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Oregon Local Leadership Institute (OLLI)

URBAN RENEWAL: A TOOL FOR COMMUNITY AND ECONOMIC DEVELOPMENT

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I. URBAN RENEWAL SUMMARY

This Urban Renewal Overview provides basic information on urban renewal in Oregon, including a description of the program and how a city or county can use this valuable tool for economic and community development. More detailed information on urban renewal is available at <http://tashmanjohnson.com/resources.html>

A. What Is Urban Renewal?

Urban renewal is a locally controlled program, authorized under state law, to improve specific areas of a city or county that are not achieving local land use and development objectives. These areas can have old deteriorated buildings and bad streets and utilities or they can lack buildings, streets, utilities altogether. Public facilities in these areas (e.g. parks, parking facilities) may be inadequate. The statutes refer to these areas as “blighted areas,” a term that originated in the initial focus of urban renewal on inner city neighborhoods that contained unsafe buildings.

The underlying rationale for urban renewal is that these areas do not generate property tax revenues and do not contribute to the economy – by creating jobs and increasing income - as much as they could if more fully developed. By making needed public investments conditions in the area can be improved and the area can be more productive.

Urban renewal provides tools that are not otherwise available to local governments.

- It allows for the use of tax increment financing (explained below) to fund urban renewal projects and programs.
- It allows for special flexibility in working with private parties to complete development projects.

Urban renewal is a very common program in Oregon. In FY 2009/2010 there were 107 urban renewal plans in 72 cities and counties that were using tax increment financing. Urban renewal is used throughout the state.

For a city or county to start an urban renewal program, it must establish an urban renewal agency and it must adopt an urban renewal plan. The urban renewal plan and the accompanying urban renewal report document the conditions in the urban renewal area that qualify it for the use of urban renewal.

B. What is an Urban Renewal Agency?

Urban renewal agencies are created by state law (ORS Chapter 457) but are “activated” by the city or county which designates an urban renewal agency governing board. The agencies are separate legal bodies from the municipal governing body (city council or county commission), but in most cases the urban renewal agency board has been the municipal governing body itself.

C. What are Urban Renewal Plans?

An urban renewal plan delineates the urban renewal area in which tax increment financing may be used to fund projects and programs. The plan authorizes the projects and

programs that may be undertaken and contains limits on the use of tax increment financing. The plan must be accompanied by an urban renewal report, which is a technical appendix that documents development conditions and contains details on the schedule and cost of urban renewal projects and how they will be paid for. The urban renewal plan must be adopted by the municipal governing body.

D. How is an Urban Renewal Plan Adopted?

To adopt an urban renewal plan:

First, the city council or urban renewal agency decides that it wants to consider an area for a possible plan. This decision is usually in response to interest in the community in revitalizing the area.

Though not required by law, in most cases the next step is to study the eligibility and feasibility of the area for urban renewal. This feasibility study includes information about land and improvement property values, development conditions, availability and condition of streets and utilities and other key factors.

If the municipal governing body, based on the feasibility study and other information, decides that it wishes to proceed, an urban renewal plan and report are prepared. The planning must involve citizens at every stage, and especially when it comes to determining the boundary, what projects and activities are to be undertaken and the financial limits on the plan.

The planning must also take into account the interests and concerns of the taxing districts that levy permanent rate taxes in the proposed urban renewal area (“overlapping taxing districts”). Under certain circumstances a proposed urban renewal plan must receive the “concurrence” of the taxing districts. (This last requirement was added in the 2009 Legislative Session via HB 3056.)

An urban renewal plan must be presented to the Planning Commission (no formal hearing is required) for its recommendations and then must be adopted by the City Council, by non-emergency ordinance, after a public hearing is held. Notice of the public hearing must be sent to each individual household in the city.

Non-emergency ordinances can be referred to voters within 30 days of adoption. The adoption of urban renewal plans is a land use action and any appeal of the adoption would initially be presented to the Land Use Board of Appeals.

E. What Can Happen Under An Urban Renewal Plan?

Urban renewal agencies can do certain projects or activities under an adopted urban renewal plan. These activities include:

1. Construction or improvement of streets, utilities and other public uses.

The most common type of urban renewal project is infrastructure development, including streets and utilities. Urban renewal also commonly funds parks, plazas and pedestrian facilities.

2. Rehabilitation or conservation of existing buildings

An urban renewal agency can assist in rehabilitation projects of any type (residential, commercial, industrial) typically through loans and grants to private property owners.

