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# Florence Planning Commission

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## Memorandum

To: Florence Planning Commission

From: Wendy Farley Campbell, Planning Director

Date: July 21, 2020

Subject: Commercial Districts Missing Middle Code Updates Public Hearing

On July 28, 2020 the Florence Planning Commission will hold a public hearing on proposed updates to the commercial and mixed-use zoning districts of Title 10 of Florence City Code. Below outlines the background, project proposal, timeline and overview of the packet materials.

### **Background**

The City updated the Florence City Code Titles 10 and 11 in November 2019. Those updates included changes to the allowable building height and definitions of building height and multi-family dwellings. These changes among many others were crafted to support development of needed housing. Florence's residential zoning and land division codes were over 39 years old and reflected development patterns and housing styles of that planning period-mid and late 1970's. The codes did not support the housing types or quantities needed to meet the City's projected housing needs. One of the main challenges of the outdated codes was that they restricted or made difficult construction of affordable 'missing middle' housing types such as townhouses, duets, duplexes, cottages, and multi-family developments with three or more units.

The residential code updates were the result of a larger Housing and Economic Opportunities Project that kicked-off in April 2017 and resulted in the City updating its Buildable Lands Analysis, Housing Needs Analysis, and Economic Opportunities Analysis. The Residential Code Update Project implemented recommendations from the Housing Needs Analysis.

### **Proposal**

Problem--The December residential code changes included increases to building height and changes to the definitions for building height and multi-family. This resulted in buildings constructed in the commercial districts having both a lesser height allowance than residential districts and having a lesser height allowance than previously allowed in the districts as a result of the building height definition change. Additionally, the change to the definition of multi-family dwellings increased the

number of units from 3 to 5. The change created the situation where 3 and 4-unit dwellings were no longer permitted in districts that previously allowed them under the multi-family definition.

Solution-- The proposed code includes increases the numerical allowance for building height to match those in the residential districts and the addition of triplexes and quadplexes in those districts where they were previously permitted. In the districts where single family dwellings are permitted conditionally, duplexes and duets are proposed to be added to close the gap on residential building types permitted in those districts. Chapter 30 includes changes to residential district names to incorporate the changes made in December.

### **Timeline**

- June 23, 2020: 35-day notice sent to the Department of Land Conservation and Development.
- July 18, 2020: Legal notice of Planning Commission's evidentiary hearing published in the Siuslaw News
- July 20, 2020: Florence City Council work session reviewed proposed code amendments in preparation for their public hearing scheduled August 17, 2020
- **July 28, 2020: Florence Planning Commission's evidentiary hearing on proposed code amendments**
- August 1, 2020: Legal notice of City Council's final evidentiary hearing published in the Siuslaw News.
- August 17, 2020: Tentative-Florence City Council's final evidentiary public hearing.
- September 7, 2020: Appeal deadline of Council's decision assuming made on August 17<sup>th</sup>.

### **Public Hearing Packet Materials**

Included in your packet are the resolution, findings of fact and draft proposed code amendments to Title 10. The draft code amendments are shown with new text underlined and removed text with a ~~line through~~ it. The code changes are sequentially numbered starting at Title 10 Chapter 15 and continuing through Chapter 30.

### **Alternatives and Recommendation**

1. Adopt Resolution PC 20 20 TA 02 recommending revision of Title 10 as proposed
2. Amend the proposal and recommend as revised.
3. Recommend denial of Resolution PC 20 20 TA 02

### **Attachments:**

- Resolution PC 20 20 TA 02, Exhibit A Title 10: Proposed Code Amendments and Exhibit B Findings of Fact

**CITY OF FLORENCE  
PLANNING COMMISSION**

**RESOLUTION PC 20 20 TA 02**

A RECOMMENDATION TO THE CITY COUNCIL TO MAKE LEGISLATIVE AMENDMENTS TO THE FLORENCE CITY CODE TITLE 10 CHAPTERS 15, 16, 25 and 30, TO REVISE BUILDING HEIGHT AND PERMITTED RESIDENTIAL USES

