

**CITY OF TURNER
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**STAFF REPORT
Development Code Text Amendments
&
Comprehensive Plan Text Amendment
City Council Hearing – January 26, 2023**

Report Date: January 5, 2023
Applicant: City of Turner
Property Address: 5255 Chicago Street SE, Turner, OR 97392
Request: Development Code Text Amendments and Comprehensive Plan Text Amendment.

Appendices

Appendix A.	Group A Text Amendments
Appendix B.	Group B. Text Amendments
Appendix C.	Group C. Text Amendments
Appendix D.	Group D. Text Amendments

I. PROCEEDING

Section 2.700 of the LUDC includes procedures for Code or Plan Amendments.

Adoption of text amendments that affect a group or class of properties within the City requires a "Legislative Decision" by the City Council in conformance with the Legislative Public Hearing procedures of Section 3.520 of the Turner Land Use Development Code (LUDC).

II. APPLICABLE CRITERIA AND REVIEW STANDARDS.

Findings will address:

- City of Turner Comprehensive Plan Goals and Policies; and
- Applicable Statewide Planning Goals.

III. SUMMARY OF PROPOSED LEGISLATIVE AMENDMENTS

There are 16 proposed text amendments to the Turner LUDC and one proposed text amendment to the Turner Comprehensive Plan. For organizational reasons, we have grouped

text amendments together based on their purpose and will be referencing the number and group of each proposed amendment throughout the document.

Five proposed amendments primarily serve to update the Turner Land Use Development Code to ensure compliance with State of Oregon requirements, these will be referred to as Group A amendments.

Group A amendments include:

- A 1. An update to Group Child Care Home criteria to meet state regulation by changing 12 children or fewer to 16 children or fewer in accordance with Oregon Revised Statutes (ORS) 329A.440. This changes the number of children referenced in Sections 4.111, 4.112, 4.121, 4.136, 6.101, 6.102, and 6.103. Make amendments to allow Group Child Care Centers as a Permitted Use in the Multi-Family Residential District and Downtown Mixed-Use District in accordance with ORS 329A.440.
- A 2. Update parking requirements for ADU's in Section 5.121 *Parking* and Section 6.105 *Accessory Dwelling Units* to comply with state requirements that ADU's do not require off-street parking in ORS 197.312(5)(b)(B).
- A 3. In Section 5.120 *Parking*, require 40% of spaces have conduit to serve electric vehicle charging for new multifamily and multi-use development applications, as required in Oregon Administrative Rules (OAR) 660-012-0410.
- A 4. An update to Section 5.126 *Storm Drainage* to change the NPDES trigger to 1 or more acres of land instead of 5 or more acres in response to guidance from City Contract Engineer, AKS to comply with updated DEQ requirements for permit triggers found in the Code of Federal Regulation (C.F.R) 40 C.F.R 122.26
- A 5. Update to Section 3.300 *Notification* to say the notice shall be provided at least 35 days prior to the first evidentiary hearing, not 45 days, to comply with state law regarding DLCD notice in OAR 660-18-0020(1).

There are six proposed amendments that will update the code increase code legibility, navigability, readability, and reflect administrative practices but are not substantive changes, these will be referred to as Group B amendments.

Group B amendments include:

- B 1. Add language in Section 7.200 *Specifications for Improvements* to reference the design and construction standards in Article 8.
- B 2. An update to Article 8 *Design and Construction Standards* in response to guidance from City Contract Engineers, AKS, to clarify that the Turner Land Use Development Code follows the standard construction specifications of the City of Salem and follows the stormwater management standards of Marion County. Proposed code clarifies what "permanent modifications" for public improvements are, and the process to make modifications.
- B 3. Section 4.214(1)(D)(ii) add the words -for the- in the sentence "...at or above the base flood hazard level for the City of Turner..."

- B 4. Section 4.214 (4). Replace reference to section 5.1 to Article 5.
- B 5. Section 2.125. Delete the sentence “Notice shall also be sent to be sent to affected government agencies and members of the Turner City Council” regarding administrative applications.
- B 6. Section 1.170 *Administration*, clarify the Planning Commission’s role in what applications they review and approve in accordance with the Admin Review Ordinance.

