



CITY COUNCIL Agenda

222 NE 2nd Avenue, Canby, OR, 97013 | Ph: (503) 266-4021 | www.canbyoregon.gov

SEPTEMBER 9, 2026

The City Council meeting may be attended in person in the Council Chambers at
222 NE 2nd Avenue, Canby, OR 97013

The meetings can be viewed on YouTube at:

<https://www.youtube.com/channel/UCn8dRr3QzZYXoPUEF4OTP-A>

The public may speak at the meeting virtually by contacting the City Recorder;
benhamm@canbyoregon.gov or call 503-266-0637. No pre-registration is required to speak in person.

For questions regarding programming, please contact: Willamette Falls Studio (503) 650-0275;
media@wfmstudios.org

WORK SESSION – 7:00 PM

1. CALL TO ORDER
2. HB4037 AND SB974 PROCEDURAL CHANGES FOR PROPOSED SUBDIVISIONS AND MULTI-FAMILY PERMIT REVIEW Pg. 1
3. ADJOURNMENT

*The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Teresa Ridgley at 503-266-0637. A copy of this Agenda can be found on the City's web page at www.canbyoregon.gov.



City Council Staff Report

Meeting Date: 9/9/2026

To: The Honorable Mayor Hodson & City Council
Thru: Randy Ealy, Interim City Administrator
From: Don Hardy, Planning Director
Agenda Item: House Bill 4037, Senate Bill 974, and Housing Permitting

Summary

The Oregon state legislature enacted a number of bills which have a direct bearing on cities and land use processes for housing. The purpose of these efforts is to expedite home building but has resulted in a complex set of different bills regulating different types of housing and removing city control and discretion.

House Bill 4037 and Senate Bill 974 became effective on July 1, 2026, with additional regulations limiting public hearings and appeals and requiring clear and objective development standards. There is still the option for developers to choose a discretionary land use review path, but that is solely up to developers.

Housing Bil 4037 and Senate Bill 974 did not mandate the review type of applications which means the review in Canby code still requires a Planning Commission hearing in many cases, **but with no public testimony and only based on the written record.** This creates an awkward and non-community friendly hearing process, and staff believes this creates risk for the city if the Planning Commission uses discretion in approving projects that are supposed to be based on clear and objective standards.

Background

The state legislation for housing has been the focus for influencing city regulations over the last 6 years with middle housing requirements that are already effective throughout the state. **House Bill 4037 and Senate bill 974 further the state efforts to limit cities from having hearings** or discretion in the review of housing.

Discussion

Josh Soper of BEH and staff will provide the regulatory framework regarding housing and will be requesting input from Mayor & City Council on the direction going forward with near term city code updates and the planned overall code update for next fiscal year. The intent will be to provide understandable land use procedures for the Canby community and developers.

Attachments

PowerPoint presentation

Fiscal Impact

No fiscal impacts will occur

Options

Staff would like to have input from Mayor & City Council on the direction of the code updates Canby will be making.

Recommendation

Staff is recommending a two-phase approach: The first option is for developers to follow state legislation as an administrative process; A second discretionary option that provides developers with incentives in exchange for implementing design elements or other community amenities which are more consistent with Canby's existing character.

Proposed Motion

No motion is proposed, and staff is requesting City Council recommendations for the two-phased approach noted in the recommendation above.



NEW HOUSING LEGISLATION IMPLEMENTATION

CITY COUNCIL WORK SESSION | SEPTEMBER 9, 2026



AGENDA

- Overview of SB 974 (2025)
 - Section 3: Review of Residential Developments
- Overview of HB 4037 (2026)
 - Section 17: Notice and Public Hearing Limitations
- Considerations and Recommendations for Canby Code Updates

GENERAL OVERVIEW

- SB 974, Section 3 (2025) and HB 4037, Section 17 (2026):
 - Both concerned exclusively with *procedures*, not substantive development regulations (e.g., what uses are allowed where or what design standards are permissible)
 - Both designed to dictate the procedures local governments can use to process certain types of housing-related applications in a manner that limits public involvement
 - SB 974 was enacted first, but HB 4037 was enacted before SB 974 took effect and superseded it for many application types

SB 974, SECTION 3 - OVERVIEW

- Applies to:
 - Land use decisions for residential development based on three application types:
 - Zone change to higher density,
 - Planned unit development, or
 - Variance from local standard and
 - Application relating to land that is:
 - Inside the UGB and
 - Zoned primarily for residential use or mixed residential use or planned residential use
- Imposes procedural requirements:
 - Notice required to owners within 100 feet (floor)
 - Allow written comment period
 - Initial decision without a hearing, but allow a hearing on appeal

SB 974, SECTION 3 – IMPLEMENTATION ISSUES

- What is a variance?
 - Not defined, and local governments use different terms such as “adjustment.”
 - HAPO: Any variation from a development standard. Not mandatory adjustments under SB 1537.
- What is a zone change to allow for a denser residential use designation?
 - HAPO: minimum or maximum units per acre; minimum or maximum lot size; unclear regarding floor area ratio, building envelope, etc.
- What is “zoned primarily for residential use or mixed residential use”?