**WHEREAS**, Application was made through initiation by the City Council via their 2019-2021 City of Florence Workplan, Priority 1 Objective 2 to amend Florence City Code, as required by FCC 10-1-3-C; and

**WHEREAS**, the notice was sent to the Department of Land Conservation and Development on June 23, 2020, not less than 35 days prior to the first evidentiary hearing; and

**WHEREAS**, the Planning Commission met in a duly noticed public hearing on July 28, 2020 as outlined in Florence City Code 10-1-3-C, to consider the application, evidence in the record, and testimony received; and

**WHEREAS**, the Planning Commission determined per FCC 10-1-3, after review of the application, findings of fact, testimony and evidence in the record, that the proposal meets the criteria; and

**NOW THEREFORE BE IT RESOLVED** that the Planning Commission of the City of Florence finds based on the Findings of Fact and evidence in record:

The proposed code amendments shown in Exhibit "A" meet the applicable criteria in Florence City Code, Florence Realization 2020 Comprehensive Plan, Oregon Revised Statutes and Oregon Administrative Rules as shown in Exhibit "B". The Planning Commission recommends approval of the code amendments to the Florence City Council.

**ADOPTED BY THE FLORENCE PLANNING COMMISSION/DESIGN REVIEW BOARD** the 28<sup>th</sup> day of July 2020.

\_\_\_\_\_  
JOHN MURPHEY, Chairperson  
**Florence Planning Commission**

\_\_\_\_\_  
DATE

Exhibit A  
City of Florence  
File Nos. PC 20 20 TA 02 & CC 20 05 TA 02  
Ordinance TBD Series 2020

Only those sections proposed for amendment are listed

TITLE 10 CHAPTER 15  
COMMERCIAL DISTRICT (C)

10-15-3: BUILDINGS AND USES PERMITTED CONDITIONALLY: The Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a conditional use permit for the following:

Single-family, duet, and duplex dwellings.

10-15-5: SITE AND DEVELOPMENT PROVISIONS:

A. Building or Structural Height Limitations: The maximum building or structural height shall be ~~twenty-eight feet (28')~~ thirty-five feet (35'). Residential dwellings and their associated structures refer to Section 10-10-5 of this Title for requirements.

J. Residential and mixed-use development ~~refer to must meet the provisions Section 10-6-5-2 of this title for requirements. for Multi-Family Dwellings listed in FCC 10-10-9.~~ However, a conditionally approved use may require application of the relevant development standards from a district where the use is permitted outright to include but not limited to setbacks and lot coverage. The more restrictive standards would apply.

TITLE 10 CHAPTER 16  
HIGHWAY DISTRICT (H)

10-16-2: PERMITTED BUILDINGS AND USES:

A. All uses permitted outright or conditionally in the Commercial District, except single-family dwellings, duets and duplex dwellings, public buildings and facilities, medical marijuana dispensaries, marijuana retailers, marijuana testing facilities, and single-family residential PUD's.

B. Multiple-family residential, tri-plex and four-plex.

10-16-3: BUILDINGS AND USES PERMITTED CONDITIONALLY: The following uses shall be permitted only upon affirmative findings by the Planning Commission that the proposed use meets the general criteria in Section 10-16-4 herein, with conditions to be required by the Planning Commission through the provisions of Chapters 1 and 4 of this Title.

C. Single-family detached, duet, and duplex residences.

10-16-7: DESIGN SPECIFICATIONS:

A. Highway Setback (Minimum Allowed Without a Variance; Measured from the Center Line of the Highway Right of Way):

2. ~~Multiple~~ Residential: One hundred feet (100').

C. Visual Barrier: A fence, wall, hedge, natural vegetation or landscape planting may be required by the City. Such a barrier must include a vision clearance area for driveways to promote vehicle safety. Guidelines (not intended to limit optional solutions) for such a visual barrier are listed below:

2. ~~Multiple~~ Residential: At least twenty feet (20') deep and six feet (6') tall along entire highway frontage. All vehicles and at least two-thirds (2/3) of the buildings should be obscured from highway view.