Three amendments are proposed to update the code to meet changing conditions, referred to as Group C amendments.

Group C amendments include:

- C 1. An update to Section 2.130 *Application Procedure-Public Hearing*, and Section 3.300 *Notification* to specify that the City, not the applicant, will obtain a list of nearby property owners.
- C 2. An update to Section 4.112 *Single Family Residential District- R-2* to allow duplexes as a permitted use without the restriction they be located on a corner lot.
- C 3. Change Section 6.105 *Accessory Dwelling Units* to clarify ADU utility connections and include language that System Development Charges will be waived for ADU’s that share the utility systems of the primary dwelling.

Finally, there are proposed text amendments to update annexation references in the Turner Comprehensive Plan and Turner LUDC to comply with Oregon State law. These amendments are referred to as Group D. Amendments.

Group D amendments include:

- D 1. Update Section 9.8 *Growth Management* of Turner Comprehensive Plan by deleting the requirement that all annexations require a vote of the people.
- D 2. Update Section 2.800 *Annexations* to comply with Oregon Revised Statutes 222.111 to 222.180.
- D 3. Update Section 1.170 *Administration* to reflect changes in Section 2.800 *Annexations* by deleting the reference to annexation elections.

IV. FULL TEXT AMENDMENTS

- Appendix A includes the proposed full text amendments for items in Group A, LUDC amendments to ensure compliance with state law.
- Appendix B includes the proposed full text amendments for items in Group B, non-substantive LUDC amendments to improve code legibility and usability.
- Appendix C includes the proposed full text amendments for items in Group C, LUDC amendments to update the code to meet changing conditions.
- Appendix D includes the proposed full text amendments for items in Group D, Comprehensive Plan and LUDC amendments to update procedures for Annexations.

V. FINDINGS

- (1) **Decision Criteria.** *All requests for an amendment to the text or zoning map of this Code may be permitted upon authorization by the City Council in accordance with following findings:*
- (A) *The proposed amendment is consistent with the intent of the Comprehensive Plan.*

Findings:

This staff report identifies relevant Turner Comprehensive Plan policies and text and organizes them by text amendment group (A-D). Each comprehensive plan policy or text is listed in italics, then followed by staff findings.

Group A Amendments

The Turner Comprehensive Plan “is directed towards meeting the applicable Statewide Planning Goals and Guidelines of the Oregon Land Conservation and Development Commission” (Section 9.120 Comprehensive Planning).

The proposed Group A amendments update the code to conform to Oregon State Statutes (ORS) and Oregon Administrative Rules (OAR), therefore they are consistent with the intent of the Turner Comprehensive Plan.

Group B Amendments

Group B Amendments are non-substantive changes that will increase code legibility and usability.

Section 9.690 Public Facilities & Services City Government Policy 3 says “The City shall maintain procedures that require development projects to bear the cost for needed support facilities”.

B1 The Turner Land Use Development Code already maintains procedures that require development projects to bear the cost for needed support facilities, amendments to Article 7 further clarify how to find the standards for required public improvements.

Goal 2 in Section 9.690 Public Facilities & Services, “To provide for the timely, orderly, and efficient provision of public facilities and services to serve as a framework for future community growth and development”

B2. Clarifying public works standards will ensure public improvements and connections to public facilities will follow the correct construction and design standards and thereby provide for the timely, orderly, and efficient provision of public facilities and services.

Section 9.690 Public Facilities & Services includes the City Government Policy 1, that *“The City shall insure that public facilities, utilities, and services contribute to an orderly and efficient framework for incremental community growth and development, in coordination with the planned development of the community.”*

B2. The City has policies detailing required improvements and public facility in the Land Use development Code. The proposed amendments within Article 8 Design and Construction Standards construction specifications for required public improvements and thereby ensure that public facilities, utilities and services contribute to an orderly and efficient framework for community growth.

The Comprehensive Plan States *“The City shall work in partnership with Marion County to ensure appropriate compliance with storm water rules on County Streets within City limits.”* (Section 9.690, Stormwater Management Facilities Policy 5)

B2. The amendments to Article 8 support the Turner Comprehensive Plan Policy by clarifying the storm water standards of Marion County are adopted and shall be used for required public facilities.

