



**STAFF REPORT / FINDINGS OF FACT
PLANNING COMMISSION
LEGISLATIVE TEXT AMENDMENTS
REVISING/UPDATING ZONING & DEVELOPMENT CODE
TITLE XV, CHAPTER 155**

ORDINANCE NO. 259

Subject: Dunes City Zoning and Development Code
Title XV, Chapter 155

**Planning Commission
First Public Hearing Date:** 28 October 2021

Applicant: Initiated by Dunes City

Proposal: Legislative Text Amendment to Dunes City Zoning and Development Code to reorganize and expand language for clarity and ease of use and to add language governing multifamily housing and temporary uses within the City.

Prepared By: Jamie Mills, City Administrator/Planning Official and
Rapunzel Oberholtzer, Planning Secretary

I. INTRODUCTION

Dunes City's current Zoning and Development Code, Title XV, Chapter 155, was adopted by Ordinance Number 182 in December of 2006 after almost six years of work on revisions by the City's Planning Commission, Committee for Citizen Involvement (CCI) and City Council. Five years later, early in 2011, the Planning Commission began work on revisions to that Code to clarify language and processes and bring the Code into alignment with current State regulations and the City's Comprehensive Plan. Work by the Planning Commission continued until this year with input from the City Attorney, several Citizen Advisory Committees and City Staff. The revisions you are about to review are the result of hundreds of hours of work by many, many dedicated volunteers and Staff.

There are some significant changes to the content of Chapter 155, all of which are intended to clearly describe the City's Code requirements and the processes used in making land use decisions. Clear and objective standards for making decisions are also included in the revised Code—these are the standards upon which land use decisions must be made in accordance with State rules. Some sections of Code have been rearranged to improve the organization and structure so that it is easier to read. Finally, new sections have been added to address some

Comprehensive Plan requirements that were omitted from current Code, and to address specific issues the Planning Commission identified as potentially problematic and needing some form of City regulation or oversight.

It is important to note that during her review the City Attorney specializing in land use added much of the new language and rewrote and/or rearranged several Sections of Chapter 155. Some Sections of Chapter 155 were added by Staff at the direction of the City Attorney and/or the Planning Commission using language provided by the City Attorney and/or the City Planner or language from Model Development Code Version 3.1. Model Development Code is used by many Oregon cities as a template for their land use codes and was used in the Ordinance No. 182 revisions to Chapter 155.

II. APPLICABLE CRITERIA

- A. Consistency with Dunes City Comprehensive Plan
- B. Consistency with Applicable Statewide Planning Goals
- C. Consistency with Dunes City Code
- D. Consistency with Oregon Revised Statutes

III. REVIEW OF APPLICABLE CRITERIA / FINDINGS OF FACT

Note: The City's Findings of Fact appear in italics in this document.

A. CONSISTENCY WITH DUNES CITY COMPREHENSIVE PLAN

- 1. Policy A1(A) Citizen Involvement Program. The City shall maintain a Citizen Involvement Program (CIP) that incorporates the following components:**

1. Citizen Involvement. The CIP shall provide for widespread citizen involvement. The CIP shall provide opportunities for the involvement of a cross-section of affected citizens in all phases of the planning process.

FINDING: In October of 2013, Dunes City adopted Ordinance No. 223 amending the Citizen Involvement provisions of the Dunes City Comprehensive Plan to comply with the provisions of Goal 1 of Oregon's Statewide Planning Goals.

This criterion is met.

- 2. Policy A1(C)(1) Citizens Advisory Committee (Appointment). During periodic review, or when directed by the Council, the Planning Commission shall appoint citizens to a Citizen Advisory Committee (CAC) in order to solicit citizen input on proposed changes to the City's Comprehensive Plan and/or land use regulations. CACs are fluid and may also be appointed or reappointed on an ad hoc basis for each issue on which the Planning Commission seeks public input.**

Policy A1(C)(2) Citizens Advisory Committee (Duties). CACs will make recommendations to the Planning Commission specifically regarding the proposed change to the Comprehensive Plan and/or land use regulation for which the CAC was created.