K. Height Limitations: The maximum building or structural height shall be ~~twenty-eight feet (28')~~ thirty-five feet (35'). Residential dwellings and their associated structures refer to Section 10-10-5 of this Title for requirements.

P. Residential and mixed-use development refer to Section 10-6-5-2 of this title for requirements. However, a conditionally approved use may require application of the relevant development standards from a district where the use is permitted outright to include but not limited to setbacks and lot coverage. The more restrictive standards would apply.

TITLE 10 CHAPTER 25  
PROFESSIONAL OFFICE/INSTITUTIONAL ZONING DISTRICT

10-25-4: DEVELOPMENT STANDARDS:

E. Height limitations: The maximum building or structure height shall be ~~twenty-eight (28) feet~~ thirty-five feet (35'). Residential dwellings and their associated structures refer to Section 10-10-5 of this Title for requirements.

TITLE 10 CHAPTER 30  
NORTH COMMERCIAL DISTRICT

10-30-5: DEVELOPMENT STANDARDS:

C. Setback from Abutting Property: No setback is required except where property abuts a residential district, in which case, the following setback provisions shall apply:

1. When the abutting district is zoned ~~Restricted-Low Density~~ Residential, ~~Single-Family Medium Density~~ Residential or Mobile/Manufactured Home ~~Residential~~, a 35' building setback shall be provided. Non-vertical elements such as parking or circulation may be located within the 35' setback.

2. When the abutting district is zoned ~~Multiple-Family-High Density~~ Residential, a 35' building setback shall be provided. Non-vertical elements such as parking or circulation facilities may be located within the 35' setback.

D. Landscaping and Visual Buffers shall comply with Section 10-34 of this Title.

3. When the abutting district is zoned ~~Restricted-Low Density~~ Residential, ~~Single-Family Medium Density~~ Residential or Mobile/Manufactured Home ~~Residential District~~, an 8' solid fence shall be constructed for the entire length of the abutting residential district, excepting that Department of State Lands Removal/Fill permit conditions will be honored in location of fence or wall within or abutting a delineated wetland.

I. Height Limitations: The maximum building or structural height shall be ~~3840'~~, except that the maximum height for structures immediately abutting any ~~Restricted-Residential-Low Density Residential~~ District, ~~Single-Family-Medium Density Residential~~ District or Mobile/Manufactured Home ~~Residential~~ District ~~Residential District~~ shall be ~~2835'~~. Residential dwellings and their associated structures refer to Section 10-10-5 of this Title for building height and structural standards.

**FINDINGS OF FACT  
FLORENCE COMMUNITY DEVELOPMENT DEPARTMENT  
Exhibit B**

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**Public Hearing Date:** July 28, 2020

**File:** PC 20 20 TA 02 & CC 20 05 TA 02

**I. PROPOSAL DESCRIPTION**

The proposal amends the Florence City Code (FCC) by revising standards related to building height and housing types to support further housing development in line with the City's needs and goals, by expanding residential development opportunities and removing barriers to development. The code amendments generally expand permitted residential uses in the commercial zones to expand the mix of housing, and brings the commercial and mixed-use districts allowable building height in line with amendments made in 2019 to the residential districts.

The proposed changes to Florence City Code Title 10 are summarized as follows:

- 1. Expand the allowed housing types in commercial zones.** New housing types and replacing types excluded in the 2019 residential change in the Commercial and Highway Districts in FCC 10-15 and 10-16.
- 2. Align building height standards with residential districts.** Proposed increases from 28' to 35' for commercial uses and increases for residential uses consistent with residential standards in FCC 10-10 in the Commercial, Highway and Professional Office and Institutional Districts in FCC 10-15, 10-16, and 10-25.
- 3. Align North Commercial District code language to use current residential district naming conventions.**

**II. NOTICE AND REFERRALS**

**1. Notice:**

The notice of a public hearing was published in the Siuslaw News on July 18, as required by state law and the Florence City Code.

