 ANNUAL NOTIFICATION.

(A) Once each year, between January 1 and April 1, the Director shall mail notice to the owners and occupants on which each Historic Register landmark is located and to all owners of properties located within designated historic districts.

(B) The list of owners shall be drawn from the most recent tax roll of the County Assessor. The list of residents shall be drawn from the most recent listings posted in the unified billing accounts of the city.

(C) The purpose of the notice shall be to inform or remind the owners and occupants of each landmark listed on the Historic Register that such landmark has been found by the

city to be a significant historic or cultural landmark, and that its listing on the Historic Register subjects the property to certain review requirements.

(D) The notice shall also include, at a minimum, the following:

(1) A brief explanation of the existence and function of the City's Register of Historic and Cultural Landmarks;

(2) A statement that particular actions affecting the exterior appearance of landmarks will require prior review and action by the HLB or city staff, as provided in this subchapter;

(3) A statement that the HLB is available and willing to review on an informal basis any plans that may affect the historic or architectural integrity of the landmark; and

(3) A statement that the Community Development Department has access to resource materials and persons to provide guidance in developing plans for work that may affect the historic or architectural integrity of the landmark, and to assist in researching the history of the landmark.

(Prior Code, § 9.165) (Ord. 2009-04, passed 3-9-2009)

COMMUNITY FORESTRY COMMISSION

§ 35.090 PURPOSE.

(A) The purpose of the Community Forestry Commission (CFC) is to encourage broad-based community representation and to advise City Council on public policy issues affecting Forest Grove and Council adopted Goals and Objectives related to the urban forest. The CFC is directly responsible to the Council.

(B) The CFC shall also serve as the City's Tree Board for Tree City USA® qualification.

(Prior Code, § 9.205) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-04, passed 8-10-2020)

§ 35.091 BYLAWS.

The City Council shall adopt rules of procedure for the Community Forestry Commission following a standard template provided by the City.

§ 35.092 EXPENSES.

Commission members shall be reimbursed for duly authorized expenses.

(Prior Code, § 9.220) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-04, passed 8-10-2020)

§ 35.093 POWERS AND DUTIES.

The CFC is authorized to:

(A) Maintain the city's Significant Tree Register (Tree Register) by:

(1) Holding public hearings for designation of register trees and making recommendations to the City Council consistent with this subchapter.

(2) Holding public hearings for the removal of register tree designation and making recommendations to the City Council consistent with this subchapter.

(B) Promote protection and care of register trees in accordance with best arboriculture practices;

(C) Review proposed activities by the city that may affect protected trees and advise the Director, the Planning Commission, and City Council regarding such matters;

(D) Consider appeals of administrative decisions and Director referrals related to permits for removal or pruning protected trees. Appeals of CFC decisions shall be considered by City Council following the procedures set forth in the Development Code for Type I (Administrative Decisions).

(E) Perform other activities relating to urban forest including, but not limited to:

(1) Providing public education on the history and importance of the Tree Register;

(2) Providing advice to the City Council and other city boards on tree care and best management practices;

(3) Recommending to City Council or Planning Commission revisions to the Forest Grove Tree Protection ordinance contained in the Development Code;

(4) Providing technical information related to community tree issues;

(5) Making recommendations to the City Council for community forestry related programs and policies;

(6) Assist with the preparation and implementation of an urban forestry plan;

(7) Periodically reviewing and making recommendations for updating the Tree Register and urban forestry plan;

(8) Coordinating the city's annual Arbor Day celebration; and

(9) Recommending to the City Council the acceptance of grant funds and donations toward the protection and planting of trees in the community.

(Prior Code, § 9.230) (Ord. 200904, passed 3-9-2009; Ord. 2020-04, passed 8-10-2020)

§ 35.094 CRITERIA AND PROCEDURE FOR DESIGNATION OF REGISTER TREES.

(A) The criteria for designation of register trees are as follows:

(1) *Register Tree criteria.* A tree may be recommended for Tree Register designation if the CFC finds:

(a) The tree has a distinctive size, shape, or location which warrants a significant status;

(b) The tree has a special botanical significance as a specimen in the city area;

(c) The tree possesses exceptional beauty which warrants a significant status;

(d) The tree is significant due to a functional or aesthetic relationship to a natural resource;

(e) Along with one of the above, the tree is significant based upon its association with historic figures, properties, or the general growth and development of the city.

(2) *Grove criteria.* A grove may be recommended for Tree Register designation if the CFC finds:

(a) The grove is relatively mature and evenly aged;

(b) The grove has a purity of species composition, is of a rare or unusual nature, or is an exceptional example of a type of forest such as riparian or woodland;

(c) The grove is in a healthy growing condition;

(d) The grove has a crucial functional and/or aesthetic relationship to a natural resource;
or

(e) The grove has a historic significance based upon its association with historic figures, properties, or the general growth and development of the city.

(B) *Update of Tree Register.* Provisions shall be made for periodic updates of the Tree Register as required by changes in the number and condition of significant trees.

(C) *Notification*. Prior to the public hearings specified in division (D) below, each property owner of the tree(s) or grove under consideration for Register Tree status shall be notified by mail. The notice shall inform tree or grove owners that they can request in writing that the tree(s) on their property not be considered for Register status. Attached to the recommendation to Council shall be a list of current property owners who have requested their tree(s) not be placed on the Register. The notice shall also include, at a minimum, the following:

- (1) A brief explanation of the existence and function of the city's Tree Register;
- (2) A statement that particular actions affecting the tree or grove will require prior review and action by the CFC or city staff, as provided in the Development Code;
- (3) A statement that the CFC is available and willing to review on an informal basis any plans that may be prepared for work which might affect the tree or grove; and
- (4) A statement that the city can provide resource materials and guidance in developing plans for work which may affect the tree or grove.

(D) *Public hearings*. The designation and updating of the Tree Register is classified as a Type IV procedure and is subject to all of the procedures and timelines outlined in § 17.1.710 of the Development Code. Designation requires public hearing before the following review bodies:

- (1) Community Forestry Commission; and
- (2) City Council.

(Prior Code, § 9.305) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-04, passed 8-10-2020)

§ 35.095 CRITERIA AND PROCEDURE FOR REMOVAL OF REGISTER TREE DESIGNATION.

(A) Removal of a designated tree from the Tree Register may be proposed by a property owner or his or her authorized agent, by the CFC, by the Director, or by the City Council. In proposing removal, an application shall be prepared and filed with the city, using prescribed forms. Notice of the public hearing shall be given as prescribed in §§ 17.1.610 and 17.1.620 of the Development Code for a Type III review.

(B) The CFC shall hold a public hearing, adopt findings addressing the criteria and make a recommendation to the City Council.

- (1) The CFC shall make its decision on the basis of the criteria contained in § 17.5.140(C) of the Development Code and shall make specific findings of fact as to whether the tree has lost its significant value based on these criteria.

(Prior Code, § 9.310) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-04, passed 8-10-2020)

§ 35.096 ANNUAL NOTIFICATION OF REGISTER TREE OWNERS.

(A) Once each year, between January 1 and April 1, the city shall mail a notice to the owners and occupants of the property on which each register tree is located.

(B) The list of owners shall be drawn from the most recent tax roll of the County Assessor. The list of occupants shall be drawn from the most recent listings posted in the unified billing accounts of the city.

(C) The purpose of the notice shall be to inform or to remind the owners and occupants of the property that such tree or grove has been found by the city to be a significant tree or grove, and that its listing on the Tree Register subjects the tree or grove to certain review requirements and may require permit and city approval.

(Prior Code, § 9.315) (Ord. 2009-04, passed 3-9-2009; Ord. 2020-04, passed 8-10-2020)

Community Forestry Commission Bylaws

Section 1: Community Forestry Commission (herein referred to as CFC)

Section 2: Established by Council Resolution No. 1992-23 on May 26, 1992

Section 3: Purpose

1. The purpose of the CFC is to encourage broad-based community representation and to advise City Council within the scope of Council Goals and objectives, unless otherwise directed by Council.
2. The purpose of Community Forestry Commission, Code § 35.090-35.099, is to encourage broad-based community representation and advise City Council on public policy issues affecting Forest Grove and Council adopted Goals and Objectives related to the urban forest.
3. The Community Forestry Commission serves as the City's Tree Board for Tree City USA® qualification and works to increase the number of trees in the community through planting programs, education and protection of existing trees.

Section 4: Powers and Responsibilities/Objectives

1. Maintain the City's Significant Tree Register;
2. Promote activities relating to urban forest, tree care and best management practices;
3. Recommend to City Council or Planning Commission revisions to the Forest Grove Tree Protection ordinance contained in the Development Code;
4. Coordinate the City's annual Arbor Day celebration; and
5. Make funding recommendations for the Tree Management Program.

Section 5: Organization and Structure

1. Membership:
 - a. CFC shall be composed of 7 members and one student member.
 - b. A maximum of 2 members may reside outside of city limits, so long as those members reside within the Forest Grove School District. All remaining Members must live within the City limits.
 - c. Members are selected from a variety of organizations, interest groups and people with expertise in the growing, planting, and maintenance of trees, and community at-large.
 - d. Members are required to attend any assigned trainings.
 - e. An individual member may not act in an official capacity.

- f. The City Council may remove a member for any reason, including neglect of duty or malfeasance in office.
- g. Members serve without compensation.