FINDING: On January 9, 2014, Dunes City's City Council adopted Resolution Series 2014, No. 2, which adopted the Dunes City Citizen Involvement Program Policy and designated the City's Planning Commission to act as the City's Committee for Citizen Involvement. One of the responsibilities of the CCI is to determine whether a proposed change to the City's land use regulations warrants the formation of a CAC.

When the Planning Commission finished revisions to Sections 155.1, 155.2 and 155.3 of the City's Zoning and Development Code (land use code) in the fall of 2016, it directed City Staff to publish in "The Siuslaw News" press releases seeking citizens to participate in Citizens Advisory Committees for the purpose of reviewing the proposed changes. Initial response was poor, with only one Dunes City resident volunteering to participate. As a result, the Planning Commission appointed its members to the CAC along with the sole applicant.

The first CAC meeting (with Planning Commission members and one citizen) was held in November of 2016. The CAC appointed a Chairperson and Dunes City Staff provided administrative support. CAC meetings were held in March, April, May, June, August, September, and October of 2017. By November of 2017, the City successfully recruited additional citizens to join the CAC. CAC meetings continued in December 2017, and January, February, March, April, May, June, and July of 2018 until the CAC had compiled a list of recommendations for changes to 155.1, 155.2 and 155.3 for the Planning Commission to consider. These meetings were noticed in accordance with Oregon Open Meeting Law requirements via posting agendas at City Hall and on the City's website as well as posting at the Westlake Post Office. Also, in accordance with Oregon Open Meeting Law, the meetings were recorded and minutes were prepared. The recordings and the minutes are on file at City Hall.

In September of 2018, the Planning Commission completed its proposed changes to Chapter 155.4 and directed City Staff to recruit CAC members to review the proposed changes. In October of 2018, City Staff caused to be published in "The Siuslaw News" press releases seeking volunteers to participate in CAC review of Chapter 155.4. Three City residents volunteered for the task and, again, the Planning Commission appointed its members to the CAC. The CAC appointed a Chairperson and Dunes City Staff provided administrative support. CAC meetings were held in November of 2018, in January, February March, April, May, June, August, and September of 2019 when the CAC finished its review and compiled a list of recommendations for the Planning Commission to consider. These meetings were noticed in accordance with Oregon Open Meeting Law requirements via posting agendas at City Hall and on the City's website as well as posting at the Westlake Post Office. Also, in accordance with Oregon Open Meeting Law, the meetings were recorded and minutes were prepared. The recordings

and the minutes are on file at City Hall.

In February of 2020, the Planning Commission finished its review of Chapter 155.5. March, April and May 2020 meetings were canceled due to COVID-19 precautions.

In June and July 2020, the Commission reviewed Chapter 155.6, completing the review in July. In July, Staff was directed to recruit CAC members for reviewing Chapters 155.5 and 155.6. By September, two citizens had applied to the CAC and the Planning Commission appointed them that month. That CAC met informally in October and compiled a list of recommendations for the Planning Commission to consider. That CAC meeting was noticed in accordance with Oregon Open Meeting Law, the meeting was recorded and minutes were prepared.

In October of 2020, the Planning Commission reviewed the CAC recommendations on Chapters 155.5 and 155.6 and accepted most of the recommended changes.

These criteria are met.

3. Policy A3. Dunes City's City Council shall appoint a Planning Commission for planning and zoning.

FINDING: The first Planning Commission was authorized by Ordinance No. 35 adopted by the City Council in 1972. A Planning Commission has been in existence ever since.

This criterion is met.

4. Policy A5. Before a permit is issued on any lot or parcel of land the applicant must present a development plan to the city. Such Plan shall include, but not be limited to, water supply and sewage disposal locations, proposed land drainage system and means of controlling runoff, and a plan and time schedule for re-landscaping land from which vegetation is to be removed. Standards for the above will be set by the City Council.