Notice of the proposed City Code Amendments was sent to the Department of Land, Conservation and Development (DLCD) on June 23, 2020, not less than 35 days prior to the proposed first evidentiary hearing of July 28, 2020, as required by State law and the Florence City Code.

**III. APPLICABLE CRITERIA**

**1. Florence City Code (FCC) Title 10: Zoning Regulations**

- Chapter 1: Zoning Administration, Section 10-1-3 Amendments and Changes, Section C Legislative Changes
  - Chapter 1: Zoning Administration, Section 10-1-1-6-4 Type IV Procedure (Legislative)
2. **Florence Realization 2020 Comprehensive Plan**
    - Plan Adoption, Amendments, Review and Implementation
    - Chapter 1 Citizen Involvement
    - Chapter 2 Land Use
    - Chapter 10 Housing Opportunities
    - Chapter 12 Transportation
  3. **Oregon Land Use Planning Goals**
    - Goal 10 Housing
  4. **Oregon Revised Statutes (ORS)**
    - ORS 197.303
    - ORS 197.307
    - ORS 197.610(1) – (4)
  5. **Oregon Administrative Rules (OAR)**
    - OAR 660-008-0015
    - OAR 660-012-0060
    - OAR 660-018-0020
    - OAR 660-015-000

#### IV. FINDINGS

##### Florence City Code (FCC)

##### Title 10 Zoning Regulations, Chapter 1 Zoning Administration

##### FCC 10-1-1-6-4: TYPE IV PROCEDURE (LEGISLATIVE)

**A. A legislative change in zoning district boundaries, in the text of this Title, (Title 10), Title 11, or in the Comprehensive Plan may be initiated by resolution of the Planning Commission or by a request of the Council to the Planning Commission that proposes changes be considered by the Commission and its recommendation returned to the Council, or by an application for an amendment by a citizen.**

**Finding:** Application for this legislative change was made by request of the City Council via their 2019/2021 City of Florence Work Plan, Priority 1, Objective 2: Update Florence City Code Titles 10 and 11 to address deficiencies outside of the DLCD Technical Assistance program scope or funding availability.

##### **D. Notice of Hearing:**

**1. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications (e.g., re-zonings and comprehensive plan amendments).**

**2. Notification requirements. Notice of public hearings for the request shall be given by the Planning Department in the following manner:**

**b. At least 10 days before the scheduled Planning Commission hearing date, and 14 days before the City Council hearing date, public notice shall be published in a newspaper of general circulation in the City.**

**Finding:** Notification of the Planning Commission public hearing was published in the Siuslaw News on July 18, 2020. The notification procedures meet the requirements of Florence City Code, the policies of the Florence Realization 2020 Comprehensive Plan, and state law.

**d. The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and zoning code amendments at least 35 days before the first evidentiary hearing.**

**Finding:** Notice of the proposed City Code Amendments was sent to the Department of Land, Conservation and Development (DLCD) on June 23, 2020, not less than 35 days prior to the proposed first evidentiary hearing of July 28, 2020, as required by State law and the Florence City Code.

**3. Content of notices. The mailed and published notices shall include the following information: ....**

**Finding:** Notice provided to the Siuslaw News for publication included the cited in-

formation

### **FCC 10-1-3 Amendments and Changes,**

- A. Purpose: As the Comprehensive Plan for the City is periodically reviewed and revised, there will be a need for changes of the zoning district boundaries and the various regulations of this Title. Such changes or amendments shall be made in accordance with the procedures in this Section.**

### **Section C Legislative Changes**

- 1. Initiation: A legislative change in zoning district boundaries, in the text of this Title, Title 11 or in the Comprehensive Plan may be initiated by resolution of the Planning Commission or by a request of the Council to the Planning Commission that proposes changes be considered by the Commission and its recommendation returned to the Council.**

**Finding:** Application for this legislative change was made by request of the City Council via their 2019/2021 City of Florence Work Plan, Priority 1, Objective 2: Update Florence City Code Titles 10 and 11 to address deficiencies outside of the DLCDC Technical Assistance program scope or funding availability.