2. Terms of Office:

- a. Members shall be voting members and serve four (4) year terms. Student members shall be voting members and serve two (2) year terms. Student appointees must be high school grade level and residing or attending school, including home-schooled, in Forest Grove.
- b. Terms shall be staggered evenly amongst the membership, beginning January 1 and ending December 31.
- c. Members may not serve on more than two (2) B/Cs concurrently.
- d. Appointments to vacant positions may be filled for the unexpired term with consent of Council.

3. Officers:

The Chair and Vice Chair shall be elected by the voting members at the first regularly scheduled meeting of each year. A member may not serve as chair for more than 48-consecutive months.

4. Powers and Duties of Officers:

In the absence of the Chair and Vice Chair, the member with the longest continuous service shall serve as Presiding Officer pro tempore until such time the meeting is adjourned.

(1) Chair shall:

- a. Preside over and facilitate all meetings, preserve order, enforce rules and determine the order of business.
- b. Compose the meeting agenda in consultation with the staff liaison, specifying the time, place and purpose of the meeting and listing the subjects anticipated to be considered. The agenda shall follow a standard template provided by the City.
- c. A member may propose placing an item on the agenda at a regularly scheduled meeting. If approved by a majority of voting members present, the item will be placed on the next regularly scheduled meeting agenda or an agreed upon future agenda.
- d. Ensure that all actions are properly taken and recorded and, if required, sign findings and recommendations.
- e. Present recommendations to the City Council.
- f. Submit and present an Annual Report to the City Council, following a standard template provided by the City.

(2) Vice Chair shall:

Preside in the absence of the Chair and acts as Chair when the Chair is unable to perform duties.

Section 6: Meeting Procedures and Quorum

1. Meetings:

- a. All meetings and hearings shall be held at a designated date, place and time in compliance with Public Meetings Law (ORS Chapter 192) and subject to Public Records Law (ORS Chapter 192).
- b. CFC shall hold meetings no less than four (4) times a year.
- c. In January of each year, CFC shall adopt a schedule of its meetings for the coming year, and schedule its Annual Report presentation to the City Council.
- d. The meeting agenda and packet shall be distributed and noticed at least five (5) days prior to the meeting.
- e. All meetings are open to the public. Anyone wishing to speak may do so under *Citizen Communications*. Comments may be limited to three (3) minutes per person.
- f. The student member may provide a report at every meeting.
- g. A public meeting is defined as two (2) or more members meeting who have been delegated authority by the B/C to advise or make recommendations.
- h. CFC may form subcommittees to address specific topics only with approval from the City Council.

2. Minutes:

- a. Written minutes are required for all meetings.
- b. The minutes shall follow a standard template provided by the City.
- c. The meeting minutes shall briefly summarize what took place and must include: 1) any action items, 2) attendance, and 3) vote of each member. Verbatim minutes are not required.
- d. CFC may appoint a secretary at the first regularly scheduled meeting of each year to take the B/C meeting minutes.
- e. Staff may take minutes if the B/C requests the City to do so.
- f. Staff shall review the minutes to assure compliance with state law.
- g. Staff shall post the approved minutes to the website as soon as possible.

3. Attendance:

- a. Members are expected to attend every meeting.
- b. Members shall notify the staff liaison prior to the regular meeting to report an absence.
- c. The City Recorder's Office shall notify any member who has three (3) or more absences in a 12-month period that their position may be subject to vacancy.
- d. The Chair, with the consent of the B/C, may submit a recommendation to City Council to deem a member's position vacant for three (3) or more absences in a 12-month period.

4. Quorum:

Unless otherwise required by state law, a majority of the total number of

voting members constitutes a quorum.

5. Voting and Decision Making:

- a. *Roberts Rules of Order Newly Revised* shall govern all proceedings unless they conflict with these rules.
- b. The Chair has the right to vote whenever a vote is cast. In the case of a tie vote, the motion fails.

6. Conflicts of Interest and Ethics Law:

- a. Members are considered public officials subject to the Oregon Government Ethics Law (ORS 244), which seeks to prevent a public official from receiving financial gain or avoiding a financial detriment because of their status as a public official. A civil penalty may be imposed by the State for each violation of any provision of the ORS.
- b. Members are subject to the Restrictions on Political Campaigning when acting in official capacity (ORS 260.432).
- c. CFC shall not conduct fundraising activities without authorization from the Council.

7. Role of Council Liaison:

- a. The Council liaison shall be a non-voting member.
- b. Communicate between the B/C and the Council, representing each group's collective interest to the other, and ensuring that B/C is working within Council Goals and Objectives
- c. Actively attend and report to each entity at their regularly scheduled meetings.

8. Role of Staff Liaison:

- a. Orient newly-appointed members prior to the first meeting on the duties and responsibilities of their positions.
- b. Review the agenda in consultation with the B/C Chair. The agenda shall follow a standard template provided by the City.
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9. Amending Bylaws:

- a. A majority of all members must vote affirmatively to recommend bylaw changes to the City Council.
- b. All bylaws must be approved by the City Council.
- c. Bylaws shall follow a standard template provided by the City.



A place where families and businesses thrive.

Historic Landmarks Board Bylaws

Section 1: Historic Landmarks Board (herein referred to as HLB)

Section 2: Established by Council Ordinance No. 1980-15 on September 8, 1980.

Section 3: Purpose

1. The purpose of the advisory B/C is to encourage broad-based community representation and to advise City Council within the scope of Council Goals and objectives, unless otherwise directed by Council.
2. The purpose of the Historic Landmarks Board, Code § 35.065-35.075, is to encourage broad-based community representation and advise City Council on public policy issues affecting Forest Grove and Council adopted Goals and Objectives related to historic and cultural landmark preservation.
3. The HLB maintains a comprehensive program to identify, designate, and protect the history, culture, archeology, and landscape of the City.

Section 4: Powers and Responsibilities/Objectives

The HLB is authorized to:

1. Maintain the City's Register of Historic and Cultural Landmarks (Historic Register), by recommending to the City Council:
 - a. the designation as historic or cultural landmark properties that meet the criteria for designation. All such designated landmarks shall be included in the Historic Register; and
 - b. the removal of a landmark from the Historic Register.
2. Regulate and protect landmarks through the review and approval or disapproval of certain proposed changes in accordance with the criteria for alterations or demolition of landmarks as contained in the Development Code;
3. Review proposed activities by the City and other agencies that may seriously affect designated landmarks and advise the Planning Commission and City Council regarding such matters;
4. Perform other activities relating to historic and cultural landmark preservation, including, but not limited to:
 - a. Providing public education on the historic, scenic, and cultural landmarks of the city;
 - b. Providing advice to the City Council and other City boards on preservation of historic and cultural landmarks;
 - c. Providing technical economic information on preservation of historic and cultural landmarks;

- d. Making recommendations to the City Council for historic and cultural landmark preservation programs, such as tax incentives to preserve designated landmarks;
- e. Securing the views of the public and owners of landmarks regarding the community's cultural, historic, and scenic values;
- f. Maintaining criteria for inventory and evaluation to implement the purposes of this section;
- g. Periodically reviewing and making recommendations for updating the Historic Register; and
- h. Recommending to the City Council the acceptance of donations of funds and property, including partial interest in property such as facade easements.
- i. Adopt rules and procedures for the operation of the HLB.

Section 5: Organization and Structure

1. Membership:

- a. HLB shall be composed of 7 members and one student member.
- b. A maximum of 2 members may reside outside of city limits, so long as those members reside within the Forest Grove School District. All remaining Members must live within the City limits.
- c. All members shall have a demonstrated positive interest, competence or knowledge of historic preservation.
- d. Members are required to attend any assigned trainings.
- e. An individual member may not act in an official capacity.
- f. The City Council may remove a member for any reason, including neglect of duty or malfeasance in office.
- g. Members serve without compensation.

2. Terms of Office:

- a. Members shall be voting members and serve four (4) year terms. Student members shall be voting members and serve two (2) year terms. Student appointees must be high school grade level and residing or attending school, including home-schooled, in Forest Grove.
- b. Terms shall be staggered evenly amongst the membership, beginning January 1 and ending December 31.
- c. Members may not serve on more than two (2) B/Cs concurrently.
- d. Appointments to vacant positions may be filled for the unexpired term with consent of Council.

3. Officers:

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**City Council - Public Hearing Script
February 12, 2024**

**First Reading of Ordinance 2024-03
CFC and HLB Code Updates**

Instructional Note: Only read text in blue.

GAVEL – I will now open the public hearing on Ordinance Number 2024-03, amending Title III (Administration), Chapter 35 (City Organizations), §35.065 through §35.095 of City Code, relating to Historic Landmarks Board and Community Forestry Commission.

If approved by the City Council, this ordinance will amend the Forest Grove City Code to remove the bylaw language from the Community Forestry Commission and Historic Landmarks Board sections.

Question for staff – Are there additional comments or evidence that staff would like to enter into the record?

Do any Councilors have questions for staff?

Public hearing and testimony – I will now call on persons who signed up to comment on the ordinance. Comments are limited to 3 minutes. Please state your name and address for the record. Call on proponents, opponents, and other comments.

Close the hearing – The hearing is now closed. **GAVEL**

Is there a motion from Council to approve the second reading of Ordinance number 2024-03?

Are there additional questions or further discussion from Council on the motion before we proceed with the roll call vote?

City Manager please read Ordinance 2024-03 by title only.

City Recorder please call the roll.

The vote is _____. Ordinance 2024-03 is adopted (or fails).