The proposed Group B amendments are consistent with the intent of the comprehensive plan.

Group C Amendments

Section 9.170 (7) Turner Citizen Involvement Program says *“The time and place of public meetings addressing local planning issues shall be widely publicized. Notification shall be by posting at the City Hall, Fire Station, and the Post Office and by notification in the Turner Community Newsletter. Affected agencies will be notified and individual notifications will be provided on issues that could change the classification or that limits or land uses previously allowed”*

C1. Changing language to specify that the City, not the property owner, shall obtain a list of property owners of record within 250 feet of the property that is the subject of the review or hearing reflects current practices for obtaining lists of property owners. Property owners will continue to be notified, the update to the code language specifies a more practical path to obtaining the list of property owners. The comprehensive plan does not specify the property owner must obtain the list.

Section 9.950 Residential Land Use Policy 2 says *“A variety of lot sizes, housing types, and street patterns shall be encouraged.”*

C2. Duplexes are already allowed in R-2 zones; there are no comprehensive plan policies that intend for Duplexes to only be allowed on corner lots. Allowing duplexes on any tax lot in a single-family residential area allows a variety of housing types.

C3. Clarifying the utility connections requirements for ADU's and waiving SDC's for ADU's that take advantage of existing utility systems encourages a variety of housing types by reducing barriers to developing ADU's.

Section 9.950 Residential Land Use Policy 4 says "The City shall encourage compact residential development to provide more efficient land utilization and to help reduce the cost of housing, public facilities, and services"

C2. While duplexes would continue to have a greater minimum lot size than single-family houses in the R-2 zones, removing the corner lot requirement for duplexes enables more efficient land utilization in some cases.

C3. ADU's are a form of gentle infill that can provide efficient land utilization by developing more compact residential housing in areas that are served by existing utility systems and City services. Waiving SDC's for ADU's that use existing utility systems encourages ADU development, a form of compact residential development that provides more efficient land utilization.

The proposed Group C amendments are consistent with the intent of the comprehensive plan.

Group D Amendments

The Turner Comprehensive Plan "is directed towards meeting the applicable Statewide Planning Goals and Guidelines of the Oregon Land Conservation and Development Commission" (Section 9.120 Comprehensive Planning).

D1. The proposed text amendment to Section 9.8 Policies and Recommendations: Annexations Comprehensive Plan to delete the reference to requiring an election for annexations updates the comprehensive plan to align with state requirements for annexations in Oregon Revised Statutes 22.111 to 222.180.

The proposed code updates Section 2.800 Annexations (D2) and Section 1.170(4) Administration (D3) to comply with State Statutes.

Section 9.8 Growth Management, Policies and Recommendations: Annexations states:

"1. Future annexations to the City shall be in accordance with the planned provision of public facilities and the growth needs of the community.

2. *The City shall annex land only within the Urban Growth Notification Area on the basis of findings that support the need for additional developable land in order to maintain an orderly growth pattern within the City's service capability.*
3. *The City shall not consider annexation requests unless the area is within the City's public facility service capability.*
4. *Unless otherwise approved by the City, specific development proposals shall be required for annexation requests on vacant land adjacent to the City to insure completion in conformance with a plan approved by the City.*
5. *All Turner annexations require a vote of the people in accordance with the City Charter."*

D1. The proposed text amendment deletes the line requiring an election for annexations updates the comprehensive plan to align with state requirements for annexations in Oregon Revised Statutes 22.111 to 222.180.

D2. The proposed amendments to the Annexation Section of the LUDC are consistent with the policies stated above, except number five. The proposed changes retain the need for planned provision of public facilities and growth needs of the community. The proposed changes to this section specify the submission requirements for development proposals.

Section 9.8 Growth Management, Policies and Recommendations: Implementation states that "Any application for annexation shall include a Financial Impact Statement that includes as a minimum; estimated costs for infrastructure investments necessary to serve the proposed annexation, identifies the source of funds for all such investments, and evaluates operating costs against estimated revenue for each infrastructure system impacted"

D2. The proposed amendments comply with this policy and incorporate this policy into the requirements for annexation applications.