3. Acquisition and improvement of property

An urban renewal agency can acquire property, for public improvements and/or for resale for private or a combination of public/private development. Urban renewal agencies no longer have the power of eminent domain (condemnation) for private redevelopment purposes so these acquisitions must be from willing sellers. Once acquired, urban renewal agencies can clear and improve the properties prior to resale or lease. Any persons or businesses displaced by agency acquisition are entitled to relocation assistance.

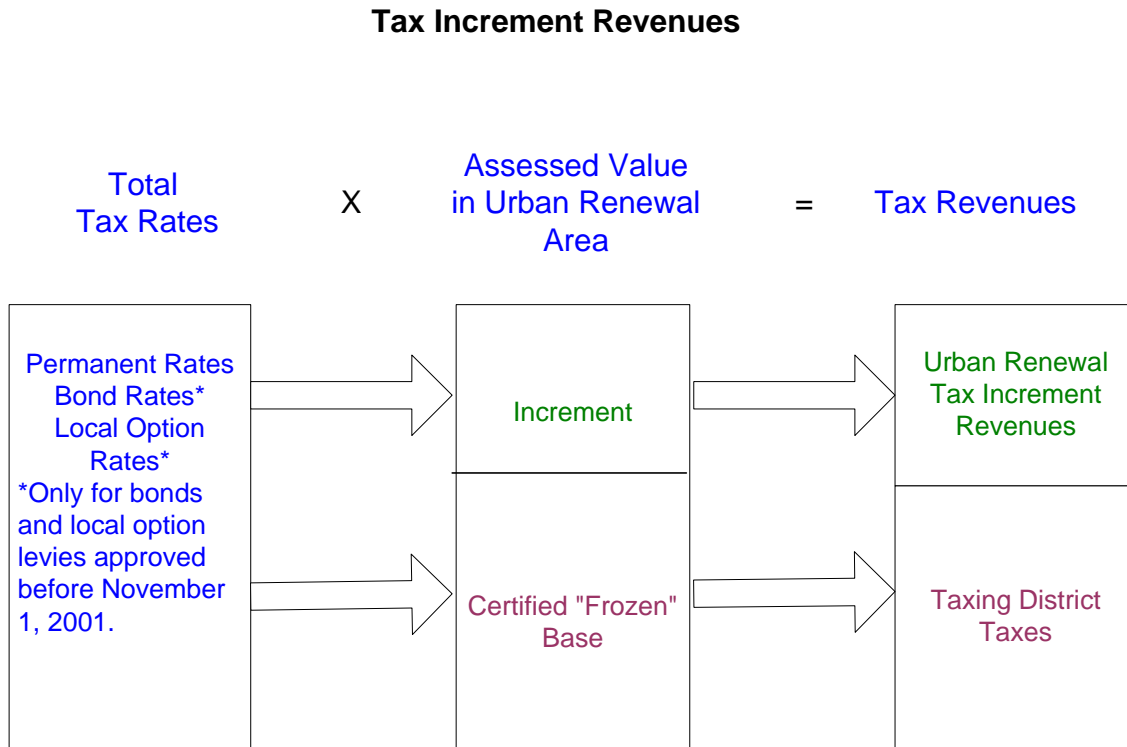
4. Re-sale or lease of property

An urban renewal agency can sell or lease property it owns for redevelopment. Unlike cities and counties, the agency can legally sell for less than fair market value. Property can be sold for its "fair re-use value" which is the value for a specified use required in the urban renewal plan.

F. How are Urban Renewal Plans Financed?

Urban renewal is unique in that it can be funded by tax increment revenues. Tax increment revenues are the amount of property taxes generated by the *increase* in total assessed values in the urban renewal area from the time the urban renewal area is first established. The assessed value of an urban renewal area at the time the plan is adopted is called the "frozen base". Growth above the base is called the "increment." Tax increment revenues are the taxes resulting from the total property tax rate (less rates for General Obligation Bonds approved by voters after October, 2001.)

The diagram below shows how this works.



Though the amount of tax increment revenue is determined by the growth in assessed value inside the urban renewal area, the taxes are actually raised from all property within the city. The normal taxes paid by each property owner in the city are divided, so that taxing districts and the urban renewal agency get the correct share.

By the terms of the Oregon Constitution (Article IX Section 1c), tax increment revenues must be used to make payments on debt. The amount borrowed (“debt proceeds”) is then used to pay for urban renewal projects. Debt can take many forms, from long term bonds to payment obligations for ongoing intergovernmental agreements or other contractual obligations.

The financial limits on tax increment financing take the form of a “maximum indebtedness” that be incurred under an urban renewal plan. The maximum indebtedness includes the principal amount (not interest) of any borrowing or payment on any contractual obligation.