FINDING: Section 155.4.3.130 (Tentative Plan Submission Requirements) mandates that the Tentative Plan must include proposed improvements, including the proposed source of domestic water, the proposed method of sewage disposal and the method of surface water drainage and treatment. Section 155.4.3.140 (Approval Criteria: Tentative Plan) states that the tentative plan may be approved, approved with conditions, based on certain criteria which include compliance with the sanitary sewer and water service improvements, storm drainage, and utility access requirements in Section 155.3. Approval of the final plat is based on, among other criteria, whether or not the final complies with the approved tentative plan and all conditions of approval have been satisfied as described in Section 155.4.3.160 (Final Plat Requirements and Approval Criteria)

It should be noted that old Sections 155.4.3.130 and 155.4.3.140 required a developer to maximize the preservation of existing conifers with a diameter of 8' or greater at 4 ½' above grade and other factors. This requirement was removed during Planning Commission review in November of 2011. Minutes of the November 1, 2011 meeting do not explain why. It is further noted that old Code did not require a plan and time schedule for re-landscaping and neither does the newly revised Chapter 155.

With the exception of the requirement for a re-landscaping plan, this criterion is met.

5. **Policy A16. Final action on applications for land use permits or zone changes shall occur within 120 days after a complete application has been received by the City, as per ORS 227.178.**

FINDING: The 120-day rule is incorporated in Dunes City's Chapter 155 at 155.4.1.120 (General Provisions) where the language follows that of ORS 227.178.

This criterion is met.

6. **Policy B1. The City shall protect natural resources and encourage their wise management, proper development and reuse.**

FINDING: The Planning Commission and CACs reviewed Chapter 155 Code related to lakes and shorelands—the most significant natural resources in the area—numerous times over the course of two years. The result of the reviews is a single Section entitled Lakes and Shorelands (R-1 Zone) in which building permits are required for allowed structures in the shoreland area. Allowed structures are limited to one dock access, one dock and one boathouse or water dependent recreational vehicle storage structure. Size standards for structures were changed to align with Department of State Lands (DSL) guidelines. Construction requirements for waterway structures were significantly revised to eliminate rules that were outdated and now rely on requirements of Oregon Structural Specialty Codes, US Army Corps of Engineers and DSL rules.

Added to the Lakes and Shorelands Section was a subsection entitled Access to Structures and Landings which limits the width of pathways through the shorelands area, sets standards for building stairs and landings and requires engineering by a licensed engineer for structures on slopes of greater than 16%. Also added was a subsection entitled Other Requirements that outlines survey requirements prior to application for a permit to build a structure or remove vegetation in the shorelands. The Planning Commission also added a requirement that states, "Public access in coastal shoreland areas shall be retained or replaced when public property, rights-of-way or public easements are sold, exchanged or transferred." which reinforces Comprehensive Plan Policy K8.

The Planning Commission and the CAC determined that the language from Ordinance No. 182 regulating use of land in wetland and riparian areas was in compliance with

Statewide Planning Goal 5 and did not make substantive changes.

This criterion is met.

7. **Policy B1. The City shall protect natural resources and encourage their wise management, proper development, and reuse. Areas possessing unique ecological, scenic, aesthetic, scientific, or educational values shall be considered in the planning and zoning process.**

Policy B2. The City shall protect the waterways and geologic and wooded integrity of the area so that the community may proudly identify itself with trees, lakes, dunes and rivers.

Policy B3. Stabilizing vegetation on older dunes will be protected through special planning and development review procedures. Approval of new development on stabilized dunes will be subject to a site review.

Policy B4. Dunes City will coordinate with Lane County, the Oregon Department of Transportation, and the Oregon Dunes National Recreation Area to protect the stabilized dunes west of Highway 101.

Policy B5. Elements of the aquatic environment such as the lakes, marshes, mudflats, lagoons, riparian vegetation, and critical wildlife habitat and resources shall be considered in the planning and zoning process.

FINDING: All of the above criteria are related to Open Space, Scenic Areas and Natural Resources. These criteria are all thoroughly governed by Chapter 155 in Sections 155.2.3 (Open Space Overlay Zone) which targets Lakes and Shorelands, 155.2.4 (Fragile Lands Overlay Zone) which addresses excessive slopes and stabilized or active dunes, 155.2.5 (Wetland Overlay Zone), and 155.2.6 (Riparian Overlay Zone).