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<u>CITY RECORDER USE ONLY:</u>	
AGENDA ITEM #:	
MEETING DATE:	02/ 12/2024
FINAL ACTION:	Order 2024-03

CITY COUNCIL STAFF REPORT

TO: *City Council*

FROM: *Jesse VanderZanden, City Manager*

MEETING DATE: *February 12, 2024*

PROJECT TEAM: *Bryan Pohl, Community Development Director*

SUBJECT TITLE: *Appeal of staff's approval of an emergency shelter using 12-16 sleeping pods at 2500 22nd Avenue.*

ACTION REQUESTED:

☐	Ordinance	☒	Order	☐	Resolution	☐	Motion	☐	Informational
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X all that apply

ADDENDUM FOR FEBRUARY 12, 2024 COUNCIL MEETING

At its January 22, 2024 meeting, the Forest Grove City Council held a quasi judicial appeal public hearing. At this hearing, staff gave its presentation of the background and legislative history, the applicable criteria according to ORS 197.782 and ORS197.783, the process used for the proposal, staff's findings and conclusions, and the contents of the appeal. The Council also heard testimony from the applicant, as well as the opponents and proponents of the proposal. During this appeal hearing, Council expressed concern about the village's potential impact on the community and expressed a desire to place additional conditions on the approval of the village.

In order to ensure that the pod village would not pose any unreasonable risk to public health and safety, Council moved to add two conditions to the approval of this proposal. These additional conditions have been incorporated into the attached Order in Attachment A. The first motion was approved on a 5-1 vote and the second was approved on a 6-0 vote. The Council then, being fully apprised of all arguments in favor and opposed to the Director's approval of this proposal, voted 6-0 to deny the appeal and uphold the Director's decision.

The approval of this order is to memorialize and certify the decision of the Council at its January 22 meeting. The attached order has incorporated the motions of the Council and is proposed for approval. Staff will be available for any questions at the February 12, 2024 meeting. What follows below this addendum is the original staff report for the January 22nd meeting.

STAFF REPORT FROM JANUARY 22, 2024

BACKGROUND: The Forest Grove Foundation submitted an application to develop the property at 2500 22nd Avenue with 12-16 emergency sleeping pods. This application was made under ORS 197.782 and ORS 197.783, which are more commonly known as Oregon House Bill 2006 (2021). These regulations require local jurisdictions to approve emergency shelters, so long as the development of the shelter meets the following criteria:

A local government shall approve an application for the development or use of land for an emergency shelter..., if the emergency shelter:

- a) Includes sleeping and restroom facilities for clients;*
- b) Will comply with applicable building codes;*
- c) Is located inside an urban growth boundary or in an area zoned for rural residential use as defined in ORS 215.501 (Conversion of historic homes to accessory dwelling units in rural residential zones);*
- d) Will not result in the development of a new building that is sited within an area designated under a statewide planning goal relating to natural disasters and hazards, including flood plains or mapped environmental health hazards, unless the development complies with regulations directly related to the hazard;*
- e) Has adequate transportation access to commercial and medical services; and*
- f) Will not pose any unreasonable risk to public health or safety.*

Additionally, the statute mandates that the entity that operates the shelter meet the following criteria:

(2) An emergency shelter allowed under this section must be operated by:

- (a) A local government as defined in ORS 174.116;*
- (b) An organization with at least two years' experience operating an emergency shelter using best practices that is:*
 - (A) A local housing authority as defined in ORS 456.375;*
 - (B) A religious corporation as defined in ORS 65.001; or*
 - (C) A public benefit corporation, as defined in ORS 65.001, whose charitable purpose includes the support of homeless individuals, that has been recognized as exempt from income tax under section 501(a) of the Internal Revenue Code on or before January 1, 2018; or*
- (c) A nonprofit corporation partnering with any other entity described in this subsection*

The statute does not require, nor preclude, any certain process the City must follow when reviewing a proposal submitted under the statute, except that it specifies that the city's decision is not a "land use decision." Therefore, the City's land use regulations do not apply and the ordinary procedures the city would follow to review a development application also do not apply. As such, the City was required to create a process for reviewing the application, providing public notice, and making a final decision.

With respect to this specific proposal, the City used an administrative review process with notice to surrounding property owners and the right to appeal to the City Council. Specifically, the Forest Grove Foundation provided a direct invitation to surrounding property owners within 300 feet of the site and held an informational neighborhood meeting on October 16, 2023. The application was then filed on

October 24, 2023. Notice of the pending administrative decision and an invitation to provide comments was sent to surrounding property owners on November 15, 2023. Subsequent to that notice of the pending administrative decision, a deficiency in the notice was discovered and amended notice was sent to the surrounding property owners with a new 14-day comment period. The comment period closed on December 12, 2023, and no comments were received. Thus, staff issued its approval decision on December 13, 2023. This appeal was filed on December 20, 2023. Two additional letters of correspondence were received on December 26th and December 27th. These additional letters did not specifically ask for an appeal, but the issues raised in them are included as additional correspondence. In addition to the entire original mailing list, the appellant and both parties who submitted letters during the appeal period have been notified of this public appeal hearing.

Both the Foundation's proposal and associated documents, as well as staff's analysis and findings of fact are attached. The issues raised on appeal are enumerated in the PowerPoint presentation and all focus on the "*Will not pose any unreasonable risk to public health or safety,*" criterion. Staff will present the PowerPoint presentation and be available for any questions about process and the staff decision. Otherwise, questions should be directed to the Forest Grove Foundation representatives.

FISCAL IMPACT: There will be no fiscal impact to the City.

STAFF RECOMMENDATION: Staff recommends upholding staff's decision and denying the appeal.

ATTACHMENTS:

Attachment A: Order 2024-03

Exhibit A: Pod Village Staff Report and Findings and Conclusions

Attachment B: Proposal and accompanying materials provided by Forest Grove Foundation

Attachment C: Appeal letter and additional correspondence received during appeal period

ORDER NO. 2024-03

ORDER DENYING THE APPEAL AND UPHOLDING THE DIRECTOR'S DECISION TO APPROVE AN EMERGENCY SHELTER UTILIZING TWELVE TO SIXTEEN UNIT SLEEPING PODS ON PROPERTY KNOWN AS 2500 22ND STREET IN FOREST GROVE; FILE NO. 311-23-000786-RSCH

WHEREAS, ORS 197.782 and ORS 197.783 authorize a person or organization to submit an application to establish an emergency shelter and require the City of Forest Grove (City) to approve the application provided it meets certain criteria described in the statutes; and

WHEREAS, on October 16, 2023, the Forest Grove Foundation (Foundation) held a community meeting to discuss a proposal to develop an emergency shelter at 2500 22nd Avenue (the Site) in Forest Grove; and

WHEREAS, on October 24, 2023, the Foundation submitted an application to the Department of Community Development for approval of an emergency shelter at the Site using twelve to sixteen sleeping pods; and

WHEREAS, City staff provided the owners of property within 300 feet of the Site with mailed Notice of Pending Administrative Decision on November 15 and November 28, 2023; and

WHEREAS, the Community Development Director issued written findings and a decision on December 13, 2023, approving the Foundation's application; and

WHEREAS, notice of the decision was sent to surrounding property owners within 300 feet of the Site on December 13, 2023; and

WHEREAS, an appeal of the Director's decision was filed on December 20, 2023; and

WHEREAS, notice of the appeal hearing was sent on January 4, 2024; and

WHEREAS, a hearing on the application was held on January 22, 2024, before the City Council; and

WHEREAS, the City Council heard testimony from staff, the Foundation, proponents and opponents of the application; and

WHEREAS, in response to concerns raised during public testimony, the City Council sought assurance that any unreasonable risk to public health and safety could be mitigated by additional conditions of approval; and

WHEREAS, Council voted 6-0 to deny the appeal and approve the application with two additional conditions of approval;

NOW, THEREFORE, THE CITY OF FOREST GROVE ORDERS AS FOLLOWS:

Section 1. Based on the evidence and testimony in the record, the appeal of the Community Development Director's decision to approve the application for an emergency shelter at 2500 22nd Avenue is denied and the application is APPROVED.

Section 2. In support of this decision, the City Council adopts the findings and conditions of approval set forth in the Pod Village Staff Report and Recommendation dated December 13, 2023, attached as Exhibit A to this Order.

Section 3. In addition to the conditions of approval described in Exhibit A, the City Council adopts the following conditions of approval:

- a) Prior to opening the emergency shelter to the first resident, the applicant shall submit a facility management plan to the Community Development Director that demonstrates that the pod village will not pose any unreasonable risk to public health or safety. The management plan shall include a detailed description of program operations, rules for residents and community relations. The management plan shall provide for full-time, 24-hour on-site management and monitoring.
- b) This approval expires three years from the date of approval shown below, unless renewed by the City. Renewal requires a new application that demonstrates compliance with all applicable state and local laws.

PRESENTED, this 12th day of February, 2024.

Mariah S. Woods, City Recorder

APPROVED by the Mayor this 12th day of February, 2024.