G. How Does Tax Increment Financing Affect Overlapping Taxing Districts and Property Tax Payers

During the use of tax increment financing, the permanent rate property taxes on the increment – the growth in assessed value in the urban renewal area – from all overlapping

taxing districts are allocated to the Urban Renewal Agency and not the taxing district that levied the taxes. All growth in assessed value is included in the increment, including the increase in existing properties' assessed value by 3% annually unless limited by real market value. This results in property taxes foregone by the overlapping taxing districts.

To the extent that the growth in assessed value occurs *because of* the urban renewal investments, the property taxes on such growth would not have been levied without an urban renewal plan and should not be considered foregone revenues. However, it is common for the analysis of property taxes foregone to consider property taxes on all the increment as revenues foregone.

Some taxing districts may face increased service demands from the implementation of an urban renewal plan. This can compound the impact of the tax increment financing on districts that receive a large share of their revenues from property taxes. Some urban renewal projects benefit service districts by upgrading streets, utilities and public facilities.

H. How Does Tax Increment Financing Show On Property Tax Statements? What Are Its Effects On Measure 5 Compression?

When dividing the taxes of property owners within the city, all the taxes divided for urban renewal – including those for educational district levies and GO Bond levies - are categorized for Measure 5 purposes as general government taxes, and subject to the \$10.00 per \$1,000 real market value Measure 5 limit. This results in general government taxes being higher and educational district and GO Bond taxes being lower, than they would be without tax increment financing. The amount by which taxes are raised and lowered in these categories depends on the amount of incremental assessed value relative to the size of the city.

Property tax statements throughout the city will show a total dollar amount allocated to urban renewal as part of general government taxes. The total taxes in both general government and educational categories are shown before and after Measure 5 compression.

II. HOW TO ESTABLISH AN URBAN RENEWAL PROGRAM

Many communities wish to approach the establishment of an urban renewal program in two stages or phases. The first phase consists of a feasibility study that provides the governing body with a factual basis for deciding whether and/or how to proceed. The second phase consists of preparing an urban renewal plan and report and going through the adoption process. The tasks that commonly are included in the two phases are described below.

A. Phase One: Urban Renewal Feasibility Study

A feasibility study commonly includes the following tasks:

1. Review Existing Plans and Studies

Review comprehensive plan, facilities plans (Water, Sanitary Sewer, Storm Sewer, Transportation, Parks) and other relevant documents.

2. Discussion with City Council/County Commission, Staff, Planning Commission Members and Representatives of Overlapping Taxing Districts and Others to Discuss Urban Renewal

Meet with representatives of the governing body, Planning Commission, property and business owners, representatives of overlapping taxing districts and others to urban renewal and discuss how it has been used in other municipalities and how it might benefit the community.

3. Assess Conditions of Blight Required to Establish Urban Renewal Area

Within an overall study area, generally assess conditions of blight which must be found by the governing body in order to establish an Urban Renewal Area. Blighted conditions include, among other things, substandard buildings, inadequate streets or utilities and underutilized property, as evidenced by the value of improvements to the value of land.

4. Determine Tentative Urban Renewal Area Boundary in Conformance with Assessed Value and Area Limitations

Based on the general assessment of conditions and discussion with the municipality regarding identified project needs, make a preliminary recommendation of an urban renewal boundary that meets statutory limits on assessed value (no more than 25% of the adjusted total assessed value of the municipality) and area (no more than 25% of the total in the municipality).

5. Estimate Potential Revenue Capacity of Urban Renewal Area

Prepare a preliminary estimate of urban renewal tax revenues from the tentatively defined area. These estimates are based on reasonable expectations of new development that could occur with appropriate public investments. This task can be done with greater or lesser specificity.

6. Estimate Impact in Property Taxes Foregone by the Overlapping Taxing Districts

The projections of potential tax increment revenues must be based on projections of growth in assessed value in the potential urban renewal area. These projections also should contain the analysis of the property tax revenues foregone by taxing districts.

B. Phase Two: Urban Renewal Plan and Report

State law [ORS 457.085(2) and (3)] describes in detail the required contents of an urban renewal plan and urban renewal report. Only the plan itself is adopted by the municipality; the report accompanies the plan and provides background information, analysis and support for the findings that must be made in adopting a plan. The urban renewal agency must provide for public involvement in all stages of the preparation of an urban renewal plan.