Oregon Statewide Planning Goal 5 requires cities to protect the significant wetlands and riparian areas within their boundaries and also defines alternative rules that may be applied to satisfy that goal. In Chapter 155, Dunes City adopted the standard Goal 5 process and the Code was not significantly changed during the latest review by Planning Commission and CACs. Although Goal 5 requires program decisions for all wetlands that meet the significance criteria, the City also tracks non-significant wetlands on its Local Wetlands Inventory (LWI) map, in order to alert property owners and others that Oregon Department of State Lands and US Army Corps of Engineers fill permits may be required for actions that affect these wetlands. The same is true for the City's riparian areas.

DEQ, DSL and the US Army Corps of Engineers are routinely involved in any City land use planning or application decisions when wetland and riparian areas may be involved. Preservation and protection of these areas is vitally important to the City and promotes the City's identity with the lakes and waterways.

Dunes City does not have Code that governs removal of trees from private property that is not in a wetland or riparian area, except for Code related to Booth Island where vegetation removal is limited to twenty-five feet around the dwelling site, its pathways and accessory structures. Booth Island Code also mandates that the first fifty feet perpendicular to the shoreline is a “no touch” zone where there can be no disturbance to vegetation and no building other than a dock.

*STAFF NOTE: The Planning Commission and a majority of CAC members have recommended removing specific Code protections for Booth Island, arguing that the City’s Code for wetland and riparian areas is sufficient protection. **Staff disagrees with this view and recommends that the Booth Island Code be reinserted so as to preserve the requirements for a no touch zone, 100-foot riparian area, building limitations, dock size limitations, and limitations on vegetation removal.***

While the Comprehensive Plan states that Booth Island has been designated a significant natural area by the Oregon Natural Heritage Program, Staff cannot find any evidence of State recognition. However, in 2006, ODFW determined that Booth Island was considered Habitat Category 3, a high quality and limited habitat type with use by various federal and/or State sensitive species. ODFW further noted that the surrounding shoreline on Siltcoos Lake has high habitat quality value and would likely be classified as a 3 or 4. In addition, ODFW noted that habitats like Booth Island are very limited in the mid coast region and if future development is allowed resources would benefit from a 100-foot average riparian buffer which included an inner fifty-foot no touch area and an outer fifty-foot all tree retention section, retention of all woody debris, and minimal access to docks that are no more than 400 square feet in size.

With the exception of specific City woodland protections, criteria B1 through B5 are met.

8. **Policy B6. Methods of conserving water resources must be considered in all land use and development proposals and decisions. In compliance with the Mid-Coast Basin Program adopted on September 25, 1984, the City recognizes that Siltcoos and Woahink Lakes are classified only for utilization of water for domestic, livestock, and in-lake uses for recreation, wildlife, and fish life purposes.**

FINDING: Dunes City’s Zoning and Development Code requires that all new development within the City be certified to have water and septic systems available, but Chapter 155 does not otherwise regulate Dunes City’s water supply or water quality.

This criterion is not applicable to Chapter 155 revisions.

9. **Policy B7. Dunes City will coordinate its efforts with governmental agencies and nearby jurisdictions, for implementing and studying possible alternatives for maintaining good water quality.**

Dunes City has established a Water Quality Committee with a number of volunteer water

testers to routinely test the waters of Woahink and Siltcoos Lakes. The Committee's volunteers maintain a log of test results and from time-to-time sends water samples to the University of Washington for additional quality testing. Chapter 155 does not otherwise regulate Dunes City's water supply or water quality.

This criterion is not applicable to Chapter 155 revisions.

- 10. Policy B8. Dunes City will strive to maintain the high water quality of Siltcoos and Woahink Lakes through monitoring recreation use, commercial and industrial use, and runoff of septic tank effluent. A Water Control Committee will be formed to examine problems with water quality.**

FINDING: Dunes City continues to require septic system inspections under Ordinance No. 228 adopted in May of 2016. The City's Water Quality Committee continues to monitor water quality with testing on both Woahink and Siltcoos Lakes, although no testing has been done on either lake since the beginning of the COVID-19 pandemic. It should be noted that Dunes City has no jurisdiction over the recreational uses of Woahink and Siltcoos Lakes nor does it have jurisdiction of commercial or industrial use and the City's Zoning and Development Code does not address those issues.

