Study Session

SS

Milwaukie City Council

MILWAUKIE CITY COUNCIL
STUDY SESSION

City Hall Conference Room
10722 SE Main Street
www.milwaukieoregon.gov

AGENDA
MARCH 29, 2016

A light dinner will be served. **Page #**

1. 6:00 p.m. Region-wide and City Housing Issues **1**

Presented by: Mark Gamba, Mayor
Alma Flores, Community Development Director
Betty Dominguez, Housing Authority of Portland
Chuck Robbins, Portland State University
Jerry Johnson, Johnson Economics
Katie Ray, North Clackamas Schools
Ruth Adkins, Oregon Opportunity Network

2. 9:00 p.m. Adjourn

Meeting Information

The time listed for each item is approximate; the actual time each item is considered may change due to the length of time devoted to the previous item. The Council may vote in Work Session on non-legislative issues.

Public Notice

Executive Sessions: The Milwaukie City Council may meet in Executive Session immediately following adjournment pursuant to ORS 192.660(2). All Executive Session discussions are confidential and those present may disclose nothing; representatives of the news media may attend as provided by ORS 192.660(3) but must not disclose any information discussed. Executive Sessions may not be held for the purpose of taking final actions or making final decisions and they are closed to the public.

The Council requests that mobile devices be set on silent or turned off during the meeting.

The City of Milwaukie is committed to providing equal access to information and public meetings per the Americans with Disabilities Act. For special accommodations, please call 503-786-7502 or email ocr@milwaukieoregon.gov at least 48 hours prior to the meeting.

MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **SS 1.**
Meeting Date: **March 29, 2016**

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **Region-wide and City Housing Issues**

From: Alma Flores, Community Development Director on behalf of Mayor Mark Gamba
Guests: Betty Dominguez, Jerry Johnson, Ruth Adkins, and Lisa Bates

Date: March 8, 2016

ACTION REQUESTED

Listen and respond to a presentation from members of the housing development, consultant, academic, and housing network community.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

There are no prior actions and discussions on this topic.

BACKGROUND

Several housing bills have been before the Oregon State legislature recently. House Bill 4143A: prohibits rent increases during the first year of month-to-month tenancies. Senate Bill 1533 permits certain cities and counties to adopt land use regulations or functional plan provisions, or impose conditions for approval of permits, that effectively establish sales or rental price, or require designation for sale or rent as affordable housing, for up to 20 percent of a multifamily structure in exchange for one or more developer incentives (sometimes referred to as Inclusionary zoning). As we move forward with the update to the comprehensive plan, one of the first elements to address is the Housing Element. The Community Development Department is in the process of selecting consultants to guide us through the development of a housing needs analysis (HNA). Recent trends and new legislation will play an integral part of the policy suggestions under the HNA and ultimately in the development of policies. We expect to have a consultant on board by late March/early April.

City Council requested that the study session be devoted to a discussion about the housing situation in Milwaukie. In order to hear all sides of the issue, staff was asked to invite local housing advocates and other individuals with insights to share about the present housing situation.

- Betty Dominguez of Home Forward—the housing authority of Portland
- Ruth Adkins of Oregon Opportunity Network—a member based organization for the non-profit affordable housing development community
- Jerry Johnson, president of Johnson Economics—a for-profit consulting firm who recently analyzed the metro region's housing supply and demand
- Lisa Bates, Professor for the Center for Urban Studies at Portland State University; specializes in Housing Policy.

CONCURRENCE
Community Development Director, Planning Director, and City Manager concur with this presentation

FISCAL IMPACTS
None at the time of the presentation.

WORK LOAD IMPACTS
None at this time.

ALTERNATIVES
None

ATTACHMENTS
1. House Bill 4143A

2. Senate Bill 1533

78th OREGON LEGISLATIVE ASSEMBLY--2016 Regular Session

House Bill 4143

Sponsored by Representative GORSEK (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced.**

Lengthens required notice periods for certain rent increases and termination of certain periodic tenancies.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to housing; creating new provisions; amending ORS 90.100, 90.220, 90.230, 90.427 and 105.124; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 90.220 is amended to read:

90.220. (1) A landlord and a tenant may include in a rental agreement terms and conditions not prohibited by this chapter or other rule of law including rent, term of the agreement and other provisions governing the rights and obligations of the parties.

(2) The terms of a fixed term tenancy, including the amount of rent, may not be unilaterally amended by the landlord or tenant.

(3) The landlord shall provide the tenant with a copy of any written rental agreement and all amendments and additions thereto.

(4) Except as provided in this subsection, the rental agreement must include a disclosure of the smoking policy for the premises that complies with ORS 479.305. A disclosure of smoking policy is not required in a rental agreement subject to ORS 90.505 to 90.850 for space in a facility as defined in ORS 90.100.

(5) Notwithstanding ORS 90.245 (1), the parties to a rental agreement to which ORS 90.100 to 90.465 apply may include in the rental agreement a provision for informal dispute resolution.