- 2. Notice and Public Hearing: Such notice and hearing as prescribed by state law and the Comprehensive Plan then in effect.**

**Finding:** Notification of the Planning Commission public hearing was published in the Siuslaw News on July 18, 2020. The notification procedures meet the requirements of Florence City Code, the policies of the Florence Realization 2020 Comprehensive Plan, and state law.

### **Realization 2020, Florence Comprehensive Plan**

#### **Plan Adoption, Amendments, Review and Implementation**

**Adoption of the Plan represents a commitment by the City to attempt the achievement of what the Plan proposes and is considered by other governmental units, the courts and the public to be a statement of policy. City ordinances covering development and land use must be consistent with the intent of the Plan. Federal, State, County and Special District land use actions must also be consistent with the Plan. (pp. 2-3)**

**Finding:** The proposed amendments to the City development code support residential development consistent with the Plan and the adopted Housing Needs Analysis (2018). The proposed code amendments are internally consistent. The applicable Plan policies for the proposed amendments are addressed in the policies that follow. These findings are incorporated herein.

#### **Chapter 1: Citizen Involvement**

**Citizen Involvement Goal: To develop a citizen involvement program that in-**

sure the opportunity for citizens to be involved in all phases of the planning process.

### **Policies**

- 2. A Citizen Advisory Committee, appointed by the City Council, shall serve in an advisory capacity to the Florence Planning Commission to assure the broadest input during periodic review and post acknowledgment Plan and zoning amendments.** (pg. I-1)

**Finding:** This policy is met. The City Council appointed the Housing and Economic Advisory Committee to advise on development of the previous Comprehensive Plan amendment in 2018, including a revised Housing Needs Analysis, and they directed the Community & Economic Development Committee (CEDC) work on the proposed Plan and zoning amendments proposed herein. The CEDC met three times during the development of the adopted residential amendments. This proposal ensures consistency with those new housing code criteria, related to building height and types of housing.

- 3. The City Council shall ensure that a cross-section of Florence citizens is involved in the planning process, primarily through their appointments to the Planning Commission, Design Review Board, Citizen Advisory Committee and other special committees.** (pg. I-1)

**Finding:** This policy is met. The City Council appointed a cross-section of Florence citizens to serve on the CEDC, including representatives of the banking, development, education, utility provider, health, young adult, and retirement communities.

- 4. Official City meeting shall be well publicized and held at regular times. Agendas will provide the opportunity for citizen comment.** (pg. I-1)

**Finding:** This policy is met. The proposed code amendments are consistent with this policy because the notice of the public hearing was noticed in the newspaper prior to public hearing before the Planning Commission, as required by state law. Notice was published in the Siuslaw News on June 23, 2020. Staff also updated the City's website to state when City meetings are scheduled. Materials for City Council meetings are posted on the website prior to the meeting. The agendas are also posted at City Hall.

- 5. Records of all meetings where official action is taken shall be kept at City Hall and made available on request to the public.** (pg. I-1)

**Finding:** The proposal for these actions is consistent with this policy because minutes of all meetings are kept at City Hall, posted on the City's website, and made available on request to the public.

- 6. Planning documents and background data shall be available to interested citizens.** (pg. I-1)

**Finding:** The proposal for these actions is consistent with this policy because the Resolution, Ordinance, Findings of Fact, staff report and proposed amendments were available prior to the public hearing. The documents were available to view at the Planning Department or online on the City's website.

## **Chapter 2: Land Use Policies**

3. **The quality of residential, commercial and industrial areas within the City shall be assured through the enforcement of City zoning, design review, applicable conditions of development approval, parking and sign ordinances, and the enforcement of building, fire, plumbing and electrical codes.** [SEP](pg. II-1)

**Finding:** The proposal for these actions is consistent with this policy because the proposed code standards:

- Include zoning standards addressing quality, type and availability of residential development within commercial areas.
- Continue to enforce parking standards in FCC 10-3.