This criterion may be considered met.

- 11. Policy B9. Nonpoint pollution sources are a threat to the water quality of the city's lakes and streams. There shall be no direct urban run off into the city's lakes and streams. New construction and site development, including roads, shall provide a storm water management system consistent with sound engineering practice and the requirements of this policy. Owners of existing homes are to be encouraged to contain their run off as well. Site construction procedures shall not contribute to erosion into lakes and streams.**

FINDING: Dunes City's Zoning and Development Code requires all new development plans to include at minimum a site analysis and descriptions and maps of proposed improvements to be submitted for City approval by engineers or contractors licensed by the State of Oregon. Separately, Dunes City's Surface Water Management Ordinance No. 233 regulates erosion and sediment control.

This criterion is met.

- 12. Policy B11. The city shall strive to protect the habitat of wildlife and fish, including lakes, fish-bearing (Class F) streams, wetlands, riparian areas, and forested lands. These resources shall be protected and conserved to the greatest extent possible, consistent with low-density development of the city.**

FINDING: Dunes City's Zoning and Development Code requires all new development plans to include a site map that illustrates the locations of all streams, wetlands, riparian

areas and forest areas to be submitted for City approval. Revisions to Code did not reduce the one-acre minimum lot size but did add provisions for multifamily residences subject to approval of a Conditional Use Permit. This addition brings City Zoning and Development Code into compliance with State law and allows the City some oversight of development in potentially sensitive areas.

This criterion is met.

- 13. Policy B12. Significant natural areas and habitats of listed plant and animal species (refer to federal and state law) shall be retained in open space whenever possible and will be considered in the planning and zoning process, particularly those areas containing unique ecological, scenic, aesthetic, scientific or educational values.**

FINDING: Dunes City's Zoning and Development Code requires all new development plans to include a site map that illustrates the locations of any endangered or sensitive plant species to be submitted for City approval.

This criterion is met.

- 14. Policy C5. Dunes City will continue participation in the National Flood Insurance Program.**

FINDING: In February of 2020, Dunes City adopted Ordinance No. 253 to implement new flood hazard regulations required by FEMA in order to continue participation in the NFIP.

This criterion is met.

- 15. Policy C6. Development proposed on slopes 12 to 16 percent is subject to site review. New development on slopes over 16 percent will require documentation from a licensed Oregon Engineer which shows such development is safe.**

FINDING: Revisions to Chapter 155 strengthen requirements for development on slopes greater than 12%. Revisions now require approval by the City Engineer and the Planning Commission for development on slopes greater than 12%, and a report of safety from a licensed Oregon Engineer for slopes over 16%.

This criterion is met.

- 16. Policy G4. Minor economic activities, such as home occupations, will be permitted if they are not harmful to air, water, or land quality, and if they are not potential nuisances to neighboring uses. Dunes City does not seek industries to locate in the City.**

FINDING: Home occupations are allowed under current City Zoning and Development

Code however, some restrictions were added during Planning Commission and CAC revisions to ensure that home occupations do not become a nuisance or a danger to the neighborhood. Among the new restrictions: a permit is required subject to a Type I (Administrative) Procedure; no client or customer parking is allowed in the Dunes City right-of-way; any activity that uses hazardous material or generates hazardous waste is prohibited; and, the Code Enforcement Officer is authorized to respond to complaints and take action accordingly.

This criterion is met.

17. Policy H1. Dunes City shall provide housing opportunities responding to the needs of Dunes City residents.

FINDING: One of the most common inquiries received by City Staff is whether Accessory Dwelling Units (ADUs) are allowed in Dunes City. City Zoning and Development Code does not currently allow them, and State Code does not require a city the size of Dunes City to allow them. During the revision process of Chapter 155, the Planning Commission opted not to add Code to address ADUs. It should be noted, however, that the City's Conditional Use Permit process can be used to assess an application to permit a guest house on a lot with an existing dwelling and revisions to Chapter 155 have clarified the limitations on guest houses.

Dunes City's Zoning and Development Code currently provides for Recreational Vehicle Parks and single-family rentals are allowed and available in the City. Revisions to Chapter 155 include an added section on multifamily housing and a new section allowing for and governing temporary occupancy of Motor Homes and Travel Trailers on private property.