(6) In absence of agreement, the tenant shall pay as rent the fair rental value for the use and occupancy of the dwelling unit.

(7) Except as otherwise provided by this chapter:

(a) Rent is payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed, rent is payable at the dwelling unit, periodic rent is payable at the beginning of any term of one month or less and otherwise in equal monthly or weekly installments at the beginning of each month or week, depending on whether the tenancy is month-to-month or week-to-week. Rent may not be considered to be due prior to the first day of each rental period.

(b)(A) Rent may not be increased without **written notice to the tenant:**

(i) For an increase in rent that is less than five percent, the landlord shall provide a 30-day written notice thereof in the case of a month-to-month tenancy or a seven-day written notice thereof in the case of a week-to-week tenancy.

(ii) For an increase in rent that is five percent or more, the landlord shall provide a

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

90-day written notice thereof in the case of a month-to-month tenancy or a 21-day written notice thereof in the case of a week-to-week tenancy.

(B) If a landlord fails to comply with the requirements of subparagraph (A) of this paragraph, the tenant may recover an amount up to three months' periodic rent.

[*(b)*] **(c)** If a rental agreement does not create a week-to-week tenancy[*, as defined in ORS 90.100,*] or a fixed term tenancy, the tenancy shall be a month-to-month tenancy.

(8) Except as provided by ORS 90.427 [*(7)*] **(6)**, a tenant is responsible for payment of rent until the earlier of:

(a) The date that a notice terminating the tenancy expires;

(b) The date that the tenancy terminates by its own terms;

(c) The date that the tenancy terminates by surrender;

(d) The date that the tenancy terminates as a result of the landlord failing to use reasonable efforts to rent the dwelling unit to a new tenant as provided under ORS 90.410 (3);

(e) The date when a new tenancy with a new tenant begins;

(f) Thirty days after delivery of possession without prior notice of termination of a month-to-month tenancy; or

(g) Ten days after delivery of possession without prior notice of termination of a week-to-week tenancy.

(9)(a) Notwithstanding a provision in a rental agreement regarding the order of application of tenant payments, a landlord shall apply tenant payments in the following order:

(A) Outstanding rent from prior rental periods;

(B) Rent for the current rental period;

(C) Utility or service charges;

(D) Late rent payment charges; and

(E) Fees or charges owed by the tenant under ORS 90.302 or other fees or charges related to damage claims or other claims against the tenant.

(b) This subsection does not apply to rental agreements subject to ORS 90.505 to 90.850.

SECTION 2. ORS 90.427 is amended to read:

90.427. [*(1) As used in this section, "first year of occupancy" includes all periods in which any of the tenants has resided in the dwelling unit for one year or less.*]

[*(2)*] **(1)** If a tenancy is a week-to-week tenancy, the landlord or the tenant may terminate the tenancy by a written notice given to the other at least 10 days before the termination date specified in the notice.

[*(3)*] **(2)(a)** If a tenancy is a month-to-month tenancy:

[*(a)*] **(A)** At any time during the tenancy, the tenant may terminate the tenancy by giving the landlord notice in writing not less than 30 days prior to the date designated in the notice for the termination of the tenancy.

[*(b)*] **(B)** At any time during the [*first year of occupancy*] **tenancy**, the landlord may terminate the tenancy by giving the tenant notice in writing not less than [*30*] **90** days prior to the date designated in the notice for the termination of the tenancy **or within the time period designated in the rental agreement, whichever is later**.

[*(c) At any time after the first year of occupancy, the landlord may terminate the tenancy by giving the tenant notice in writing not less than 60 days prior to the date designated in the notice for the termination of the tenancy.*]

(b) If a landlord fails to comply with paragraph (a)(B) of this subsection, the tenant may

recover an amount up to three months' periodic rent.

[*(4)*] **(3)** If the tenancy is for a fixed term of at least one year and by its terms becomes a month-to-month tenancy after the fixed term:

(a) At any time during the fixed term, notwithstanding subsection [*(3)*] **(2)** of this section, the landlord or the tenant may terminate the tenancy without cause by giving the other notice in writing not less than 30 days prior to the specified ending date for the fixed term or not less than 30 days prior to the date designated in the notice for the termination of the tenancy, whichever is later.

(b) After the specified ending date for the fixed term, at any time during the month-to-month tenancy, the landlord may terminate the tenancy without cause only by giving the tenant notice in writing not less than [*60*] **90** days prior to the date designated in the notice for the termination of the tenancy.

[*(5)*] **(4)** Notwithstanding subsections [*(3)(c) and (4)(b)*] **(2)(a)(B) and (3)(b)** of this section, the landlord may terminate a month-to-month tenancy at any time by giving the tenant notice in writing not less than 30 days prior to the date designated in the notice for the termination of the tenancy if:

(a) The dwelling unit is purchased separately from any other dwelling unit;

(b) The landlord has accepted an offer to purchase the dwelling unit from a person who intends in good faith to occupy the dwelling unit as the person's primary residence; and

(c) The landlord has provided the notice, and written evidence of the offer to purchase the dwelling unit, to the tenant not more than 120 days after accepting the offer to purchase.