## **Commercial**

### **Policies**

3. **The City shall promote the efficient use of available lands designated for the establishment of commercial uses.** [SEP](pg. II-9)[SEP]

**Finding:** The proposal for these actions is consistent with this policy because it does not change the extent or location of lands designated for commercial uses. Residential uses continue to be permitted outright and conditionally in the Commercial District (FCC 10-15), Highway District (FCC-10-16), and North Commercial District (FCC 10-30). Mixed-Use development criteria include residential unit uses be setback 25 feet from the street to promote highly visible commercial uses along the primary façade.

## **Chapter 10, Housing Opportunities**

7. **Periodically review development code regulations and the zoning map to ensure they encourage a variety of housing types, such as accessory dwelling units, tiny houses, big houses, senior housing, manufactured homes, etc.** (pg. X-2)

**Finding:** The proposal for these actions is consistent with this policy because the proposal was developed around the core goal of expanding residential development opportunities, including expanding the variety of housing types permitted and encouraging their construction through clear and objective standards tailored to each housing type through reference to use the existing residential code standards. In particular, the proposal includes permitting for duets, triplexes, and quadplexes and revises existing standards for building height to implement the changes to FCC 10-10 in 2019. Proposed change

increases building height from 28' to 35'.

10. **Apply plan designations, zoning districts and regulations to implement the mix of housing indicated in the acknowledge Housing Needs Analysis.** (pg. X-2)

**Finding:** The proposal for these actions is consistent with this policy because the proposed added residential uses and building height increase support the mix of housing types identified in the 2017 Housing Needs Analysis (HNA). The HNA identified a need for duplexes. The proposed code amendments include that housing type in addition to triplexes, quadplexes, and duets. While there are no proposed changes to the mapped designations or zoning districts, the proposed change support greater flexibility to build more variety of units across more of the existing zones.

13. **The City shall update codes to support and recognize workforce housing, mobile homes, manufactured housing and multifamily dwellings as an important part of the overall housing stock, if well situated.** (pg. X-2)

**Finding:** The proposal for these actions is consistent with this policy because it adds more housing types suitable for workforce housing including duplexes, duets, triplexes and quadplexes.

## **Chapter 12: Transportation**

### **Policies**

8. **The City shall protect the function of existing and planned transportation systems as identified in the TSP through application of appropriate land use and access management techniques.**
  - **Pursuant to the State Transportation Planning rule, any land use decisions which significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, level of service of the facility.** (pg. XII-3)

**Finding:** The proposal is consistent with this policy because the amendments are not tied to any one development application and do not affect the functional classification of any street. These amendments do not change allowable uses or change regulations in ways anticipated to result in the generation of additional vehicle trips compared to estimated traffic generation in the adopted Transportation System Plan (TSP); therefore, the amendments will have no measurable impacts on the amount of traffic on the existing transportation system. Because of this, the proposed amendments do not cause a “significant effect” under OAR 660-012-0060.

## **Oregon Revised Statutes (ORS)**

The procedures for legislative decisions and public hearings are set out in the Florence City Code, which has been acknowledged by DLCD and these local regulations effectively implement state law. The sections of State statute that relate to the pro-

posed amendments to the City code are listed below with findings to address consistency with these State laws.

**ORS 197.303: “Needed housing” defined.**

**(1) As used in ORS 197.307 (Effect of need for certain housing in urban growth areas), “needed housing” means all housing on land zoned for residential use or mixed residential and commercial use that is determined to meet the need shown for housing within an urban growth boundary at price ranges and rent levels that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low incomes, as those terms are defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a. “Needed housing” includes the following housing types:**

- (a) Attached and detached single-family housing and multiple family housing for both owner and renter occupancy;**
- (b) Government assisted housing;**
- (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 (Policy) to 197.490 (Restriction on establishment of park);**
- (d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and**
- (e) Housing for farmworkers.**

**Finding:** The proposal is consistent with this statute because it provides for development of the needed housing types identified in the 2017 Housing Needs Analysis within the Florence UGB. The proposed amendments permit additional forms of housing including duplexes, duets, triplexes, and quadplexes, in appropriate commercial zones.

