

# City of Lincoln City

## City Council Communication

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### Public Hearing – Ord. 2024-18 FEMA PICM

Meeting Date: 11/18/2024	Primary Staff Contact: Richard Townsend
Department: Planning & Community Development	Email: rtownsend@lincolncity.org
Secondary Dept:	Secondary Contacts:
Approval: Daphnee Legarza	Estimated Time: 15 minutes
Strategic Priority: Housing	

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#### Question:

Should the City Council conduct a public hearing on Ordinance No. 2024-18?

#### Staff Recommendation:

Staff recommends the Council conduct the public hearing.

#### Authority:

Legal authority for ordinance amendments is as follows:

17.76.060 Type IV procedure (legislative).

- A. General Description. Type IV procedures apply to legislative matters. Legislative decisions are made by the city council and involve the adoption or amendment of policy by ordinance. Legislative decisions may also apply to applications involving a geographic area containing many properties. Type IV procedures require general public notice and a public hearing.
- B. When Applicable. Table 17.76.020-1 identifies Type IV applications. Applications not listed on Table 17.76.020-1 may be identified as Type IV by the director based on the general description in this section.
- C. Pre-application Conference. Pre-application conferences are not required for Type IV applications.
- D. Application Requirements.
  1. Application Forms. Legislative applications must be made on forms provided by the department.

2. Submittal Information. The application shall contain all of the following information:
  - a. The information requested on the application form;
  - b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable); and
  - c. The required fee as adopted by city council resolution, except when the city initiates the request.
- E. Mailed Notice of Public Hearing. The notification procedure for Type IV requests must conform to state land use laws (ORS 227.175) and as follows:
  1. In accordance with procedures required by the Oregon Department of Land Conservation and Development (DLCD), the department shall notify DLCD of legislative amendments at least 35 days before the first public hearing at which public testimony or new evidence will be received.
  2. At least 20 days, but not more than 40 days, before the date of the first public hearing, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
    - a. Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one comprehensive plan land use designation to another); see ORS 227.186 for instructions;
    - b. Any affected governmental agency;
    - c. Any person who requests notice in writing; and
    - d. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
- F. Published Notice of Public Hearing. Notice of the public hearings for Type IV applications shall be published two times in a newspaper of general circulation in the city, at least 10 days but not more than 21 days before the first scheduled public hearing on the proposal.
- G. Public Hearing Procedure. The planning commission shall conduct the public hearing on Type IV applications in accordance with the procedures set forth in LCMC 17.76.160. In addition to the public hearing held by the planning commission, the city council shall also conduct a public hearing on Type IV applications.
- H. Recommendation Authority.
  1. Following receipt of testimony and deliberation at the public hearing held before the planning commission, the planning commission shall provide a recommendation to the City council for all Type IV applications. The planning commission shall recommend that the city council approve or deny the proposed amendments, with or without changes. The planning commission's recommendation shall be issued as a final recommendation, and shall include

- findings supporting the recommendation, based on public testimony and the application's success or failure to satisfy the applicable criteria.
2. Decision Authority. Upon receiving the planning commission's final recommendation, the city council shall hold a public hearing on the Type IV application.
- I. Notice of Decision.
    1. Not more than seven days after the date the city council approves a Type IV application, the director shall mail a notice of decision to persons of record who appeared orally or in writing before either the planning commission or the city council.
    2. The director shall also notify DLCD of the decision within the timeframe and method prescribed by DLCD.
    3. The city council's decision is final for purposes of appeal on the date the notice is mailed.
  - J. Appeal. The final decision of the city council to approve or deny a Type IV application may be appealed to the Land Use Board of Appeals (LUBA) only when such appeal is authorized under applicable state law.

**Background:**

The proposed ordinance amendment will update the City of Lincoln City Flood Development code to maintain compliance with the National Flood Insurance Program and the Endangered Species Act. The updates are required by the Federal Emergency Management Agency (FEMA) and will focus on ensuring there is no net loss in riparian vegetation, flood storage, and water quality for endangered species in the area. These changes only apply to areas of the City that are located within the Special Flood Hazard area as defined by FEMA.

See Ordinance No. 2024-18 later on this agenda

**Council Options:**

- Hold the required public hearing scheduled for this evening and review all the evidence in the record. If the hearing is closed and the record is closed, deliberate on the proposed ordinance amendment.
- Continue the public hearing to the December 9<sup>th</sup> City Council meeting.