[*(6)*] **(5)** The tenancy shall terminate on the date designated and without regard to the expiration of the period for which, by the terms of the tenancy, rents are to be paid. Unless otherwise agreed, rent is uniformly apportionable from day to day.

[*(7)*] **(6)** If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession. In addition, the landlord may recover from the tenant any actual damages resulting from the tenant holding over, including the value of any rent accruing from the expiration or termination of the rental agreement until the landlord knows or should know that the tenant has relinquished possession to the landlord. If the landlord consents to the tenant's continued occupancy, ORS 90.220 (7) applies.

[*(8)(a)*] **(7)(a)** A notice given to terminate a tenancy under subsection [*(2) or (3)*] **(1) or (2)** of this section need not state a reason for the termination.

(b) Notwithstanding paragraph (a) of this subsection, a landlord or tenant may include in a notice of termination given under subsection [*(2) or (3)*] **(1) or (2)** of this section an explanation of the reason for the termination without having to prove the reason. An explanation does not give the person receiving the notice of termination a right to cure the reason if the notice states that:

(A) The notice is given without stated cause;

(B) The recipient of the notice does not have a right to cure the reason for the termination; and

(C) The person giving the notice need not prove the reason for the termination in a court action.

[*(9)*] **(8)** Subsections [*(2) to (5)*] **(1) to (4)** of this section do not apply to a month-to-month tenancy subject to ORS 90.429 or other tenancy created by a rental agreement subject to ORS 90.505 to 90.850.

SECTION 3. ORS 90.230 is amended to read:

90.230. (1) If a tenancy is for the occupancy of a recreational vehicle in a manufactured dwelling park, mobile home park or recreational vehicle park, all as defined in ORS 197.492, the landlord

shall provide a written rental agreement for a month-to-month, week-to-week or [*fixed-term*] **fixed term** tenancy. The rental agreement must state:

(a)**(A)** If applicable, **and notwithstanding ORS 90.427,** that the tenancy may be terminated by the landlord [*under ORS 90.427*] without cause upon 30 **days' written notice at any time during the first year of occupancy** or 60 days' written notice **at any time after the first year of occupancy** for a month-to-month tenancy**,** or upon 10 days' written notice for a week-to-week tenancy.

(B) As used in this paragraph, "first year of occupancy" includes all periods in which any of the tenants has resided in the recreational vehicle for one year or less.

(b) That any accessory building or structure paid for or provided by the tenant belongs to the tenant and is subject to a demand by the landlord that the tenant remove the building or structure upon termination of the tenancy.

(c) That the tenancy is subject to the requirements of ORS 197.493 (1) for exemption from placement and occupancy restrictions.

(2) If a tenant described in subsection (1) of this section moves following termination of the tenancy by the landlord [*under ORS 90.427*], and the landlord failed to provide the required written rental agreement before the beginning of the tenancy, the tenant may recover the tenant's actual damages or twice the periodic rent, whichever is greater.

(3) If the occupancy fails at any time to comply with the requirements of ORS 197.493 (1) for exemption from placement and occupancy restrictions, and a state agency or local government requires the tenant to move as a result of the noncompliance, the tenant may recover the tenant's actual damages or twice the periodic rent, whichever is greater. This subsection does not apply if the noncompliance was caused by the tenant.

(4) This section does not apply to a vacation occupancy.

SECTION 4. ORS 90.100 is amended to read:

90.100. As used in this chapter, unless the context otherwise requires:

(1) "Accessory building or structure" means any portable, demountable or permanent structure, including but not limited to cabanas, ramadas, storage sheds, garages, awnings, carports, decks, steps, ramps, piers and pilings, that is:

(a) Owned and used solely by a tenant of a manufactured dwelling or floating home; or

(b) Provided pursuant to a written rental agreement for the sole use of and maintenance by a tenant of a manufactured dwelling or floating home.

(2) "Action" includes recoupment, counterclaim, setoff, suit in equity and any other proceeding in which rights are determined, including an action for possession.

(3) "Applicant screening charge" means any payment of money required by a landlord of an applicant prior to entering into a rental agreement with that applicant for a residential dwelling unit, the purpose of which is to pay the cost of processing an application for a rental agreement for a residential dwelling unit.

(4) "Building and housing codes" includes any law, ordinance or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or appearance of any premises or dwelling unit.

(5) "Carbon monoxide alarm" has the meaning given that term in ORS 105.836.

(6) "Carbon monoxide source" has the meaning given that term in ORS 105.836.

(7) "Conduct" means the commission of an act or the failure to act.

(8) "DBH" means the diameter at breast height, which is measured as the width of a standing tree at four and one-half feet above the ground on the uphill side.

(9) "Dealer" means any person in the business of selling, leasing or distributing new or used manufactured dwellings or floating homes to persons who purchase or lease a manufactured dwelling or floating home for use as a residence.