**ORS 197.307: Effect of need for certain housing in urban growth areas.**

**(3) When a need has been shown for housing within an urban growth boundary at particular price ranges and rent levels, needed housing shall be permitted in one or more zoning districts or in zones described by some comprehensive plans as overlay zones with sufficient buildable land to satisfy that need.**

**Finding:** The proposal is consistent with subsection (3) of this statute because it provides for development of the needed housing types identified in the 2017 Housing Needs Analysis within the Florence UGB. The proposed amendments permit additional forms of housing including duplexes, duets, triplexes, quadplexes, in appropriate commercial zones.

**(4) Except as provided in subsection (6) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing. The standards, conditions and procedures:**

- (a) May include, but are not limited to, one or more provisions regulating the density or height of a development.**

(b) May not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

(6) In addition to an approval process for needed housing based on clear and objective standards, conditions and procedures as provided in subsection (4) of this section, a local government may adopt and apply an alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if:

(a) The applicant retains the option of proceeding under the approval process that meets the requirements of subsection (4) of this section;

(b) The approval criteria for the alternative approval process comply with applicable statewide land use planning goals and rules; and

(c) The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in subsection (4) of this section.

(7) Subject to subsection (4) of this section, this section does not infringe on a local government's prerogative to:

(a) Set approval standards under which a particular housing type is permitted outright;

(b) Impose special conditions upon approval of a specific development proposal; or

(c) Establish approval procedures.

**Finding:** The proposal is consistent with subsections (4), (6) and (7) of this statute because it includes options for both clear and objective review standards. Development standards for residential development in all commercial zones are specified in FCC 10-10, including clear and objective standards for minimum lot dimensions, minimum lot area, lot coverage, yard regulations and setbacks, density, height, and site development. Residential uses in commercial zones are permitted outright, through a Type II site design review process, or in limited cases as a conditional use permit. Specific approval standards for particular housing types that are clear and objective are established.

**ORS 197.610:** Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development; rules.

(1) Before a local government adopts a change, including additions and deletions, to an acknowledged comprehensive plan or a land use regulation, the local government shall submit the proposed change to the Director of the Department of Land Conservation and Development. The Land Conservation and Development Commission shall specify, by rule, the deadline for submitting proposed changes, but in all cases the proposed change must be submitted at least 20 days before the local government holds the first evidentiary hearing on adoption of the proposed change. The commission may not require a local government to submit the proposed change more than 35 days before the first evidentiary hearing.

**(2) If a local government determines that emergency circumstances beyond the control of the local government require expedited review, the local government shall submit the proposed changes as soon as practicable, but may submit the proposed changes after the applicable deadline.**

**(3) Submission of the proposed change must include all of the following materials:**

**(a) The text of the proposed change to the comprehensive plan or land use regulation implementing the plan;**

**(b) If a comprehensive plan map or zoning map is created or altered by the proposed change, a copy of the map that is created or altered;**

**(c) A brief narrative summary of the proposed change and any supplemental information that the local government believes may be useful to inform the director or members of the public of the effect of the proposed change;**

**(d) The date set for the first evidentiary hearing;**

**(e) The form of notice or a draft of the notice to be provided under ORS 197.763, if applicable; and**

**(f) Any staff report on the proposed change or information describing when the staff report will be available, and how a copy of the staff report can be obtained.**

**(4) The director shall cause notice of the proposed change to the acknowledged comprehensive plan or the land use regulation to be provided to:**

**(a) Persons that have requested notice of changes to the acknowledged comprehensive plan of the particular local government, using electronic mail, electronic bulletin board, electronic mailing list server or similar electronic method; and**

**(b) Persons that are generally interested in changes to acknowledged comprehensive plans, by posting notices periodically on a public website using the Internet or a similar electronic method.**

**Finding:** The proposal is consistent with this statute because notice to DLCD was sent on June 23, 2020 at least 35 days prior to the July 28, 2020 (first) public hearing and the notice contained the information required in this statute. The notice of proposed change was circulated widely within the city consistent with subsection (4), as detailed in response to Comprehensive Plan Goal 1.