1. Urban Renewal Plan Contents

An urban renewal plan is required to contain:

- A description of each urban renewal project to be undertaken
- An outline of the major project activities planned for the urban renewal area or areas. (A “project” may be a site specific undertaking, a series of related undertakings or a program of activities.)
- A map and legal description of the urban renewal area.
- An explanation of how the plan relates to local objectives, such as relevant objectives of the comprehensive plan, target area plans and other public policy statements.
- An indication of proposed land uses (which must conform to the comprehensive plan and zoning code).
- A description of relocation methods for residents or businesses that must move because of Agency projects
- If public acquisition of property is required by the plan, a description of property to be acquired by the Agency (if any) and how it will be disposed of (e.g. sale or lease), along with a schedule for acquisition and disposition.
- If the plan calls for the use of tax increment financing, a limit on the maximum amount of indebtedness to be issued to carry out the plan.
- A description of what types of changes to the plan are to be considered substantial amendments. Substantial amendments must be adopted using the same process as the adoption of the original plan. The following amendments must be considered substantial: (1) expanding the urban renewal area by more than one percent; and (2) increasing the maximum amount of indebtedness that may be issued.
- If the plan calls for the development of a public building (e.g. a fire station), an explanation of how the building serves or benefits the urban renewal area.

2. Urban Renewal Report Contents

An urban renewal report must contain:

- A description of the physical, social and economic conditions within the urban renewal area and the impact of the plan, including fiscal impacts, in terms of increased population and the need for additional public services.
- The reasons why the urban renewal area (or areas) was selected.
- The relationship between each urban renewal project and the conditions within the area.
- The estimated costs of the projects and the sources of project funding.
- The completion date for each project.
- The amount of tax increment funds that are estimated to be required and the year in which the Agency plans to pay off all outstanding tax increment indebtedness.

- A financial analysis that shows the plan to be financially feasible.
- An analysis of the impact on the tax rates and/or revenues of the taxing districts that overlap the urban renewal area; and
- A relocation report.

3. Procedural Requirements for Adoption of an Urban Renewal Plan

There are various procedural requirements that relate to adopting an urban renewal plan. In addition, as mentioned above, the Agency must provide for public involvement in all stages of the development of the plan.

a) Planning Commission Review

If the municipality has a planning commission, the plan and report must be presented to the commission for its recommendation before the plan may be presented to the municipal governing body for adoption.

b) Affected Taxing Districts

The plan and report must be sent to the governing body of any taxing district that is affected by the plan. (Taxing districts that levy taxes within the urban renewal area are usually considered to be the affected taxing districts.) Any written recommendations of these taxing districts must be accepted, rejected or modified by the municipal governing body in adopting the plan.

c) Presentation to County

A City proposing to adopt an urban renewal plan must present the proposed Plan to the County Board of Commissioners for their comment. No action is required of the County Commission.

d) Approval of the Plan

To take effect, the plan (not including the report) must be approved by Council by non-emergency ordinance. There is no statutory requirement for a vote on the plan. There are requirements for notice of the hearing at which the ordinance is considered; requirements for the contents of the ordinance; and requirements for a notice after the ordinance is adopted.

e) Notice Requirements

Direct notice of the public hearing on the ordinance adopting the plan must be mailed to each individual or household in any one of the following groups within the city and any portion of the urban renewal area that extends beyond the city: real property owners; registered voters; utility customers; or postal patrons.

The notice must state in plain language:

- the time and location of the hearing;
- that the plan may affect property tax rates;
- that debt may be issued up to a maximum amount;
- that the ordinance adopting the plan may be referred to the voters; and;
- that a copy of the ordinance, plan and report are available for review by contacting a designated person.

f) Public Hearing

At the public hearing on the ordinance, the municipal governing body should hear the report and recommendations of the urban renewal agency, take public testimony and consider the recommendations, if any, of the planning commission and of affected taxing districts. Any written recommendations of the affected taxing districts must be formally accepted, rejected, or modified.

g) Ordinance Requirements

The ordinance must be a non-emergency ordinance and it must incorporate the plan (not the report) by reference. During the period between the adoption of the ordinance and its effective date, the adoption ordinance can be referred to voters for their approval.

The ordinance must contain findings, supported by the contents of the urban renewal report, that:

- Each urban renewal area is blighted;
- The rehabilitation and redevelopment of the area(s) is necessary to protect the public health, safety or welfare.
- The plan conforms to the comprehensive plan and economic development plan, if any, of the municipality and that the plan provides an outline of planned urban renewal projects.
- That relocation requirements have been met.
- That any property acquisition called for in the plan is necessary to achieve the objectives of the plan.
- That the plan is economically sound and feasible.
- That the city or county will assume any responsibilities given to it under the plan.

h) Notice of Adoption of Ordinance

Within four days of adoption of the ordinance adopting the plan, Council must publish a notice that the ordinance has been approved and that 90 days after adoption of the plan, the plan will be conclusively presumed valid.