Malynda H. Wenzl, Mayor

EXHIBIT A

STAFF FINDINGS AND ANALYSIS FOR

DECEMBER 13, 2023 APPROVAL

Pod Village Staff Report

Staff Report and Recommendation

Community Development Department

REPORT DATE: December 13, 2023

REQUEST: Approval of a 12-16 unit pod village

FILE NUMBER: 311-23-000786-RSCH

PROPERTY LOCATION: 2500 22nd Ave, Forest Grove, OR 97116

LEGAL DESCRIPTION: Washington County Tax Lot 1N331DC05000

OWNER/APPLICANT(S): Applicant: Forest Grove Foundation by Shawn Cardwell
PO Box 303
Forest Grove, OR 97116

Property Owner:
Steven and Lisa O'Neil
PO Box 1122
Cornelius, OR 97113

APPLICABLE STANDARDS AND CRITERIA: ☐ ORS 197.782 (Emergency shelters provision)

REVIEWING STAFF: Bryan W. Pohl – Director of Community Development

DECISION: Approval with conditions

Order No. 2024-03
Page 4 of 12

I. LEGISLATIVE HISTORY

In 2021, in response to the epidemic of homelessness that was at the time and continues to affect so many communities, the Oregon State Legislature drafted and passed House Bill 2006, a bill that, among other measures, allowed any applications for emergency shelters to be approved without regard to local land use laws. In short, local zoning does not apply to these applications, and they must be reviewed solely by the criteria laid out within this bill. The Bill was codified as ORS 197.782, and has been modified twice, once in the 2022 session to extend its sunset date and once in the 2023 session under what was named the Omnibus Housing Bill.

Upon its original passage in 2021, HB 2006 included a sunset date of July 1, 2022 for the sections that addressed emergency sheltering. Subsequently, in its 2022 session, the Oregon Legislature passed HB 4051, which established a Task Force on Homelessness, but in Section 3 of this bill, the sunset date on the original bill was extended to July 1, 2023.

In 2023, the Oregon Legislature took up many housing-related priorities and packaged them into one Omnibus Housing Bill (HB 3395). While HB 3395 addressed housing and homeless issues on many fronts, it also modified the original emergency sheltering bill in a few meaningful ways. First, in Section 6 of HB 3395, the sunset date on HB 2006 was removed in its entirety, instead opting for a threshold that is based on a point in time count from the United States Department of Housing and Urban Development (HUD). Briefly put, the emergency sheltering provisions of HB 2006 would apply so long as the sheltered and unsheltered homeless population of Oregon exceeds 0.18% of the overall state population, based on state population estimates from Portland State University.

The other meaningful change in HB 3395 came with respect to appeals. A provision was added to the language that would require a non-prevailing party to pay attorney's fees. Because any decision rendered under this law is not a land use decision, it is not appealable to the Oregon Land Use Board of Appeals (LUBA). Instead, any appeal beyond the local level would require an appellant to file a writ of review (ORS 34.010 to 34.100) in circuit court. The bill stipulates that "*A reviewing court shall award attorney's fees to (A) A local government and any intervening applicant that prevails on the appeal of a local government's approval; and (B) An applicant that prevails on an appeal of a local government's denial*".

The request for approval from the Forest Grove Foundation was received on October 17, 2023, and thus will be reviewed under the most recently passed laws governing the siting of emergency shelters in Oregon.

II. PROJECT DESCRIPTION

The Forest Grove Foundation requests approval of a 12-16 unit pod village at 2500 22nd Avenue in Forest Grove. The 0.84-acre site is currently improved with a single-family

dwelling and attached garage. According to the applicant's submittal, the dwelling is 1,152 square feet with two bedrooms and one bathroom. The site is triangular in shape, with the dwelling being located at the northwest corner of the property. It sits at the dead end of 22nd Avenue and is bordered by industrial uses to the north, a tow yard and contractor's office to the west, the Council Creek rail corridor to the south and east, and single-family dwellings across the railway to the south. The site utilizes a septic system as its means of waste disposal, but submitted materials indicate the applicant's intent to convert the property to sanitary sewer service. Sanitary sewer is available at the end of 22nd Avenue. Any approval of this application should be conditioned such that the applicant is required to connect to sanitary sewer.

According to the applicant's submitted materials, the plan is to locate 12-16 pods on the site. The existing dwelling would be retained as a common area for residents. Non-load bearing walls would be removed and the kitchen expanded with commercial kitchen equipment to allow extensive cooking facilities for residents. The plan also calls for additional shower and laundry facilities both in the dwelling and in the attached garage. The applicants also state that the existing dwelling would not be enlarged beyond its current footprint on the site.

III. AGENCY COMMENTS

Engineering Division:

1. To properly serve the property, a manhole should be installed at the end of the existing sanitary sewer line and a new lateral stubbed to the site to accommodate generated sewer flows. It is likely that a 6" lateral will probably be needed. The existing septic system should then be decommissioned.
2. If adding over 1,000 square feet of impervious surface, water quality facility improvements or a fee in lieu to Clean Water Services will be necessary.

Light and Power

1. A new service application will need to be filled out by the applicant if electrical upgrades are needed.
2. Any costs regarding service upgrades will be the responsibility of the developer.
3. Developer shall work directly with Jason O'Dell for electrical needs of development.

Fire Department:

1. Provide minimum rated 2A 10B C portable fire extinguishers in the following locations:
 - a. Near the kitchen or laundry area of the existing house
 - b. In a commonly known area accessible from each group of pods, so that no pod shall exceed 75 feet of travel to access a fire extinguisher.

2. If gates are locked from the outside, a Knox brand key box (with gate code or key inside) is required at the main gate
3. Emergency exit and main gate exit shall be operable from the inside at any time, without any special knowledge, tool, or effort to open
4. Post each pod with an individual address designator, preferably either a letter or number.
 - a. Post approved directional signage near the main entrance for responders to be clear on where they are needed
5. All sleeping areas are to be provided with smoke and carbon monoxide detection, in accordance with Oregon state law.
6. Create a fire safety plan for this property, and make all new residents aware of this plan prior to moving in.
 - a. The fire safety plan shall include the following:
 - i. Emergency evacuation routes and meeting areas
 - ii. Fire safety requirements (no smoking, rules inside pods, no open flames, no wood burning, etc.)
 - iii. Location of fire extinguishers
 - iv. How to call in an emergency, and the address
 - v. Smoke alarm rules, how to test, how to silence, do not tamper with, etc.
 - vi. Any other items the facility feels are necessary

IV. NOTICE AND PUBLIC COMMENT

Notice of pending administrative decision was mailed to property owners within 300 feet of the site on November 15, 2023, and these comments were due by November 29, 2023 at 5pm. During the initial public comment period, a notice deficiency was discovered and new notice was sent directly to property owners on November 28, 2023. Public comments were due by December 12, 2023. No public comments were received on this application.

V. CRITERIA ANALYSIS

The criteria applicable to this application are found in ORS 197.782 Section 3 (1)(a-f), which states:

Sec. 3. Development of emergency shelters.

(1) A local government shall approve an application for the development or use of land for an emergency shelter, as defined in section 2 of this 2021 Act [197.782], on any property, notwithstanding ORS chapter 195, 197, 197A, 215 or 227 or any statewide plan, rule of the Land Conservation and Development Commission or local land use regulation, zoning ordinance, regional framework plan, functional plan or comprehensive plan, if the emergency shelter:

- (a) Includes sleeping and restroom facilities for clients;

- (b) Will comply with applicable building codes;
 - (c) Is located inside an urban growth boundary or in an area zoned for rural residential use as defined in ORS 215.501;
 - (d) Will not result in the development of a new building that is sited within an area designated under a statewide planning goal relating to natural disasters and hazards, including flood plains or mapped environmental health hazards, unless the development complies with regulations directly related to the hazard;
 - (e) Has adequate transportation access to commercial and medical services; and
 - (f) Will not pose any unreasonable risk to public health or safety.
- (2) An emergency shelter allowed under this section must be operated by:
- (a) A local government as defined in ORS 174.116;
 - (b) An organization with at least two years' experience operating an emergency shelter using best practices that is:
 - (A) A local housing authority as defined in ORS 456.375;
 - (B) A religious corporation as defined in ORS 65.001; or
 - (C) A public benefit corporation, as defined in ORS 65.001, whose charitable purpose includes the support of homeless individuals, that has been recognized as exempt from income tax under section 501(a) of the Internal Revenue Code on or before January 1, 2018; or
 - (c) A nonprofit corporation partnering with any other entity described in this subsection.

The analysis of these criteria are as follows:

A. Includes sleeping and restroom facilities for clients;

Applicant's Response: *The project will include 12-16 sleeping pods (approximately 100 sq ft.) for individuals similar to those used at the Clackamas County Veterans Village, St. Johns Village, and Kenton Women's Village. Utilities in these pods will be limited to electricity, but will include light, outlets, and radiant heating panels. The existing house on site will serve as the common building. The house has an existing kitchen, shower, toilet, and laundry, but all of these areas will be expanded upon to increase the capacity of the facility. The current intention is to accomplish this without expanding the footprint of the house by building additional bathrooms and laundry units within the garage.*

Finding: The submitted project narrative and site plan indicate that the proposed development would provide 12-16 heated sleeping pods for unhoused individuals to sleep in. Moreover, according to the project narrative, the existing dwelling unit and garage on site would be modified to provide additional restroom and laundry facilities for the patrons of the village.

Conclusion: The applicant is proposing to meet the criterion through placement of sleeping pods on the site and remodeling of the dwelling to provide adequate services to meet this criterion. Thus, this criterion is met.

B. Will comply with applicable building codes;

Applicant's Response: The project will make minimal changes to the existing site, other than the aforementioned adaptations of the existing building, and necessary site upgrades (such as converting from septic system to connection with the city sewer). While HB 2006 allows a range of units from cabins to tents, the sleeping pods will be built on pressure treated skids, be fully insulated, contain both a door and egress window, and remain under size thresholds that would require foundations, consistent with other villages in the Metro region.