(10) "Domestic violence" means:

(a) Abuse between family or household members, as those terms are defined in ORS 107.705; or

(b) Abuse, as defined in ORS 107.705, between partners in a dating relationship.

(11) "Drug and alcohol free housing" means a dwelling unit described in ORS 90.243.

(12) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household. "Dwelling unit**,**" regarding a person who rents a space for a manufactured dwelling or recreational vehicle or regarding a person who rents moorage space for a floating home**,** as defined in ORS 830.700, but does not rent the home, means the space rented and not the manufactured dwelling, recreational vehicle or floating home itself.

(13) "Essential service" means:

(a) For a tenancy not consisting of rental space for a manufactured dwelling, floating home or recreational vehicle owned by the tenant and not otherwise subject to ORS 90.505 to 90.850:

(A) Heat, plumbing, hot and cold running water, gas, electricity, light fixtures, locks for exterior doors, latches for windows and any cooking appliance or refrigerator supplied or required to be supplied by the landlord; and

(B) Any other service or habitability obligation imposed by the rental agreement or ORS 90.320, the lack or violation of which creates a serious threat to the tenant's health, safety or property or makes the dwelling unit unfit for occupancy.

(b) For a tenancy consisting of rental space for a manufactured dwelling, floating home or recreational vehicle owned by the tenant or that is otherwise subject to ORS 90.505 to 90.850:

(A) Sewage disposal, water supply, electrical supply and, if required by applicable law, any drainage system; and

(B) Any other service or habitability obligation imposed by the rental agreement or ORS 90.730, the lack or violation of which creates a serious threat to the tenant's health, safety or property or makes the rented space unfit for occupancy.

(14) "Facility" means a manufactured dwelling park or a marina.

(15) "Fee" means a nonrefundable payment of money.

(16) "First class mail" does not include certified or registered mail, or any other form of mail that may delay or hinder actual delivery of mail to the recipient.

(17) "Fixed term tenancy" means a tenancy that has a fixed term of existence, continuing to a specific ending date and terminating on that date without requiring further notice to effect the termination.

(18) "Floating home" has the meaning given that term in ORS 830.700. "Floating home" includes an accessory building or structure.

(19) "Good faith" means honesty in fact in the conduct of the transaction concerned.

(20) "Hazard tree" means a tree that:

(a) Is located on a rented space in a manufactured dwelling park;

(b) Measures at least eight inches DBH; and

(c) Is considered, by an arborist licensed as a landscape construction professional pursuant to ORS 671.560 and certified by the International Society of Arboriculture, to pose an unreasonable risk of causing serious physical harm or damage to individuals or property in the near future.

(21) "Hotel or motel" means "hotel" as that term is defined in ORS 699.005.

(22) "Informal dispute resolution" means, but is not limited to, consultation between the landlord or landlord's agent and one or more tenants, or mediation utilizing the services of a third party.

(23) "Landlord" means the owner, lessor or sublessor of the dwelling unit or the building or premises of which it is a part. "Landlord" includes a person who is authorized by the owner, lessor or sublessor to manage the premises or to enter into a rental agreement.

(24) "Landlord's agent" means a person who has oral or written authority, either express or implied, to act for or on behalf of a landlord.

(25) "Last month's rent deposit" means a type of security deposit, however designated, the primary function of which is to secure the payment of rent for the last month of the tenancy.

(26) "Manufactured dwelling" means a residential trailer, a mobile home or a manufactured home as those terms are defined in ORS 446.003. "Manufactured dwelling" includes an accessory building or structure. "Manufactured dwelling" does not include a recreational vehicle.

(27) "Manufactured dwelling park" means a place where four or more manufactured dwellings are located, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee.

(28) "Marina" means a moorage of contiguous dwelling units that may be legally transferred as a single unit and are owned by one person where four or more floating homes are secured, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee.

(29) "Marina purchase association" means a group of three or more tenants who reside in a marina and have organized for the purpose of eventual purchase of the marina.

(30) "Month-to-month tenancy" means a tenancy that automatically renews and continues for successive monthly periods on the same terms and conditions originally agreed to, or as revised by the parties, until terminated by one or both of the parties.

(31) "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity.

(32) "Owner" includes a mortgagee in possession and means one or more persons, jointly or severally, in whom is vested:

(a) All or part of the legal title to property; or

(b) All or part of the beneficial ownership and a right to present use and enjoyment of the premises.

(33) "Person" includes an individual or organization.

(34) "Premises" means:

(a) A dwelling unit and the structure of which it is a part and facilities and appurtenances therein;

(b) Grounds, areas and facilities held out for the use of tenants generally or the use of which is promised to the tenant; and

(c) A facility for manufactured dwellings or floating homes.

(35) "Prepaid rent" means any payment of money to the landlord for a rent obligation not yet due. In addition, "prepaid rent" means rent paid for a period extending beyond a termination date.

(36) "Recreational vehicle" has the meaning given that term in ORS 446.003.