HB 4037, SECTION 17 - BACKGROUND

- Under preexisting law, ORS 197A.400(1) requires that local governments apply only “clear and objective standards, conditions and procedures... regulating the development of housing.” This applies to *all* housing applications and types (middle housing, multi-unit housing, subdivisions, etc.).
- ORS 197A.400(3) allows an exception for local governments to provide an optional (on the part of the developer) “discretionary path” for housing developments, as long as the developer always has an option to proceed under a “clear and objective” path.

HB 4037, SECTION 17 - OVERVIEW

- Amends ORS 197A.400 to impose the following limitations on local land use processes for applications subject to ORS 197A.400(I) (clear and objective requirement):
 - Notice of an applicable land use application is limited (ceiling) to *only* property owners:
 - Within 100 feet of the subject property or
 - Within 500 feet for developments of 20 units or more
 - May not require a public hearing before making a decision on the application
 - Limits local appeal rights to only the applicant; only applicant may appeal to LUBA

HB 4037, SECTION 17 – IMPLEMENTATION ISSUES

- When does it apply?
 - To *all* housing applications by default, except where the developer affirmatively opts in to an alternative “discretionary path.”
- What is the extent of the limitations on notice?
 - What constitutes “notice”?
- What is “residential development” (SB 974, Sec. 3) or “development of housing” (HB 4037, Sec. 17)?
 - Perennial question
 - HAPO has weighed in: “Mixed-use development is considered residential development when it involves residential uses in conjunction with another nonresidential use. This can be either within the same building or in separate building on the same development site.”

SUMMARY OF LEGISLATIVE CHANGES

- Taken together, SB 974 and HB 4037 require as follows for housing applications:
 - For application subject to the “clear and objective” requirements:
 - Ceiling on notice
 - No hearing prior to initial decision
 - Only applicant may appeal
 - For applications *not* subject to the “clear and objective” requirements:
 - Only three application types implicated (PUDs, variances, and rezones to higher density)
 - No hearing prior to initial decision
- These bills do *not*:
 - Require a particular decision-maker, just a particular decision-making *process*
 - As a result, decision-maker remains the same until code is amended
 - Require approval of applications or change the City’s substantive development regulations

IMPLEMENTATION CONSIDERATIONS

- Decision-making without a hearing
 - Significant practical implications if the initial decision-maker is a body such as the Planning Commission or City Council which is required to meet and make decisions in public
 - Requires a deliberation in a public meeting, but no oral testimony; decision is based on written comments only
- Limitations on local appeals:
 - Initial decision more likely to be final local decision
- HB 4037 limited to “clear and objective” path
 - Some cities may offer more optional discretionary paths and incentivize developers to use them

STAFF OBSERVATIONS AND RECOMMENDATIONS

- For applications subject to clear and objective standards, there is arguably no need for a Planning Commission hearing as the Planning Commission cannot apply discretion.
- Given the challenges with public meetings where testimony is not allowed and that the state is advocating for a Type 2 administrative process, staff is recommending:
 - Re-tool our code to make affected residential applications a Type 2 process
 - Add an optional Type 3 discretionary path (Planning Commission hearing) with incentives

OVERVIEW OF RECOMMENDED REVIEW PROCESSES

- Type 2 review processes for clear and objective applications and the three application types in SB 974
 - Would include administrative (staff) review and a written decision with notice.
 - Notice would be limited to the notices described in SB 974 and HB 4037.
 - For clear and objective applications, only the applicant could appeal to the Planning Commission.
 - Anyone could appeal decisions on planned unit developments, rezones to higher density, and variances based on discretionary standards to the Planning Commission.
- Housing applications submitted under a discretionary path (except as noted above) would be subject to a Type 3 process with a Planning Commission hearing.
 - Incentives would be created as part of the code update

QUESTIONS AND DIRECTION

- What questions does Council have?
- What direction would Council like to give on the staff recommendation?