Finding: The applicant addresses the construction of the sleeping pods in their submittal, but does not address the changes to the interior of the dwelling and the garage. Fortunately, staff is able to condition the approval of this application such that the applicant must obtain building permits for any remodeling or renovation undertaken on the existing dwelling and garage. The applicant is correct that sleeping pods are not regulated by the building code.

Section 101.2.2.1 of the Oregon Structural Specialty Code (OSSC) provides that “Transitional Housing Accommodations” are outside of the scope of the OSSC. Additionally, ORS 197.746 outlines “transitional housing accommodations” as “... accommodations [that] are intended to be used by individuals or families on a limited basis for seasonal, emergency or transitional housing purposes and may include yurts, huts, cabins, fabric structures, tents and similar accommodations.”

Conclusion: Given the fact that the applicant’s submittal indicates these pods as emergency shelters for unhoused individuals, the scope of construction for these pod shelters does not fall under the OSSC. Furthermore, since construction on the dwelling on site would still require building permits, this criterion can be met through a condition of approval that would require the applicant to obtain building permits for any construction on the dwelling and its attached garage. Thus, this criterion is met.

- C. Is located inside an urban growth boundary or in an area zoned for rural residential use as defined in ORS 215.501;

Applicant’s Response: The proposed village is within the urban growth boundary.

Finding: The subject site is at 2500 22nd Ave and is Washington County Tax Lot 1N331DC05000. This tax lot is within the urban growth boundary of Forest Grove.

Conclusion: The proposed site is located within the Forest Grove UGB. Thus, this criterion is met.

- D. Will not result in the development of a new building that is sited within an area designated under a statewide planning goal relating to natural disasters and hazards, including flood plains or mapped environmental health hazards, unless the development complies with regulations directly related to the hazard;

Applicant’s Response: The proposed site will not result in this circumstance.

Finding: The subject site does not lie within a mapped floodplain. In fact, according to the floodplain maps available online at the Federal Emergency Management Association’s Map Service Center, the nearest floodplain is almost one mile to the south of the subject site. No other mapped area of sensitivity is present on the site.

Conclusion: Because there are no mapped hazards on the site, this criterion is met.

- E. Has adequate transportation access to commercial and medical services.

Applicant’s Response: The site is ideal to balance resident privacy, respect for neighbors, and proximity to services. A large number of services can be accessed on foot, being located under half a mile from Main Street and within a 5 minute walk to the nearest bus. Additionally, the Forest Grove Foundation will be managing and operating the village and have multiple vans able to support residents with needs that exceed those available through public transportation and pedestrian access.

Finding: The nearest bus stops to the site are found at Pacific Ave and Cedar St. (westbound Line 57), a distance of approximately 1,900 feet, and 19th Ave and Cedar Street (eastbound Line 57), a distance of approximately 2,386 feet. Moreover, Main Street and the downtown Forest Grove area is approximately one-half mile away. Additionally, as the applicant notes, the operation of this facility will include the provision of vans that can accommodate residents for trips that are not conducive to bus travel.

Conclusion: Because transit is available within a reasonable walking distance, the site's proximity to Downtown Forest Grove, and the applicant's provision of vans for resident travel, this criterion is met.

F. Will not pose any unreasonable risk to public health or safety.

Applicant's Response: As evidenced by other villages in the region, this project poses no public health or safety risk. This is reinforced by the village's proposed location that maintains a significant distance from other residences and structures, though no activities on the site that pose potential public health or safety risks will be permitted whatsoever. Additionally, individuals utilizing the village as transitional housing and emergency shelter will be required to abide by the rules of the village, as enforced by full-time site managers working for the Forest Grove Foundation.

Finding: While staff believes that this proposal would not be likely to carry no risk at all, as the applicant claims, staff agrees that the site is one of the more reasonable sites in Forest Grove to accommodate such a use. The site is bounded by industrial development to the north, an abandoned rail line to the east and south and various industrial uses to the west. The nearest structure that appears to be residentially used appears to be just over 300 feet from the subject site. Moreover, the applicant's assertion that the site would employ full-time site workers to monitor behavior is another mitigating factor. While some risk seems inevitable with a use such as this, it is staff's belief that the applicant proposes to take steps to mitigate potential risks. It is also worth noting that the property is currently served by a septic system, the status of which is unknown. It should also be noted that the applicant proposes to add bathrooms, and that the 12-16 sleeping pods would likely add a significant load to the septic system on site. This could pose a significant health and safety risk, if left as it exists now. However, the applicant has indicated in their proposal that they will connect to the existing sanitary sewer line that terminates at the end of 22nd Avenue. A condition of approval that this development be required to connect to the existing sanitary sewer line would satisfy this criterion.,

Conclusion: While staff would not echo the claim that there is no risk present, the presence of on-site caretakers, combined with the location away from sensitive development, renders the risk posed to not be an unreasonable one. Combined with a condition that the applicant connects to the sanitary sewer, staff believes that any risks from this development would be ameliorated to the extent possible. As such, staff will condition the approval of this proposal with a condition that a full-time on-site caretaker be provided and that the applicant be required to connect to the sanitary sewer system.

Thus, staff finds that this criterion is met with the addition of these conditions of approval.

(2) An emergency shelter allowed under this section must be operated by:

(a) A local government as defined in ORS 174.116;

- (b) An organization with at least two years' experience operating an emergency shelter using best practices that is:
- (A) A local housing authority as defined in ORS 456.375;
 - (B) A religious corporation as defined in ORS 65.001; or
 - (C) A public benefit corporation, as defined in ORS 65.001, whose charitable purpose includes the support of homeless individuals, that has been recognized as exempt from income tax under section 501(a) of the Internal Revenue Code on or before January 1, 2018; or
- (c) A nonprofit corporation partnering with any other entity described in this subsection.

Applicant's Response: Forest Grove Foundation has led local emergency sheltering operations since 2018 when the organization agreed to take on the coordination and management of western Washington County's Temporary Emergency Shelter program, previously led by Forest Grove United Church of Christ in partnership with Sonrise/Old Town Church. When the Covid 19 pandemic closed Emergency Shelter doors earlier than planned in March of 2020, FGF pivoted to providing outreach services (including the distribution of food and survival supplies) to local encampments where many of our shelter guests now found themselves living. FGF continued to serve participants at these locations until the encampment's closure by governor's order in June 2023.

FGF continues to employ several former staff and volunteers from the Temporary Emergency Shelter project, including our Executive Director, our Food Program Director, and a member of our outreach team. Ongoing investments in our work to address issues of poverty in our community have led to our organization growing in size and to our ability to expand our team of trained and dedicated staff. We look forward to bringing our collective expertise and commitment to trauma informed practices to renewed emergency sheltering efforts in Forest Grove, this time in a year round capacity that will allow us to fully support participants in transitioning from homelessness to housing, while providing additional essential support around food, employment, and addiction recovery.

Findings: According to the applicant's response, the Forest Grove Foundation is a public benefit corporation with over two years' experience in the provision of emergency sheltering.

Conclusion: Because the applicant has two years of experience in emergency sheltering, this criterion is met.

IV. DECISION

As demonstrated above, the applicant has met their burden of proof to show compliance with the applicable criteria to this proposal or that these criteria can be met through enforceable conditions of approval. Therefore, staff approves this proposal, subject to the following conditions:

1. The applicant shall connect the property to sanitary sewer to serve this new development.
2. Existing septic system shall be decommissioned.
3. To properly serve the property, a manhole shall be installed at the end of the existing sanitary sewer line and a new lateral stubbed to the site to accommodate generated sewer flows. It is likely that a 6" lateral will probably be needed. The existing septic system should then be decommissioned.

4. If adding over 1,000 square feet of impervious surface, water quality facility improvements or a fee in lieu to Clean Water Services will be necessary.
5. A new service application will need to be filled out by the applicant if electrical upgrades are needed.
6. Any costs regarding service upgrades will be the responsibility of the developer.
7. Developer shall work directly with Jason O'Dell for electrical needs of development.
8. Provide minimum rated 2A 10B C portable fire extinguishers in the following locations:
 - a. Near the kitchen or laundry area of the existing house
 - b. In a commonly known area accessible from each group of pods, so that no pod shall exceed 75 feet of travel to access a fire extinguisher.
7. If gates are locked from the outside, a Knox brand key box (with gate code or key inside) is required at the main gate
8. Emergency exit and main gate exit shall be operable from the inside at any time, without any special knowledge, tool, or effort to open
9. Post each pod with an individual address designator, preferably either a letter or number.
 - a. Post approved directional signage near the main entrance for responders to be clear on where they are needed
10. All sleeping areas are to be provided with smoke and carbon monoxide detection, in accordance with Oregon state law.
11. Create a fire safety plan for this property, and make all new residents aware of this plan prior to moving in. This fire safety plan shall include the following:
 - a. Emergency evacuation routes and meeting areas
 - b. Fire safety requirements (no smoking, rules inside pods, no open flames, no wood burning, etc.)
 - c. Location of fire extinguishers
 - d. How to call in an emergency, and the address
 - e. Smoke alarm rules, how to test, how to silence, do not tamper with, etc.
 - f. Any other items the facility feels are necessary
12. Building permits shall be required for any construction, addition, or remodeling to the existing dwelling structure.
13. A full-time on-site caretaker shall be present at this facility to monitor behavior and ameliorate any potential impacts on neighboring properties.