The proposed Group D amendments are consistent with the intent of the comprehensive plan.

- (B) *There is a public need for the proposed amendment to comply with changing conditions or new laws.*

Findings:

To address this criterion, staff evaluated the proposed in context of "new laws or "changing conditions". Group A and Group D amendments are proposed in the context of new laws.

Group B amendments are non-substantive changes to improve code legibility or update administrative procedures to comply with current practices. Group C amendments are proposed to comply with changing conditions.

New laws

Group A.

A 1. The amendments to references to group child care homes are proposed to comply with Oregon Revised Statutes 329 A.440, which require family child care homes to be permitted in all areas zoned for residential or commercial purposes. This statute applies to certified family child care home where child care is offered to not more than 16 children. Currently, the LUDC refers to child care homes with not more than 12 children. The proposed amendments update the LUDC to comply with Oregon State Statutes.

A 2. The proposed amendment to ADU Parking Standards is needed to comply with ORS 197.312(5)(b)(B), which requires cities to allow accessory dwelling units, subject to reasonable local regulations relating to siting and design. The statute specifies “reasonable local regulations” do not include requirements to construct additional off-street parking.

A 3. Code amendments regarding EV Conduit relate to new state rules which require EV conduit requirements for multi-family housing, as defined in OAR 660-012-0410, to be implemented by cities no later than March 31, 2023.

A 4. The proposed amendment to the minimum acreage of land disturbed by construction activities that require a National Pollutant Discharge Elimination System from the DEQ from 5 to one (1) or more acres of land changes the code to with current DEQ guidelines.

A 5. The proposed amendment would change the required DLCD notice from 45 days to 35 days in accordance with OAR 660-18-0020(1).

Group D.

Proposed updates to Section 9.8 *Growth Management* the Turner Comprehensive Plan and Section 2.800 *Annexations* and Section 1.170 *Administration* of the LUDC update the code to comply with Oregon Revised Statutes (ORS) 222.111 to 222.180. Substantive changes to the code include the removal of the requirement an affirmative vote of electorate following Council-approved annexations, updating the initiation procedures, updating submittal requirements to comply with the Comprehensive plan, and clarifying the procedures for annexations, all in accordance with Oregon State Statutes.

Changing conditions

Group B.

Group B amendments would update the code increase code legibility, navigability, readability, and reflect administrative practices but are generally not substantive changes.

B1 and B2. Adding language in Section 7.200 *Specifications for Improvements* to reference the design and construction standards in Article 8 and updating Article 8 ensure future improvements follow the correct design and construction, valuable in light of potential annexations.

B3 and B4 are grammatical changes.

B5. Removing the requirement that administrative application notice shall also be sent to be sent to affected government agencies and members of the Turner City Council reflects current notice practices within the City. Notice for administrative applications is not mandated by State law and is an uncommon local practice.

B6. Changing the types of applications the planning commission reviews is in accordance with the adopted City of Turner Ordinance 20-102 on administrative staff review for certain land use applications.

Group C.

C 1. Changing language to specify that the City, not the property owner, shall obtain a list of property owners of record within 250 feet of the property that is the subject of the review or hearing reflects current practices for obtaining a list of nearby property owners. Requiring the property owner obtain the list is found to be impractical, in part because the Council of Governments or the Marion County assessor do not want to provide contact lists to private citizens.

C 2. Removing the corner lot requirement for duplexes responds to needed flexibility in housing choice, the City has received development inquires demonstrating a market need for this flexibility. Requiring duplexes to be located on corner lots restricts development of this housing types. The proposed amendments do not change the zones in which duplexes are allowed, only the type of lot they are allowed on.

C 3 The code amendment updating the utility connections to ADU's and specifying the SDC fee structure results from a desire from the Council to clarify utility connection options for new ADU's as well as remove the System Development Charges for ADU's that do not have new utility connections to City water and sewer systems. Cities around Oregon are removing barriers to ADU construction by enacting SDC waivers.

(C) *The amendment will not adversely impact adjacent areas or the land use plan of the City.*

Findings:

Group A and Group D amendments are proposed to comply with required state and federal law and therefore override local regulation.

Group B amendments are proposed for code legibility purposes and will not cause substantive impacts on land use.