III. POSSIBLE TIME LINE

The amount of time to prepare feasibility reports and urban renewal plans varies by community. Typical times are:

Phase I: Feasibility Study	4 - 6 months
Phase II	6 - 9 months

The frozen base of a plan is calculated using the assessed value of property (including real property, personal property, mobile home property and utility property) within the urban renewal area as last certified by the assessor at the time the plan takes effect. Tax increment revenues will be received for first time in the fiscal year following the first January 1 after the Plan takes effect. (E.g. a plan taking effect by December 31, 2010 will receive revenues in FY 2011/2012. A plan taking effect between January 1 and December 31, 2011 will receive tax increment revenues in FY 2012/2013.)

IV. RECENT CHANGES IN URBAN RENEWAL LAW

In 2008 and 2009 changes to urban renewal law resulted from LUBA decisions and from HB 3056.

A. **LUBA Decision on Portland River District Urban Renewal Plan Amendments**

The summaries below are taken from “Oregon Land Use Law – Year in Review (2009):”

When adopting an urban renewal plan under ORS 457.095(1), it is not necessary that every single property in the urban renewal district be “blighted,” only that the area as a whole is blighted in one or more of the ways described in ORS 457.010(1). When adopting an amendment to the urban renewal plan, depending on the time that has lapsed, new findings that the area, as a whole, remain blighted may need to be adopted. Here, after ten years and significant changes to the plan area boundaries, new findings were necessary.

An urban renewal plan area may be comprised of multiple non-contiguous blighted portions, but, under ORS 457.085(2)(j), the public building projects in each portion must have some benefit to the blighted area, as a whole.

B. **LUBA Decision on City of Albany’s Oak Creek Urban Renewal Plan**

The summaries below are taken from LUBA Headnotes:

41. Urban Renewal Plans. Where a county adopts a resolution approving an urban renewal plan under ORS 457.105 and in approving the plan finds that the plan conforms to the county’s comprehensive plan, the resolution is a land use decision as defined in ORS 197.015(1)(a)(A). *Granada Land Co. v. City of Albany*, 56 Or LUBA 475 (2008).

41. Urban Renewal Plans. ORS 457.105 does not require a county to take action to approve or disapprove urban renewal plans that are located entirely within incorporated cities. *Granada Land Co. v. City of Albany*, 56 Or LUBA 475 (2008).

41. Urban Renewal Plans. ORS 457.085 and 457.095 require a local government to allow testimony on a revised draft of a proposed urban renewal plan. *Granada Land Co. v. City of Albany*, 56 Or LUBA 475 (2008).

41. Urban Renewal Plans. ORS 457.085(5) does not require a local government to re-notice affected taxing districts after a draft urban renewal plan that is initially provided to those taxing districts is revised. *Granada Land Co. v. City of Albany*, 56 Or LUBA 475 (2008).

41. Urban Renewal Plans. ORS 457.120(1) does not require a new notice to be mailed when a governing body considers revisions to a proposed urban renewal plan that has not yet been adopted. *Granada Land Co. v. City of Albany*, 56 Or LUBA 475 (2008).

C. HB 3056

In the 2009 Legislative Session, HB 3056 was passed into law. The bill contains many complex provisions but generally it:

- Limits the maximum indebtedness of a new urban renewal plan based on the size of the certified frozen base, as follows:

CERTIFIED FROZEN BASE	MAXIMUM MAXIMUM INDEBTEDNESS
\$50,000,000	\$50 million
\$150,000,000	\$50 million + 50% of Frozen Base > \$50 million
Over \$150,000,000	\$100 million + 35% of Frozen Base > \$150 million

- Limits the increase in maximum indebtedness of an urban renewal plan to 20% of its original maximum indebtedness as adjusted for inflation.
- Requires sharing of annual tax increment revenues after such revenues reach 10% of the original maximum indebtedness.
- Allows for collection of less than the maximum tax increment revenues on an annual or permanent basis without adjustment of the urban renewal area boundaries.
- Creates special provisions for the City of Portland.

Any and all of the limits in HB 3056 can be waived if the municipality obtains the concurrence in the waiver of the overlapping taxing districts that levy 75% of the permanent rate levies in the urban renewal area. The new law, which took effect on January 1, 2010 encourages and requires greater consultation with overlapping taxing districts.