Forest Grove Foundation Village*

**For the purposes of this application, the proposed project will be referred to as "Forest Grove Foundation Village," with a name to be finalized at a later date.*

Site Address: 2500 22nd Avenue, Forest Grove, OR 97116
 Lot Size: 0.84 acres
 Common Building on Site: 1,152 sq ft

Public meeting for interested neighbors (Hosted by the Forest Grove Foundation):
 Monday, October 16th, 2023
 7:00-8:30pm
 1822 21st Avenue, Forest Grove, OR 97116

Proposal Overview

The Forest Grove Foundation (FGF) is a nonprofit organization with the mission to address the issues of human suffering related to poverty in western Washington County. In addition to their work providing street outreach, creating a hub to bring county service providers to Forest Grove, and providing healthy prepared and packaged food for the hungry, FGF has a vision to build on their experience operating emergency shelters in the past by creating a dignified, healing, and beautiful space for individuals in Forest Grove to transition from homelessness into housing. To this end, in 2022 the Forest Grove Foundation (FGF) received funding for the express purpose of building and operating/managing a tiny house ("pod") village in Forest Grove.

In order to support this vision, FGF began community outreach efforts and enlisted the help of consultants who specialize in these issues. FGF has been working with Lones Management Consulting to establish systems for management and support that will allow the Foundation to be successful in achieving their goals and village participants to benefit from the full range of the organization's services. FGF also began working with Portland State University's Center for Public Interest Design (CPID) and Homelessness Research and Action Collaborative to utilize their experience designing, building, and researching the impacts of villages. These partners and their efforts have resulted in significant community dialogue around this project that have greatly informed the current proposal. One notable example is a collaboration with a Pacific University course in which students hosted a community workshop with over 100 attendees deeply interested in providing their input on how a village in Forest Grove could be most successful and welcomed by community members.

Consistent feedback of this workshop that have been reinforced by other community conversations include the positions that a successful village in Forest Grove must simultaneously be sited in a discreet place that does not alienate neighbors and disrupt existing

communities, *and* must be close enough to transportation and services to benefit the village participants. While these demands are often difficult to reconcile, the current proposal utilizes a site that is able to accommodate these concerns, while still providing adequate space for operations within the project's allowable budget. We feel strongly that the community feedback we have received has benefited this effort greatly and that this site is the most ideal opportunity we have to create a community-informed village in Forest Grove.

In accordance with HB 2006 (Section 3), the Forest Grove Foundation Village:

- *Will include sleeping and restroom facilities for clients (1a)*

The project will include 12-16 sleeping pods (approximately 100 sq ft.) for individuals similar to those used at the Clackamas County Veterans Village, St. Johns Village, and Kenton Women's Village. Utilities in these pods will be limited to electricity, but will include light, outlets, and radiant heating panels. The existing house on site will serve as the common building. The house has an existing kitchen, shower, toilet, and laundry, but all of these areas will be expanded upon to increase the capacity of the facility. The current intention is to accomplish this without expanding the footprint of the house by building additional bathrooms and laundry units within the garage.

- *Will comply with applicable building codes (1b)*

The project will make minimal changes to the existing site, other than the aforementioned adaptations of the existing building, and necessary site upgrades (such as converting from septic system to connection with the city sewer). While HB 2006 allows a range of units from cabins to tents, the sleeping pods will be built on pressure treated skids, be fully insulated, contain both a door and egress window, and remain under size thresholds that would require foundations, consistent with other villages in the Metro region.

- *Is located inside an urban growth boundary (1c)*

The proposed village is within the urban growth boundary.

- *Will not result in the development of a new building that is sited within an area designated under a statewide planning goal relating to natural disasters and hazards, in Enrolled House Bill 2006 (HB 2006-A) (1d)*

The proposed site will not result in this circumstance.

- *Has adequate transportation access to commercial and medical services (1e)*

The site is ideal to balance resident privacy, respect for neighbors, and proximity to services. A large number of services can be accessed on foot, being located under half a mile from Main Street and within a 5 minute walk to the nearest bus. Additionally, the Forest Grove Foundation will be managing and operating the village and have multiple vans able to support residents with needs that exceed those available through public transportation and pedestrian access.

- *Will not pose any unreasonable risk to public health or safety (1f)*

As evidenced by other villages in the region, this project poses no public health or safety risk. This is reinforced by the village's proposed location that maintains a significant distance from other residences and structures, though no activities on the site that pose potential public health or safety risks will be permitted whatsoever. Additionally, individuals utilizing the village as transitional housing and emergency shelter will be required to abide by the rules of the village, as enforced by full-time site managers working for the Forest Grove Foundation.

- *An emergency shelter allowed under this section must be operated by: (2b) An organization with at least two years' experience operating an emergency shelter using best practices that is (C) a public benefit corporation, as defined in ORS 65.001, whose charitable purpose includes the support of homeless individuals, that has been recognized as exempt from income tax under section 501(a) of the Internal Revenue Code on or before January 1, 2018*

Forest Grove Foundation has led local emergency sheltering operations since 2018 when the organization agreed to take on the coordination and management of western Washington County's Temporary Emergency Shelter program, previously led by Forest Grove United Church of Christ in partnership with Sunrise/Old Town Church. When the Covid 19 pandemic closed Emergency Shelter doors earlier than planned in March of 2020, FGF pivoted to providing outreach services (including the distribution of food and survival supplies) to local encampments where many of our shelter guests now found themselves living. FGF continued to serve participants at these locations until the encampment's closure by governor's order in June 2023.

FGF continues to employ several former staff and volunteers from the Temporary Emergency Shelter project, including our Executive Director, our Food Program Director, and a member of our outreach team. Ongoing investments in our work to address issues of poverty in our community have led to our organization growing in size and to our ability to expand our team of trained and dedicated staff. We look forward to bringing our collective expertise and commitment to trauma informed practices to renewed emergency sheltering efforts in Forest Grove, this time in a year round capacity that will allow us to fully support participants in transitioning from homelessness to housing, while providing additional essential support around food, employment, and addiction recovery.

Additional Information

Pod Design

The partners on this project will be using best practices to create sleeping pods that are sturdy, comfortable, dignified, and beautiful. Partners at Portland State University collaborating on this project have been deeply involved in designing and evaluating pod performance over time to inform these best practices. The following is a description of pods from PSU's Homelessness Research and Action Collaborative *Village Research and How-To Guide*.

The term “pod” evolved as a way to distinguish village units from other micro-dwelling typologies that have certain characteristics and associated building requirements that aren't applicable to pods. At their most basic, pods are generally insulated wood-framed structures under 200 square feet built on pressure-treated skids (4x4 or 4x6), with limited utilities. Recently, pods have been equipped with electrical outlets, lighting, and radiant ceiling panels for heat, but all other utilities and amenities are shared in centralized common areas.

Pod dimensions vary, but the average pod size is about 8 feet W x 12 feet L x 10 feet H. This size corresponds to common material dimensions (for example, sheet goods like plywood are 4x8 feet) and tend to be limited to what can be easily moved using a standard forklift and a compact flatbed truck. A flatbed truck can move an object that is 8 feet 6 inches wide down the road without needing special permits that can become quite costly and logistically difficult. With a height limitation of 13 feet 6 inches for transportation, a maximum pod height of 10 feet 6 inches can still be moved on a flatbed truck with a common bed/deck height of 3 feet. The length has the most flexibility to grow longer when needed, but 12 feet approaches the maximum dimension that is still manageable using standard forklifts.

Based on feedback from village residents, managers, and designers, we will be using the Pop-Out Pod as the model that we will base our pod design on. The prototype for the Pop-Out Pod was designed and built in 2017 by Portland State University students in Todd Ferry's architecture design studio. These students conducted research and interviews to understand how existing pods were performing at Kenton Women's Village and in other villages to determine how to improve upon previous pod designs. The pod that they developed was rooted in the qualities of comfort, storage, performance, and beauty. Its footprint is approximately 8.5'x12.5'x 10'. Pop-outs help break the feeling of being in a box, a crucial factor in such a small space. The pop-outs also provide important storage lacking in most other pod designs. The design calls for an operable window in the door, a fixed vertical window on the tall wall to maximize light, and a large operable window within one of the pop-outs for ideal light and ventilation. The pod features a small covered porch, with recommendations for extending the

porch with detached stairs that double as seating space. To promote a sense of separate space and to maximize room within the pod, much of the twin bed is tucked into a nook created next to the porch. This pod has been replicated over two dozen times with adaptations by various builders, creating a catalog of approaches for finishes and layouts. The Pop-Out Pod is featured at Kenton Women's Village 2.0, Clackamas County Veterans Village, and at St. Johns Village. The pods at the Forest Grove Foundation Village will be equipped with electricity, including built-in lighting, outlets, and a radiant heating panel. Pods will most likely be fabricated off site and delivered/installed on the property.

Common Building (Planned Modifications)

The common facilities at villages play a crucial role in supporting community life and providing essential needs like a place to cook, shower, and use the bathroom. They are also a place to gather for group meetings (referred to as general assembly at self-governed villages) and to host space for meetings between villagers and service providers or peer-support specialists. Typical spaces within a village's common building include a kitchen, dining area, laundry room, bathroom(s), gathering area, and office/meeting space.