The proposed development code amendments in Group C do not allow potential conflicting uses such as Commercial or Industrial in residential zones. The proposed development code amendments do not change zoning or comprehensive plan boundaries.

C1. Changing language to specify that the City, not the property owner, shall obtain a list of property owners of record within 250 feet of the property that is the subject of the review or hearing, does not impact the land use plan of the City.

C2. Duplexes are already allowed in R-2 zones and are considered to not adversely impact adjacent properties, removing corner lot requirements does not create adverse impact.

C3. The proposed amendments adding language for ADU utility connections and waiving SDC fees for ADU's that use the primary unit's existing utility systems will not adversely impact adjacent areas. ADU's are already allowed in residential zones, and are already allowed to use existing utility systems and water and sewer connections without adverse impacts on neighbors.

Therefore, the proposed text amendments will not have an adverse impact on adjacent areas or the land use plan of the city.

(D) The amendment will not have an adverse environmental impact.

Findings: Proposed development code amendments in groups A-D do not modify or impact environmental protections or zone boundaries and the proposed changes have no impact on Goal 5 resources or environmental protections. Therefore, the proposed text amendments will not have an adverse environmental impact.

(E) The amendment will not have an adverse impact on public facilities.

Findings:

Group A and Group D amendments are proposed to comply with required state and federal law and therefore override local regulation.

Group B amendments are proposed for code legibility purposes and will not cause adverse impacts on public facilities.

The proposed amendments to Article 8 in B3. that clarify design and engineering standards will ensure public improvements and connections to public facilities will follow the correct construction and design standards.

C1 and C2 will not interact with public facilities.

C3 amendments, waiving SDC fees for ADU's that share the primary dwelling utility systems, does not have adverse impact on city utility systems. ADU's are already allowed to connect to the primary unit, many already do, due to cost savings and efficiency. ADU's will continue to be required to follow building code and utility system thresholds. Describing the utility connections in the code will help the public understand the utility connections needed for ADUs. An SDC fee waiver will promote infill that utilizes existing public facilities systems, promoting efficiency.

Therefore, the proposed text amendments will not have an adverse impact on public facilities.

(F) The amendment will not have an adverse impact on transportation.

Findings:

Group A and Group D amendments are proposed to comply with required state and federal law and therefore override local regulation.

Group B amendments are proposed for code legibility purposes and will not cause substantive impacts.

The proposed amendments to Article 8 in B3. that clarify design and engineering standards may have a positive impact on transportation facilities by reducing confusion and reducing the need for costly reconstruction. The proposed code amendments will help ensure transportation facility development will be consistent with the City of Turner Transportation System Plan (TSP); no changes are proposed to the City of Turner transportation system.

No proposed changes in Group C change zoning or comprehensive plan designations.

C1. Changing language to specify that the City, not the property owner, shall obtain a list of property owners of record within 250 feet of the property that is the subject of the review or hearing, does not impact transportation.

C2. The proposed changes for duplexes in the R-2 zone do not change the zones in which duplexes are allowed, only the type of lot they are allowed on, this will not adversely impact transportation.

C3. The code amendment updating the utility connections to ADU's and specifying the SDC fee structure will not have an impact on transportation.

Therefore, the proposed text amendments will not have an adverse impact on transportation.

(G) The amendment will not have an adverse impact on economy of the area.

Findings:

Group A and Group D amendments are proposed to comply with required state and federal law and therefore override local regulation.

Group B amendments are proposed for code legibility purposes and will not cause substantive impacts.

The proposed development code amendments in Group C do not change zoning or comprehensive plan boundaries.

C 1. Changing language to specify that the City, not the property owner, shall obtain a list of property owners of record within 250 feet of the property that is the subject of the review or hearing, does not impact the economy of the City.

C2. Allowing greater flexibility and opportunities for duplexes allows for more housing choice and potentially greater flexibility and value in residential land development, which would not adversely impact the economy of the area.

C3. The proposed amendments adding language for ADU utility connections and waiving SDC fees for ADU's that use the primary unit's existing utility systems will not adversely impact the economy of the area and may have a positive effect of encouraging ADU development.

Therefore, the proposed text amendments present no adverse impact on the economy of the area.