(37) "Rent" means any payment to be made to the landlord under the rental agreement, periodic or otherwise, in exchange for the right of a tenant and any permitted pet to occupy a dwelling unit to the exclusion of others and to use the premises. "Rent" does not include security deposits, fees

or utility or service charges as described in ORS 90.315 (4) and 90.532.

(38) "Rental agreement" means all agreements, written or oral, and valid rules and regulations adopted under ORS 90.262 or 90.510 (6) embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises. "Rental agreement" includes a lease. A rental agreement shall be either a week-to-week tenancy, month-to-month tenancy or fixed term tenancy.

(39) "Roomer" means a person occupying a dwelling unit that does not include a toilet and either a bathtub or a shower and a refrigerator, stove and kitchen, all provided by the landlord, and where one or more of these facilities are used in common by occupants in the structure.

(40) "Screening or admission criteria" means a written statement of any factors a landlord considers in deciding whether to accept or reject an applicant and any qualifications required for acceptance. "Screening or admission criteria" includes, but is not limited to, the rental history, character references, public records, criminal records, credit reports, credit references and incomes or resources of the applicant.

(41) "Security deposit" means a refundable payment or deposit of money, however designated, the primary function of which is to secure the performance of a rental agreement or any part of a rental agreement. "Security deposit" does not include a fee.

(42) "Sexual assault" has the meaning given that term in ORS 147.450.

(43) "Squatter" means a person occupying a dwelling unit who is not so entitled under a rental agreement or who is not authorized by the tenant to occupy that dwelling unit. "Squatter" does not include a tenant who holds over as described in ORS 90.427 [*(7)*] **(6)**.

(44) "Stalking" means the behavior described in ORS 163.732.

(45) "Statement of policy" means the summary explanation of information and facility policies to be provided to prospective and existing tenants under ORS 90.510.

(46) "Surrender" means an agreement, express or implied, as described in ORS 90.148 between a landlord and tenant to terminate a rental agreement that gave the tenant the right to occupy a dwelling unit.

(47) "Tenant":

(a) Except as provided in paragraph (b) of this subsection:

(A) Means a person, including a roomer, entitled under a rental agreement to occupy a dwelling unit to the exclusion of others, including a dwelling unit owned, operated or controlled by a public housing authority.

(B) Means a minor, as defined and provided for in ORS 109.697.

(b) For purposes of ORS 90.505 to 90.850, means only a person who owns and occupies as a residence a manufactured dwelling or a floating home in a facility and persons residing with that tenant under the terms of the rental agreement.

(c) Does not mean a guest or temporary occupant.

(48) "Transient lodging" means a room or a suite of rooms.

(49) "Transient occupancy" means occupancy in transient lodging that has all of the following characteristics:

(a) Occupancy is charged on a daily basis and is not collected more than six days in advance;

(b) The lodging operator provides maid and linen service daily or every two days as part of the regularly charged cost of occupancy; and

(c) The period of occupancy does not exceed 30 days.

(50) "Vacation occupancy" means occupancy in a dwelling unit, not including transient occupancy in a hotel or motel, that has all of the following characteristics:

(a) The occupant rents the unit for vacation purposes only, not as a principal residence;

(b) The occupant has a principal residence other than at the unit; and

(c) The period of authorized occupancy does not exceed 45 days.

(51) "Victim" means:

(a) The person against whom an incident related to domestic violence, sexual assault or stalking is perpetrated; or

(b) The parent or guardian of a minor household member against whom an incident related to domestic violence, sexual assault or stalking is perpetrated, unless the parent or guardian is the perpetrator.

(52) "Week-to-week tenancy" means a tenancy that has all of the following characteristics:

(a) Occupancy is charged on a weekly basis and is payable no less frequently than every seven days;

(b) There is a written rental agreement that defines the landlord's and the tenant's rights and responsibilities under this chapter; and

(c) There are no fees or security deposits, although the landlord may require the payment of an applicant screening charge, as provided in ORS 90.295.

SECTION 5. ORS 105.124 is amended to read:

105.124. For a complaint described in ORS 105.123, if ORS chapter 90 applies to the dwelling unit:

(1) The complaint must be in substantially the following form and be available from the clerk of the court:

IN THE CIRCUIT COURT
FOR THE COUNTY OF
_____

No. _____

RESIDENTIAL EVICTION COMPLAINT

PLAINTIFF (Landlord or agent):

_____

_____

Address: _____

City: _____

State: _____ Zip: _____

Telephone: _____

vs.

DEFENDANT (Tenants/Occupants):

_____

_____

MAILING ADDRESS: _____

City: _____

State: _____ Zip: _____
Telephone: _____

1.

Tenants are in possession of the dwelling unit, premises or rental property described above or located at:

_____

2.

Landlord is entitled to possession of the property because of:

_____ 24-hour notice for personal injury, substantial damage, extremely outrageous act or unlawful occupant. ORS 90.396 or 90.403.