This criterion is met.

18. Policy H4. Dunes City shall allow a mixture of dwelling unit types where use criteria and conditions can be met, as specified in the zoning ordinance, consistent with the rural residential nature of the City.

FINDING: Based on historical research into land use ordinances over the years, Staff believes that provisions for multifamily housing were removed from Dunes City's Code with the adoption of Ordinance No. 182 in 2006. The Planning Commission has added specific application submission requirements and approval criteria for multifamily housing back to Code in the Conditional Use Permits Section of revised Chapter 155. It should be noted that Dunes City Code allows manufactured dwellings as long as they comply with U.S. Department of Housing and Urban Development (HUD) standards and Oregon Installation Specialty Code. It should be further noted that recreational vehicle parks are an allowed use in Dunes City. The Planning Commission has also added in revised Chapter 155 new provisions for temporary occupancy of recreational vehicles not located in a designated park.

This criterion is met.

19. Policy H10. Dunes City will implement clear and objective conditional use standards for multifamily housing.

FINDING: Based on historical research into land use ordinances over the years, Staff believes that provisions for multifamily housing were removed from Dunes City's Code with the adoption of Ordinance No. 182 in 2006. To comply with this Comprehensive Plan Policy, the Planning Commission made significant changes to the City's Conditional Use Permit Code in order to provide for multifamily housing. First, under the Section entitled Application Submission Requirements, applicants seeking a Conditional Use Permit for multifamily housing must submit a detailed maintenance plan that clearly describes: how common or open space areas will be maintained; details regular and uniform upkeep of landscaping; describes routine inspection, repair and replacement of common lighting fixtures, fire suppression systems, safety controls and other community systems; and describe when maintenance activities will commence and how they will be funded. The purpose of this requirement is to provide for additional review to encourage development that is healthy, safe and compatible with the surrounding neighborhood.

Second, the Planning Commission added specific requirements to the Criteria, Standards and Conditions of Approval Section intended to ensure that multifamily projects be adequately buffered and oriented so as to minimize impacts on neighboring properties; minimize impacts to the natural environment; and, demonstrate adequate and safe circulation for vehicles and pedestrians.

Third, the Planning Commission added a new paragraph citing specific conditions that prospective multifamily projects must meet to control development scale, avoid or minimize impacts associated with traffic, parking and design compatibility, and ensure management and maintenance of common areas. These conditions were broken into three categories: Duplex, Townhomes/Attached Single-Family Dwellings and Multifamily Dwellings.

Language for the new Code additions was based largely on Oregon Model Development Code and massaged by the Planning Commission and the CAC. It should be noted that both the Planning Commission and the CAC dedicated dozens of hours to reviewing this proposed new language to ensure that it met State requirements and the unique needs of Dunes City.

It should also be noted that while there are no pending applications for multifamily housing projects and City Staff has not received inquiries about such use, it is the opinion of the Planning Commission that Code to address these types of projects be included in the revised Chapter 155 to provide clear and objective guidelines for applications and approval.

This criterion is met. STAFF NOTE: Ordinance No. 101 adopted November 13, 1986, amended Dunes City's original Land Use and Zoning Ordinance No. 50 by expanding the Multifamily Standards and adding that the Planning Commission may impose standards that it considers necessary to protect the best interests of the surrounding property or the City as a whole. One of the possible conditions was, "Require two acres for two-family dwellings, three acres for three-family dwellings and four acres for four-family dwellings. This provision is not included in the revised Chapter 155.

20. **Policy K5. No more than one water access development shall be allowed per lakefront lot. The City shall work with ODSL in regulating boathouses, docks, piers, wharfs, or combinations thereof.**

FINDING: This Policy is included in Chapter 155 at 155.2.3.~~200~~[110](#) and has been clarified to state that only one water access point (stairs, landing or path), one dock and one boathouse or water-dependent recreational vehicle storage structure are permitted. In addition, Chapter 155 states that paths to water access must be no more than eight feet wide and located in the shortest direct route to the water that is safe. The Oregon Department of State Lands (ODSL) closely regulates all in-water development and requires the City Planning Official to sign off on all of DSL's Land Use Compatibility Statements.