The existing house on the proposed site will serve as the village's common building. The 1,152 square foot (2 bd/1 ba) house has a layout that will be easy to adapt with relatively simple changes to accommodate its residence. The exterior footprint of the building will likely remain unchanged. Plans for modifications to the house include:

- Repairs: Roof & Foundation
- Connect the house to municipal sewer line (currently uses septic tank)
- Add 2 bathrooms complete with sink, toilet, and shower within the garage space (for 3 full baths total)
- Add additional laundry facilities within the current garage space
- Remove non-load bearing walls of bedroom 1 to expand kitchen
- Remove non-load bearing walls of bedroom 2 to expand the gathering/dining area.
- Adaptations to meet accessibility standards through improved hardware, the inclusion of ramps, and easier access.

Support for Villagers & Operations

The Forest Grove Foundation will provide on-site management services for village operations and villager support. This not only represents best practices, but is integral to the funding of the village awarded to the Forest Grove Foundation by the Oregon Health Authority. Village management will work with villagers to establish and abide by rules that promote a healthy, safe, and inclusive space for all villagers. Villagers will be supported in achieving the expectations for residency that include seeking and receiving needed social services, and pursuing steps toward procuring permanent housing. The Forest Grove Foundation will be inviting service providers

(including FGF staff members) to regularly meet with clients at the village. Additionally, FGF is opening a Service Hub in early 2024 on a site nearby that will host service providers from throughout Washington County. Villagers will benefit from proximity to the hub space and access to the services offered by these providers. Finally, the FGF has a food program aimed at improving food access for families and individuals experiencing housing insecurity by sustaining and scaling functionality of mobile and warehouse cold storage capacity to support sharing and distribution of food from local providers (USDA, Fresh Alliance, Oregon Food Bank, local farms, etc). Research has exposed food security as a persistent issue at many of Oregon's villages, but this program will help ensure that villagers will not suffer from food insecurity.

Community Outreach Events

- Spring 2022, Village Design Concepts, Public Open House in Forest Grove with PSU Studio
- Winter 2023, Community Workshop, hosted w/Pacific University Civic Engagement students
- Spring 2023, Washington County/FGF community discussion, St. Bede Church, Spring 2023
- October 16, 2023, Public Meeting for Community/Neighbor Feedback about 22nd Street site

Forest Grove
Foundation Village
2500 22nd Ave.,
Forest Grove, OR 97116

Site Proposal

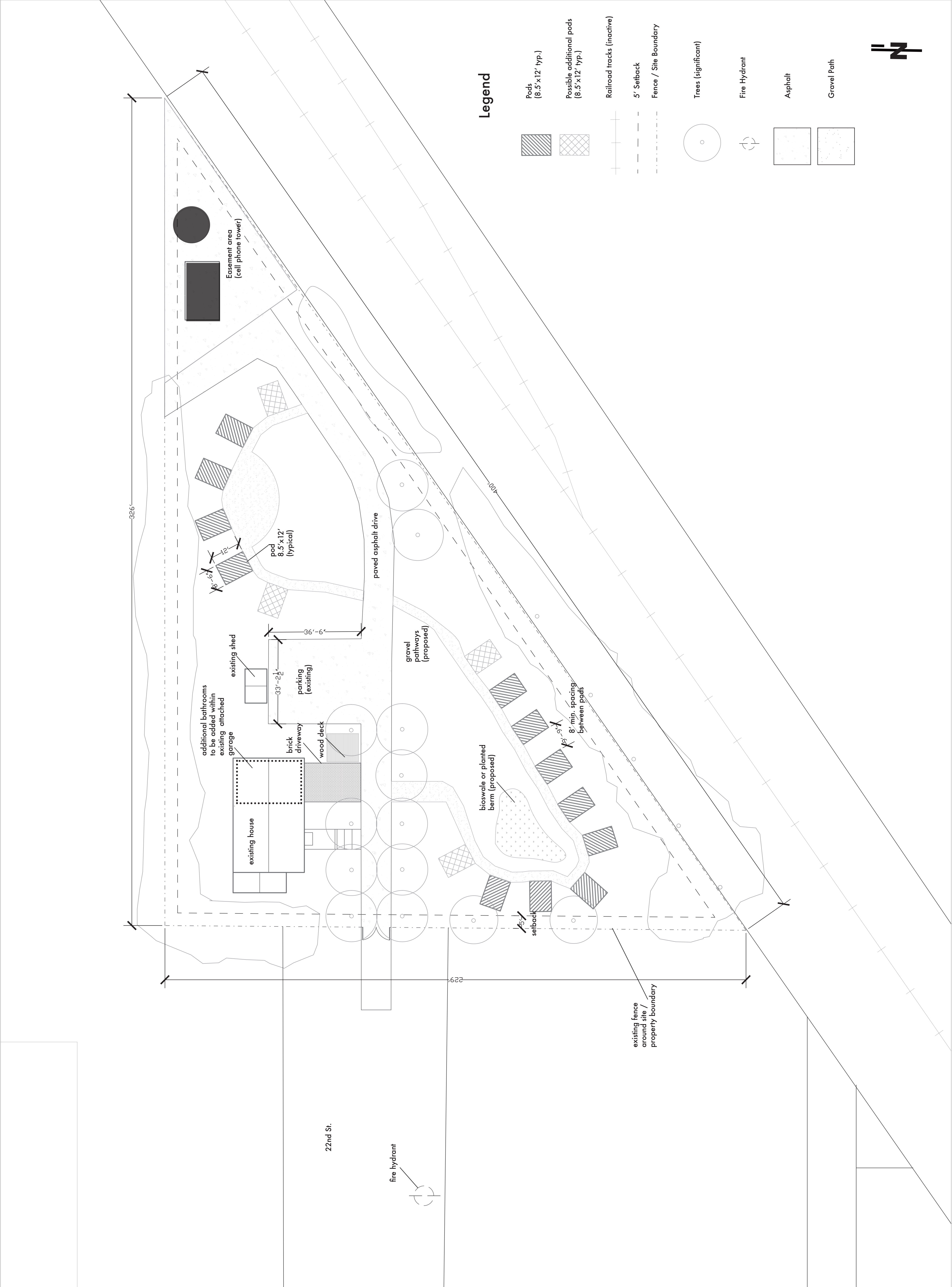
10.27.23

Proposed Use

The site has ideal amenities to support an emergency shelter in the form of a tiny house (or pod) village. There is a significant amount of open space to easily accommodate the 12-16 pods within the scope of the project. The proposal here represents an overall site strategy, but distribution and exact placement of pods will be adapted based on input from the City. Pods will be set on gravel bases and connected via gravel pathways. No additional impervious paving is planned for the site.

The proposal includes plans to add 2 bathrooms and laundry facilities within the existing attached garage. The site will be converted from septic to sewer with a new connection. No current plans will impact the overall footprint of the existing structure. Pod utilities will be limited to electricity.

Site Plan @
1/16" = 1'



**Forest Grove
Foundation Village**
2500 22nd Ave.,
Forest Grove, OR 97116

Site Proposal

10.27.23

Existing Conditions

The fully-fenced .84 acre lot contains a 2 bedroom house with a large attached garage. An asphalt drive cuts through the entire site and is maintained to access a fenced cell tower easement in the corner of the triangular lot. The site also contains a large paved parking area, driveway, shed, and small deck. The majority of the site is grass lawn with vegetation along the perimeter including many beautiful trees.



Forest Grove
Foundation Village
2500 22nd Ave.,
Forest Grove, OR 97116

Site Proposal

10.27.23

Example Pods

The pods in these images were based on the design of project team members for the Forest Grove Foundation Village and represent the goals for this project.