_____ 24-hour or 48-hour notice for violation of a drug or alcohol program. ORS 90.398.

_____ 24-hour notice for perpetrating domestic violence, sexual assault or stalking. ORS 90.445.

_____ 72-hour or 144-hour notice for nonpayment of rent. ORS 90.394.

_____ 7-day notice with stated cause in a week-to-week tenancy. ORS 90.392 (6).

_____ 10-day notice for a pet violation, a repeat violation in a month-to-month tenancy or without stated cause in a week-to-week tenancy. ORS 90.392 (5), 90.405 or 90.427 [*(2)*] **(1)**.

_____ 20-day notice for a repeat violation. ORS 90.630 (4).

_____ 30-day, [*60-day*] **90-day** or 180-day notice without stated cause in a month-to-month tenancy. ORS 90.427 [*(3) or (4)*] **(2) or (3)** or 90.429.

_____ 30-day notice with stated cause. ORS 90.392, 90.630 or 90.632.

_____ Notice to bona fide tenants after foreclosure sale or termination of fixed term tenancy after foreclosure sale. ORS 86.782 (6)(c).

_____ Other notice _____

_____ No notice (explain) _____

A COPY OF THE NOTICE RELIED UPON, IF ANY, IS ATTACHED

3.

If the landlord uses an attorney, the case goes to trial and the landlord wins in court, the landlord can collect attorney fees from the defendant pursuant to ORS 90.255 and 105.137 (3).

Landlord requests judgment for possession of the premises, court costs, disbursements and attorney fees.

I certify that the allegations and factual assertions in this complaint are true to the best of my knowledge.

_____

Signature of landlord or agent.

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(2) The complaint must be signed by the plaintiff or an attorney representing the plaintiff as provided by ORCP 17, or verified by an agent or employee of the plaintiff or an agent or employee of an agent of the plaintiff.

(3) A copy of the notice relied upon, if any, must be attached to the complaint.

SECTION 6. The amendments to ORS 90.220 by section 1 of this 2016 Act apply to:

(1) Rental agreements for fixed term tenancies entered into or renewed on or after the effective date of this 2016 Act; and

(2) Rental agreements for month-to-month tenancies and week-to-week tenancies in effect on or after the effective date of this 2016 Act.

SECTION 7. The amendments to ORS 90.427 by section 2 of this 2016 Act apply to notices in writing given to tenants on or after the effective date of this 2016 Act.

SECTION 8. This 2016 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect on its passage.

78th OREGON LEGISLATIVE ASSEMBLY--2016 Regular Session

Enrolled
Senate Bill 1533

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with presession filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Workforce and General Government)

CHAPTER .....

AN ACT

Relating to affordable housing; creating new provisions; amending ORS 197.309, 320.170, 320.176 and 320.186 and section 1, chapter 829, Oregon Laws 2007; repealing section 9, chapter 829, Oregon Laws 2007; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 197.309 is amended to read:

197.309. **(1) As used in this section:**

(a) "Affordable housing" means housing that is affordable to households with incomes equal to or higher than 80 percent of the median family income for the county in which the housing is built.

(b) "Multifamily structure" means a structure that contains three or more housing units sharing at least one wall, floor or ceiling surface in common with another unit within the same structure.

[*(1)*] **(2)** Except as provided in subsection [*(2)*] **(3)** of this section, a [*city, county or*] metropolitan service district may not adopt a land use regulation or functional plan provision, or impose as a condition for approving a permit under ORS 215.427 or 227.178[,] a requirement**,** that has the effect of establishing the sales **or rental** price for a housing unit or residential building lot or parcel, or that requires a housing unit or residential building lot or parcel to be designated for sale **or rent** to [*any*] **a** particular class or group of purchasers **or renters**.

[*(2)*] **(3)** [*This*] **The provisions of subsection (2) of this** section [*does*] **do** not limit the authority of a [*city, county or*] metropolitan service district to:

(a) Adopt or enforce a [*land*] use regulation, [*functional plan*] provision or [*condition of approval*] **requirement** creating or implementing an incentive, contract commitment, density bonus or other voluntary regulation, provision or [*condition*] **requirement** designed to increase the supply of moderate or lower cost housing units; or

(b) Enter into an affordable housing covenant as provided in ORS 456.270 to 456.295.

(4) Notwithstanding ORS 91.225, a city or county may adopt a land use regulation or functional plan provision, or impose as a condition for approving a permit under ORS 215.427 or 227.178 a requirement, that has the effect of establishing the sales or rental price for a new multifamily structure, or that requires a new multifamily structure to be designated for sale or rent as affordable housing.

(5) A regulation, provision or requirement adopted or imposed under subsection (4) of this section:

(a) May not require more than 20 percent of housing units within a multifamily structure to be sold or rented as affordable housing;

(b) May apply only to multifamily structures containing at least 20 housing units;

(c) Must provide developers the option to pay an in-lieu fee, in an amount determined by the city or county, in exchange for providing the requisite number of housing units within the multifamily structure to be sold or rented at below-market rates; and

(d) Must require the city or county to offer a developer of multifamily structures, other than a developer that elects to pay an in-lieu fee pursuant to paragraph (c) of this subsection, at least one of the following incentives:

(A) Whole or partial fee waivers or reductions.