This criterion is met.

B. CONSISTENCY WITH STATEWIDE PLANNING GOALS

Goal 1: Citizen Involvement. Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process." It requires each city and county to have a citizen involvement program containing six components specified in the goal. It also requires local governments to have a committee for citizen involvement (CCI) to monitor and encourage public participation in planning.

FINDING: See Section A "Consistency with Dunes City Comprehensive Plan" above, Policy A1 Staff findings.

This criterion is met.

Goal 2: Land Use Planning. Goal 2 outlines the basic procedures of Oregon's statewide planning program. It says that land use decisions are to be made in accordance with a comprehensive plan, and that suitable "implementation ordinances" to put the plan's policies into effect must be adopted. It requires that plans be based on "factual information"; that local plans and ordinances be coordinated with those of other jurisdictions and agencies; and that plans be reviewed periodically and amended as needed. Goal 2 also contains standards for taking exceptions to

statewide goals. An exception may be taken when a statewide goal cannot or should not be applied to a particular area or situation.

FINDING: Revisions to Chapter 155 bring Dunes City's Zoning and Development Code more closely into alignment with the City's Comprehensive Plan and with applicable State statutes.

Changes to Chapter 155 will not affect governmental units such as Lane County. DLCD has been provided a copy of the revisions to Chapter 155, as required by State law.

The Dunes City Comprehensive Plan calls for the City to implement clear and objective conditional use standards for multifamily housing. These standards were eliminated when existing Chapter 155 was adopted by Ordinance No. 182. Revisions to Chapter 155 now include standards for multifamily housing. See Section A "Consistency with Dunes City Comprehensive Plan" above, Policy H10.

The Citizen Involvement portion of Dunes City's Comprehensive Plan was amended in October of 2013. It should be noted that the Plan's statistical information, such as population and economy and housing inventory, have not been updated since 1997.

Staff does not anticipate that any exceptions to statewide goals will be needed or taken.

This criterion may be considered met.

Goal 5: Natural Resources, Scenic and Historic Areas and Open Spaces. Goal 5 covers more than a dozen natural and cultural resources such as wildlife habitats and wetlands. It establishes a process for each resource to be inventoried and evaluated. If a resource or site is found to be significant, a local government has three policy choices: preserve the resource, allow proposed uses that conflict with it, or strike some sort of a balance between the resource and the uses that would conflict with it.

FINDING: In June of 2005, Dunes City adopted Ordinance No. 175 which adopted revised riparian and wetland inventories developed by Pacific Habitat, Inc. to replace the 1996 Local Wetlands Inventory and Riparian Inventory that were part of the Dunes City Comprehensive Plan. In the City's Zoning and Development Code are Sections describing the Wetland Overlay Zone and the Riparian Overlay Zone protections provided by the City and the activities allowed in each zone. The Code requires the City to notify DSL in writing of any applications for development that may affect significant or non-significant areas in either zone.

This criterion is met.

Goal 10: Housing. This goal specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing. It requires each city to inventory its buildable residential lands, project future needs for such lands, and

plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types.

FINDING: The Dunes City Comprehensive Plan calls for the City to implement clear and objective conditional use standards for multifamily housing. These standards were eliminated when existing Chapter 155 was adopted by Ordinance No. 182. Revisions to Chapter 155 now include standards for multifamily housing. See Section A “Consistency with Dunes City Comprehensive Plan” above, Policy H10.

FINDING: Dunes City’s updated Buildable Lands Inventory was adopted by Resolution No. 6-9-05(A) in June of 2005.

This criterion is met.

C. CONSISTENCY WITH DUNES CITY CODE

Dunes City Code (DCC) Chapter 155 – Zoning and Development

155.4.1.2 Description of Permit/Decision-making Procedures

- D. Type IV Procedure (Legislative).** Type IV Procedure applies to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations, zone changes, and Comprehensive Plan amendments that apply to entire districts). Type IV matters are considered initially by the Planning Commission and Road Commission with final decisions made by the City Council. These procedures are typified by the requirement of passage of an Ordinance.