(H) The amendment is consistent with the intent of Statewide Planning Goals.

Findings:

Goal 1 Citizen Involvement:

Legislative text amendments require a "legislative decision" by the City Council in conformance with the Legislative Public Hearing procedures of Section 3.520 of the Turner LUDC. Written testimony may be provided at the hearing or prior to the hearing. Oral testimony may be provided at the hearing. The general public was notified of the proposed legislative text amendments via a Notice of Public Hearing in the January 2023 Turner newsletter, placed on the City's website on January 5, 2023, on the City's Facebook page January 5, 2023 and posted at the Turner Post Office on January 5, 2023 .

The public has been properly noticed and given the opportunity to voice their concerns at the public hearings before the City Council. The public will be notified of decisions made on the application.

Goal 2 Land Use Planning:

Goal 2 requires consistency between land use planning regulations. Group A amendments are proposed to be consistent with state law. As shown in findings under Decision Criterion 1(A)

above, the proposed development code amendments are consistent with the Comprehensive plan. B2 amendments ensure consistency with City and County public facilities requirements.

Goal 3 Agricultural Lands: To preserve and maintain agricultural lands.

This goal is not applicable to lands within urban growth boundaries.

Goal 4 Forest Lands:

This goal is not applicable to lands within urban growth boundaries.

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

Goal 5 requires local governments to inventory and protect natural resources. The proposed changes do not amend or change any of the City of Turner's natural resource protections for soils, water resources, groundwater, water quality or open space. The proposed development code amendments do not change floodplain or steep slope regulations.

Goal 6 Air, Water and Land Resources Quality:

Goal 6 requires local comprehensive plans and implementing measures to be consistent with state and federal regulations. The proposed development code changes do not change air, water, and land resources policies.

Goal 7 Areas Subject to Natural Disasters and Hazards:

Goal 7 requires that jurisdictions apply appropriate safeguards when planning development in areas that are subject to natural hazards such as flood hazards or areas with steep slopes. The proposed development code amendments do not change floodplain or steep slope regulations.

Goal 8 Recreational Needs:

The proposed development code amendments do not interact with any existing recreational areas.

Goal 9 Economy of the State:

Goal 9 requires jurisdictions to plan for an adequate supply of land for employment uses to further goals for economic development. The proposed development code amendments will not affect the supply of land for employment uses.

Goal 10 Housing:

Goal 10 requires cities to accommodate housing needs for forecast population within the UGB. While the proposal does not increase or decrease the need or supply of buildable residential land, the proposal supports Goal 10 by allowing for efficient development of existing and planned residential areas (C2 and C3).

Goal 11 Public Facilities and Services:

Clarifying public works standards (B1 and B2) will ensure public improvements and connections to public facilities will follow the correct construction and design standards. Waiving SDC fees for ADU's (C3) that share the primary dwelling utility systems does not have significant impact on city utility systems and will promote infill that utilizes existing public facilities systems, promoting efficiency. Other proposed code will not interact with public facilities. The proposed code does not impact or promotes efficient provision of public facilities consistent with Goal 11.

Goal 12 Transportation:

None of the proposed amendments will significantly affect the transportation system, and the proposed Article 8 code amendments (B2) will help ensure consistency with the City of Turner Transportation System Plan (TSP) and Goal 12.

Goal 13 Energy Conservation:

Goal 13 requires land and uses developed on the land to be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles.

B2. Article 8 development code changes ensure public improvements follow correct design and construction standards, reducing the likelihood of expensive reconstruction efforts.

C2. Removing the corner lot requirement for duplexes may result in more efficient development.

C3. Waiving SDC fees for ADU's that share the primary dwelling utility systems will promote infill that utilizes existing public facilities systems, promoting efficiency.

Goal 14 Urbanization:

Goal 14 provides for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities. The proposed development code amendments do not affect the amount of buildable land within the Turner UGB, nor do they result in any changes to the UGB.

Goals 15-19

These goals are not applicable to this application, as they apply to specific geographic locations.

VI. RECOMMENDATION

Staff's recommendation is for approval of the proposed City of Turner Development Code text amendments and the proposed Turner Comprehensive Plan text amendment.