(B) Whole or partial waivers of system development charges or impact fees set by the city or county.

(C) Finance-based incentives.

(D) Full or partial exemption from ad valorem property taxes on the terms described in this subparagraph. For purposes of any statute granting a full or partial exemption from ad valorem property taxes that uses a definition of "low income" to mean income at or below 60 percent of the area median income and for which the multifamily structure is otherwise eligible, the city or county shall allow the multifamily structure of the developer to qualify using a definition of "low income" to mean income at or below 80 percent of the area median income.

(6) A regulation, provision or requirement adopted or imposed under subsection (4) of this section may offer developers one or more of the following incentives:

(a) Density adjustments.

(b) Expedited service for local permitting processes.

(c) Modification of height, floor area or other site-specific requirements.

(d) Other incentives as determined by the city or county.

(7) Subsection (4) of this section does not restrict the authority of a city or county to offer developers voluntary incentives, including incentives to:

(a) Increase the number of affordable housing units in a development.

(b) Decrease the sale or rental price of affordable housing units in a development.

(c) Build affordable housing units that are affordable to households with incomes equal to or lower than 80 percent of the median family income for the county in which the housing is built.

(8)(a) A city or county that adopts or imposes a regulation, provision or requirement described in subsection (4) of this section may not apply the regulation, provision or requirement to any multifamily structure for which an application for a permit, as defined in ORS 215.402 or 227.160, has been submitted as provided in ORS 215.416 or 227.178 (3), or, if such a permit is not required, a building permit application has been submitted to the city or county prior to the effective date of the regulation, provision or requirement.

(b) If a multifamily structure described in paragraph (a) of this subsection has not been completed within the period required by the permit issued by the city or county, the developer of the multifamily structure shall resubmit an application for a permit, as defined in ORS 215.402 or 227.160, as provided in ORS 215.416 or 227.178 (3), or, if such a permit is not required, a building permit application under the regulation, provision or requirement adopted by the city or county under subsection (4) of this section.

(9)(a) A city or county that adopts or imposes a regulation, provision or requirement under subsection (4) of this section shall adopt and apply only clear and objective standards, conditions and procedures regulating the development of affordable housing units within its jurisdiction. The standards, conditions and procedures may not have the effect, either individually or cumulatively, of discouraging development of affordable housing units through unreasonable cost or delay.

(b) Paragraph (a) of this subsection does not apply to:

(A) An application or permit for residential development in an area identified in a formally adopted central city plan, or a regional center as defined by Metro, in a city with a population of 500,000 or more.

(B) An application or permit for residential development in historic areas designated for protection under a land use planning goal protecting historic areas.

(c) In addition to an approval process for affordable housing based on clear and objective standards, conditions and procedures as provided in paragraph (a) of this subsection, a city or county 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 developer retains the option of proceeding under the approval process that meets the requirements of paragraph (a) of this subsection;

(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 paragraph (a) of this subsection.

(10) If a regulation, provision or requirement adopted or imposed by a city or county under subsection (4) of this section requires that a percentage of housing units in a new multifamily structure be designated as affordable housing, any incentives offered under subsection (5)(d) or (6) of this section shall be related in a manner determined by the city or county to the required percentage of affordable housing units.

SECTION 2. ORS 320.170 is amended to read:

320.170. (1) [*Construction taxes may be imposed by*] A school district, as defined in ORS 330.005, **may impose a construction tax only** in accordance with ORS 320.170 to 320.189.

(2) Construction taxes imposed by a school district must be collected, subject to ORS 320.179, by a local government, local service district, special government body, state agency or state official that issues a permit for structural improvements regulated by the state building code.

SECTION 3. Section 1, chapter 829, Oregon Laws 2007, is added to and made a part of ORS 320.170 to 320.189.

SECTION 4. Section 1, chapter 829, Oregon Laws 2007, is amended to read:

Sec. 1. (1) A local government or local service district, as defined in ORS 174.116, or a special government body, as defined in ORS 174.117, may not impose a tax on the privilege of constructing improvements to real property except as provided in [*sections 2 to 8 of this 2007 Act*] **ORS 320.170 to 320.189**.

(2) Subsection (1) of this section does not apply to:

(a) A tax that is in effect as of May 1, 2007, or to the extension or continuation of such a tax, provided that the rate of tax does not increase from the rate in effect as of May 1, 2007;

(b) A tax on which a public hearing was held before May 1, 2007; or

(c) The amendment or increase of a tax adopted by a county for transportation purposes prior to May 1, 2007, provided that the proceeds of such a tax continue to be used for those purposes.

(3) For purposes of [*this section and sections 2 to 8 of this 2007 Act*] **ORS 320.170 to 320.189**, construction taxes are limited to privilege taxes imposed under [*sections 2 to 8 of this 2007 Act*] **ORS 320.170 to 320.189** and do not include any other financial obligations such as building permit fees, financial obligations that qualify as system development charges under ORS 223.297 to 223.314 or financial obligations imposed on the basis of factors such as income.