155.4 Applications and Review Procedures

155.4.1.7 Type IV Procedure (Legislative)

B. Notice of Hearing

- 1. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications submitted to the City.**

FINDING: Due to the number of revisions, Dunes City Staff anticipates more than one hearing before the Planning Commission and more than one before the City Council.

This criterion is met.

- 2. The Planning Secretary shall give notice of public hearings for the request in the following manner:**

a. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the Comprehensive Plan or any element thereof, or to adopt an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.175 and mailed to:

1. Each owner whose property would be rezoned in order to implement the ordinance;
2. Any affected governmental agency;
3. Recognized neighborhood groups or associations affected by the ordinance;
4. Any person who requests notice in writing;
5. For a rezone affecting a manufactured home or recreational vehicle park, all mailing addresses within the park.

FINDING: Notice of the first evidentiary hearing before the Planning Commission was mailed on or about September 16, 2021, 30 days prior to the meeting, to all owners of record in Dunes City. Notice of the public hearings before the City Council has not been mailed as of this draft Staff Report and Findings, but will be at the appropriate time.

These criteria have been met.

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

FINDING #3: The first notice of the Planning Commission public hearing was published in “The Siuslaw News” on Saturday, October 2, 2021 and the second notice of the Planning Commission public hearing was published on Wednesday, October 6, at least 14 days prior to the scheduled Planning Commission public hearing. Notice of the public hearings before the City Council will be published at least 14 days in advance when the public hearing date(s) have been determined.

This criterion has been met.

c. The Planning Secretary shall:

1. For each mailing of notice provided in Subsection B.2. above, file an affidavit of mailing in the record; and
2. For each published notice provided in Subsection B.2. above, file an affidavit of publication in the record;

FINDING: Affidavits of mailing and publication are included in the record.

This criterion has been met.

- d. **The Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed Comprehensive Plan and development code amendments at least 45 days before the first public hearing at which public testimony or new evidence will be received.**

FINDING: DLCD was notified in writing of the proposed development code amendments on August 25, 2021, 45 days prior to the first public hearing before the Planning Commission.

This criterion has been met.

D. CONSISTENCY WITH OREGON REVISED STATUTES

ORS 197.610(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.

FINDING: DLCD was notified in writing of the proposed development code amendments on August 25, 2021, 45 days prior to the first public hearing before the Planning Commission.

This criterion has been met.

ORS 227.186(1) As used in this section, “owner” means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.

(2) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by a city shall be by ordinance.

(4) At least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, a city shall cause a written individual notice of a land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

FINDING: According to DLCD, "Rezoning" occurs when the governing body of a county or city: "Changes base zoning classifications of the property; OR adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone." Dunes City mailed notice to all owners of record within the Dunes City city limits on September 16, 2021.

These criteria have been met.

IV. FINDINGS OF FACT, CONCLUSIONS AND DECISION

Based on the findings in Section III Review of Applicable Criteria / Findings of Fact (Consistency with Dunes City Comprehensive Plan, Consistency with Applicable Statewide Planning Goals, Consistency with Dunes City Code, and Consistency with Oregon Revised Statutes), findings support a Planning Recommendation to the City Council to **ADOPT** Ordinance No. 259 and accept the Commission's Findings of Fact.

The Planning Commission may:

- A. Accept the Staff Report/Findings of Fact and Ordinance No. 259 as presented and recommend that the City Council adopt Ordinance No. 259;
- B. Amend the Staff Report/Findings of Fact (and/or amend Ordinance No. 259) and then accept the amended Staff Report/Findings of Fact (and/or the amended Ordinance No. 259) and recommend that the City Council adopt Ordinance No. 259 as presented (or amended).
- C. Recommend that the City Council not adopt Ordinance No. 259 based on Findings of Fact identified by the Commission through additional facts or insights or other information identified by the Commission but not included in the Staff Report/Findings of Fact.

V. EXHIBITS

- A. Draft Ordinance No. 259, an Ordinance replacing Chapter 155 in Title XV of the Dunes City Code of Ordinances, repealing Ordinance No. 182, and other matters properly relating thereto
- B. Chapter 155 with proposed changes inserted
- C. Comparison/Explanation of proposed changes to Chapter 155