### **Oregon Administrative Rules (OAR)**

The procedures for legislative decisions and public hearings are set out in the Florence City Code, which has been acknowledged by DLCD and these local regulations effectively implement state law. The sections of State rules that relate to the proposed amendments to the City code are listed below with findings to address consistency with these State laws.

#### **OAR 660-008-0015: Clear and Objective Approval Standards Required**

**(1) Except as provided in section (2) of this rule, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of needed housing on buildable land. The standards, conditions and procedures may not have the effect, either in themselves or**

cumulatively, of discouraging needed housing through unreasonable cost or delay.

(2) In addition to an approval process for needed housing based on clear and objective standards, conditions and procedures as provided in section (1) of this rule, a local government may adopt and apply an optional alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if:

(a) The applicant retains the option of proceeding under the approval process that meets the requirements of section (1);

(b) The approval criteria for the alternative approval process comply with applicable statewide land use planning goals and rules; and

(c) The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in section (1) of this rule.

(3) Subject to section (1), this rule does not infringe on a local government's prerogative to:

(a) Set approval standards under which a particular housing type is permitted outright;

(b) Impose special conditions upon approval of a specific development proposal; or

(c) Establish approval procedures.

**Finding:** The proposal is consistent with this rule as detailed in the findings for ORS 197.307(4), (6) and (7).

**OAR 660-012-0060: Transportation Planning, Plan and Land Use Regulation Amendments**

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

**(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or**

**(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.**

**Finding:** The proposal is consistent with this rule as detailed in the findings for Comprehensive Plan Policy 12.8.

**OAR 660-018-0020: Notice of a Proposed Change to a Comprehensive Plan or Land Use Regulation**

**(1) Before a local government adopts a change to an acknowledged comprehensive plan or a land use regulation, unless circumstances described in OAR 660-018-0022 apply, the local government shall submit the proposed change to the department, including the information described in section (2) of this rule. The local government must submit the proposed change to the director at the department's Salem office at least 35 days before holding the first evidentiary hearing on adoption of the proposed change.**

**Finding:** The proposal is consistent with this rule as detailed in the findings for ORS 197.610.

**OAR 660-015-0000 (Goal 10):**

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

**Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.**

**[...]**

**Needed Housing Units -- means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. On and after the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing units" also includes government-assisted housing. For cities having populations larger than 2,500 people and counties having populations larger than 15,000 people, "needed housing units" also includes (but is not limited to) attached and detached single-family housing, multiple-family housing, and manufactured homes, whether occupied by owners or renters.**

**[...]**

**Finding:** The proposal is consistent with this rule because it provides for development of the needed housing types identified in the 2017 Housing Needs Analysis within existing buildable lands designated for residential use.

The population of the City of Florence exceeds 2,500 people, so the requirement for various housing types applies. The proposed amendments meet the requirement, by providing for additional forms of housing including duplexes, duets, triplexes, and quadplexes in appropriate commercial zones.

## **B. IMPLEMENTATION**

**5. Additional methods and devices for achieving this goal should, after consideration of the impact on lower income households, include, but not be limited to: (1) tax incentives and disincentives; (2) building and construction code revision; (3) zoning and land use controls; (4) subsidies and loans; (5) fee and less-than-fee acquisition techniques; (6) enforcement of local health and safety codes; and (7) coordination of the development of urban facilities and services to disperse low income housing throughout the planning area.**

**Finding:** The proposal is consistent with this rule because it includes proposed zoning and land use controls that support implementation of the adopted HNA, including needed housing types as identified above.

## **V. CONCLUSION**

The proposed amendments to the Florence City Code Title 10 are consistent with the applicable criteria in the Florence Realization 2020 Comprehensive Plan, Florence City Code, Oregon Revised Statutes and Oregon Administrative Rules.

## **VI. EXHIBITS**

- A. Proposed edits to FCC Title 10 Chapters 15, 16, 25, and 30
- B. Findings of Fact