STRATEGY FOR LEVEL ENTRY INTO PODS AT THE ST. JOHNS VILLAGE



ELECTRICITY HOOK-UPS AT THE ST. JOHNS VILLAGE MINIMIZE VISIBLE WIRES



PODS ARRANGED IN HARMONY WITH TREES AND LANDSCAPING AT THE CLACKAMAS VETERANS VILLAGE



EXTERIOR OF SEVERAL POP-OUT PODS AT THE KENTON WOMEN'S VILLAGE

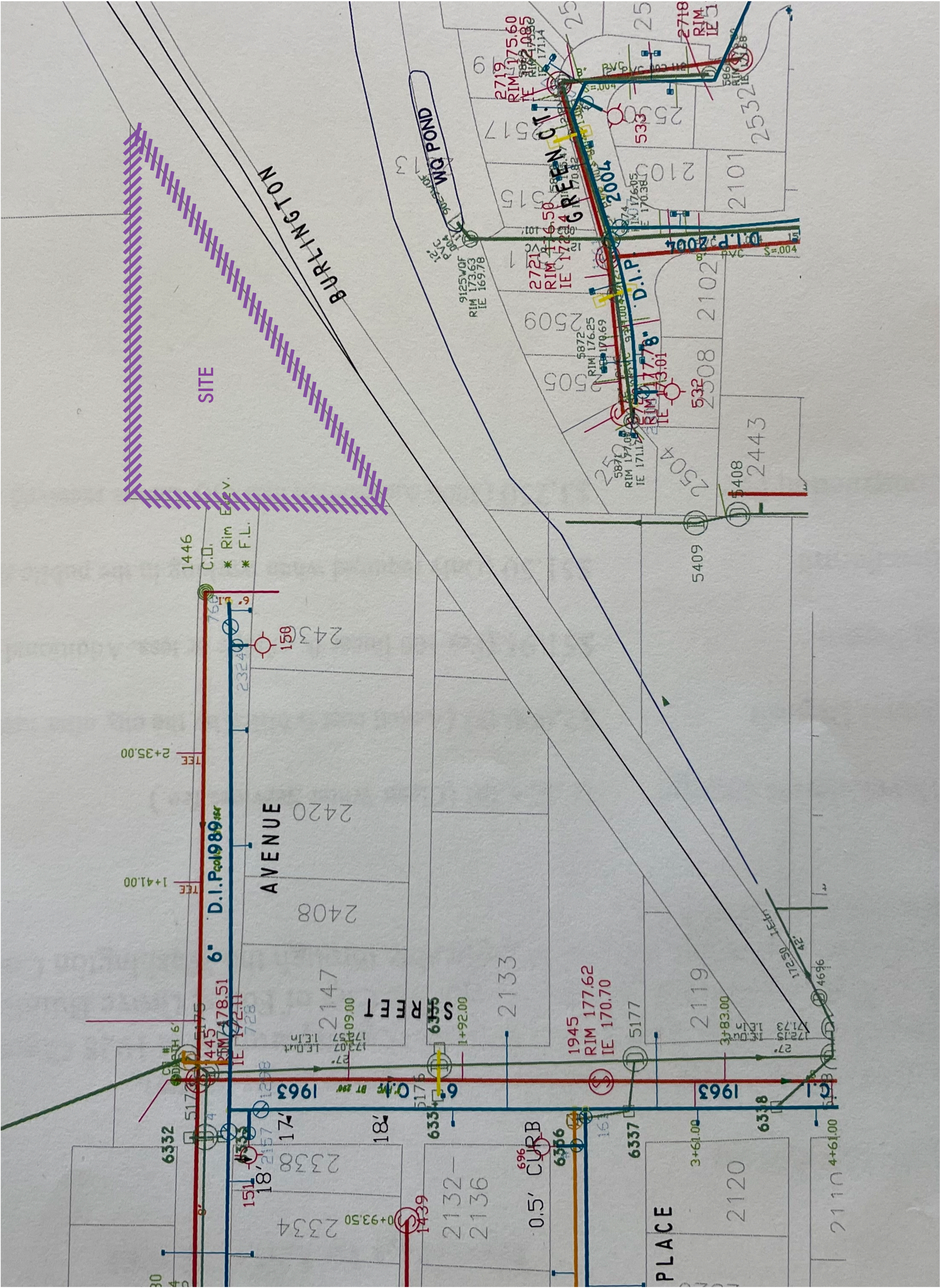


INTERIOR OF SEVERAL POP-OUT PODS AT THE KENTON WOMEN'S VILLAGE

Forest Grove
Foundation Village
2500 22nd Ave.,
Forest Grove, OR 97116

Site Proposal
10.27.23

Utility Map
(provided by City of Forest Grove)



City of Forest Grove, Oregon
Community Development Department
Bryan W. Pohl
December 20, 2023

I am filing the required paperwork asking for an "appeals process" for the proposed Forest Grove Foundation Village, to be located at 2500 22nd Avenue, Forest Grove, Oregon, 97116.

I have read the Foundation Village Proposal and reviewed the Forest Grove administrative decision as to the siting of the village. I have also visited the proposed site. This letter is not in opposition to the proposal nor is it in support, but rather a request for the Forest Grove City Council to review the proposal. My concerns are essentially based upon criterion (f) stated in the FG administrative decision: "Will not pose (the Village) any unreasonable risk to public health and safety."

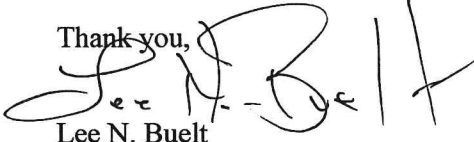
Concerns:

- 1.) Will there be a transition time for the village (temporary) or is the village a permanent housing solution for the houseless?
- 2.) How many potential individuals will the village contain when at full capacity (16 units)?
- 3.) How many caretakers will be on site? The proposal states one person will be on site. Is that adequate staffing?
- 4.) Within two short blocks on Douglas Street sits the Elms Retirement center and the FG Senior center. How might foot traffic from the Village effect their daily operations: The Senior center offers food to those in need every Thursday/Friday.
- 5.) How will Forest Grove Police Department monitor the Village?
- 6.) Refuse and maintenance at the village: who is responsible? And what are considered acceptable standards for indoor/outdoor aesthetics?
- 7.) Oversight of the Village: the city of Forest Grove might want to consider a semi-annual unannounced visit to the site to monitor compliance of FG Foundation goals.

I'm a Forest Grove resident and live a number of miles from the proposed Village, but I'm cognizant of the fact that these Villages could and will pop up in other places within the city. As you can see, just a few minutes thinking about the proposal yields multiple questions.

The Forest Grove City Council represents the citizens of Forest Grove and should have an opportunity to hear from the officials of the Forest Grove Foundation Village, thereby exploring other issues that may arise as to the siting of the Village.

Thank you,


Lee N. Buelt
503-816-3395

RECEIVED

DEC 20 2023

CITY OF FOREST GROVE

From:

Erik Knapp

2505 Green Ct.

Forest Grove, OR 97116

To:

Department of Community Development

1924 Council Street / PO Box 326

Forest Grove, OR 97116

To whom it may concern RE: Approval of an emergency shelter utilizing twelve to sixteen housing pods on property as sleeping quarters,

I am writing to express my deep concern regarding the proposed establishment of a homeless village in our neighborhood. While I understand the pressing need to address homelessness in our community, I have significant reservations about this initiative due to several factors. I find it troubling that the organization spearheading this initiative has exhibited a concerning lack of transparency and honesty regarding their long-term operational plans.

I have concerns about whether the Forest Grove Foundation currently fulfills the criteria outlined in section one bullet point, E and F. The proposed site is on an unpaved road unsuitable to heavy transportation use, and after attending their "community meeting" it's clear they have no plan for the public safety or what happens in and surrounding the property.

Also, the Forest Grove Foundation behind this project does not have 2 years of experience operating the type of encampment that is being proposed. This organization recently came into a windfall of funds, yet they have failed to articulate a clear commitment to essential rules and a structured operational plan for the proposed camp. Their sudden financial influx raises questions about their intentions and capabilities in managing such an encampment responsibly in the long term. Their decision to hire personnel from other homeless villages in Portland, notably those frequently highlighted in the news for causing problems in their respective neighborhoods, is deeply troubling.

The negative repercussions experienced by communities surrounding similar encampments are well-documented. Issues related to public safety, sanitation, and the overall quality of life have been persistent concerns. Without a proven history of effectively managing these challenges, there is a high risk that our neighborhood may face similar or exacerbated consequences.

Furthermore, it is disconcerting to note that many individuals spearheading this program do not reside in our community. Their lack of direct connection to our neighborhood raises concerns about their understanding of our unique needs and challenges.

I implore the City Council to prioritize the safety and well-being of our community by appealing against this approval for the property. It is crucial to explore alternative solutions that prioritize comprehensive planning, community engagement, and proven strategies for addressing homelessness without compromising the safety and harmony of our neighborhood.

Considering the recent surge in funding, the lack of local representation within the managing body, and the limited experience of the organization in question, I respectfully request that the City reconsider this approval.

Thank you for your attention to this matter.

Sincerely,

Erik Knapp

RE: Emergency shelters on 22nd ave

First topic I would like to address is adonment

F) will not pose any unreasonable risk to public health and safety:

- 1) In april of 2018 a woman was murdered by a homeless man in this same Neighborhood
- 2) Another issue is street drugs and other drug paraphernalia accompanying it
- 3) Trash and other garbage that is left out will attract rats and other vermin

(2) ~~B~~ an organization with atleast 2 years experience operating a Emergency shelter:

- 1) Forest Grove Foundation has ~~no~~ experience running this type of shelter. Nor does the city of Forest Grove

(3) Something I Feel is very important is, who is going to control the campers, tents, cardboard, Cars and other objects from campers who don't qualify for the shelter. They will start setting up camp on 22nd

(4) Forest Grove Foundation informed me that a Client can stay, as long as they meet the housing criteria. Doesn't sound like a emergency shelter to me more like a peminant Residence

RECEIVED

DEC 27 2023

CITY OF FOREST GROVE

**City Council - Public Hearing Script
February 12, 2024**

**Approval of Order 2024-03
Emergency Shelter Pods - Denial of Appeal**

Instructional Note: Only read text in blue.

GAVEL – I will now open the public hearing on Order Number 2024-03, denying the appeal and upholding the director's decision to approve an emergency shelter utilizing twelve to sixteen unit sleeping pods on property known as 2500 22nd Street in Forest Grove; File No. 311-23-000786-RSCH.

Disclosure – Before we continue the hearing, do any City Councilors need to disclose any ex parte contacts, bias, or conflicts of interest? If so, please indicate the nature of the ex parte contact, bias or conflicts of interest and indicate whether you intend to participate in an impartial manner or abstain from the hearing.

Questions for staff – Are there additional comments or evidence that staff would like to enter into the record?

Do Councilors have any questions for staff?

Public hearing and testimony – I will now call on persons who signed up to comment on the order. Comments are limited to 3 minutes. Please state your name and address for the record. Call on proponents, opponents, and other comments.

If there is public testimony – Would the applicant like to respond to any testimony provided?

Close the hearing – The hearing is now closed. **GAVEL**

Is there a motion from Council to approve Order number 2024-03?

Are there additional questions or further discussion from Council on the motion before we proceed with the roll call vote?

City Manager please read Order 2024-03 by title only.

City Recorder please call the roll.

The vote is _____. Order 2024-03 is adopted (or fails).