SECTION 5. ORS 320.176 is amended to read:

320.176. (1) Construction taxes imposed [*under ORS 320.170 to 320.189*] **by a school district pursuant to ORS 320.170** may be imposed only on improvements to real property that result in a new structure or additional square footage in an existing structure and may not exceed:

(a) $1 per square foot on structures or portions of structures intended for residential use, including but not limited to single-unit or multiple-unit housing; and

(b) $0.50 per square foot on structures or portions of structures intended for nonresidential use, not including multiple-unit housing of any kind.

(2) In addition to the limitations under subsection (1) of this section, a construction tax imposed on structures intended for nonresidential use may not exceed $25,000 per building permit or $25,000 per structure, whichever is less.

(3)(a) For years beginning on or after June 30, 2009, the limitations under subsections (1) and (2) of this section shall be adjusted for changes in construction costs by multiplying the limitations set forth in subsections (1) and (2) of this section by the ratio of the averaged monthly construction cost index for the 12-month period ending June 30 of the preceding calendar year over the averaged monthly construction cost index for the 12-month period ending June 30, 2008.

(b) The Department of Revenue shall determine the adjusted limitations under this section and shall report those limitations to entities imposing construction taxes. The department shall round the adjusted limitation under subsection (2) of this section to the nearest multiple of $100.

(c) As used in this subsection, "construction cost index" means the Engineering News-Record Construction Cost Index, or a similar nationally recognized index of construction costs as identified by the department by rule.

SECTION 6. ORS 320.186 is amended to read:

320.186. A school district may pledge construction taxes **imposed pursuant to ORS 320.170** to the payment of obligations issued to finance or refinance capital improvements as defined in ORS 320.183.

SECTION 7. Sections 8 and 9 of this 2016 Act are added to and made a part of ORS 320.170 to 320.189.

SECTION 8. (1) The governing body of a city or county may impose a construction tax by adoption of an ordinance or resolution that conforms to the requirements of this section and section 9 of this 2016 Act.

(2)(a) A tax may be imposed on improvements to residential real property that result in a new residential structure or additional square footage in an existing residential structure, including remodeling that adds living space.

(b) An ordinance or resolution imposing the tax described in paragraph (a) of this subsection must state the rate of the tax. The tax may not exceed one percent of the permit valuation for residential construction permits issued by the city or county either directly or through the Building Codes Division of the Department of Consumer and Business Services.

(3)(a) A tax may be imposed on improvements to commercial and industrial real property, including the commercial and industrial portions of mixed-use property, that result in a new structure or additional square footage in an existing structure, including remodeling that adds living space.

(b) An ordinance or resolution imposing the tax described in paragraph (a) of this subsection must state the rate and base of the tax.

(4) Taxes imposed pursuant to this section shall be paid at the time specified in ORS 320.189 to the city or county that imposed the tax.

(5)(a) This section and section 9 of this 2016 Act do not apply to a tax described in section 1 (2), chapter 829, Oregon Laws 2007.

(b) Conformity of a tax imposed pursuant to this section by a city or county to the requirements of this section and section 9 of this 2016 Act shall be determined without regard to any tax described in section 1 (2), chapter 829, Oregon Laws 2007, that is imposed by the city or county.

SECTION 9. (1) As soon as practicable after the end of each fiscal quarter, a city or county that imposes a construction tax pursuant to section 8 of this 2016 Act shall deposit the construction tax revenues collected in the fiscal quarter just ended in the general fund of the city or county.

(2) Of the revenues deposited pursuant to subsection (1) of this section, the city or county may retain an amount not to exceed four percent as an administrative fee to recoup the expenses of the city or county incurred in complying with this section.

(3) After deducting the administrative fee authorized under subsection (2) of this section and paying any refunds, the city or county shall use the remaining revenues received under section 8 (2) of this 2016 Act as follows:

(a) Fifty percent to fund developer incentives allowed or offered pursuant to ORS 197.309 (5)(c) and (d) and (7);

(b) Fifteen percent to be distributed to the Housing and Community Services Department to fund home ownership programs that provide down payment assistance; and

(c) Thirty-five percent for programs and incentives of the city or county related to affordable housing as defined by the city or county, respectively, for purposes of this section and section 8 of this 2016 Act.

(4) After deducting the administrative fee authorized under subsection (2) of this section and paying any refunds, the city or county shall use 50 percent of the remaining revenues received under section 8 (3) of this 2016 Act to fund programs of the city or county related to housing.

SECTION 10. Section 9, chapter 829, Oregon Laws 2007, is repealed.

SECTION 11. A city or county may not adopt a regulation, provision or requirement under ORS 197.309, as amended by section 1 of this 2016 Act, until the 180th day after the effective date of this 2016 Act.

SECTION 12. This 2016 Act takes effect on the 91st day after the date on which the 2016 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

Passed by Senate February 26, 2016

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House March 3, 2016

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2016

Approved:

.....M.,....., 2016

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2016

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Jeanne P. Atkins, Secretary of State