1			
2			
3			
4	IN THE CIRCUIT COURT OF THE STATE OF OREGON		
5	FOR THE COUNTY OF CLACKAMAS		
6	STATE ex rel. NEW LOOK DEVELOPMENT LLC, an Oregon limited liability company,	Case No. 24CV03746	
7	Plaintiff-Relator,	DEFENDANT CITY OF LAKE OSWEGO'S MEMORANDUM RE: WHETHER CHAPTER X	
8	ν.	IS A "LAND USE REGULATION"	
9	CITY OF LAKE OSWEGO, a municipal corporation,		
10	Defendant.		
11	At the February 9, 2024, show cause hearing, the Court took under advisement the		
12	question of whether or not Lake Oswego City Charter, Chapter X (Defendant's Exhibit		
13			
14	submitted at the hearing), was a " land use regulations as those terms are defined in ORS		
15	197.015" for the court to consider in determining whether to issue a peremptory writ per ORS		
16	227.179(5).		
17	Defendant's Development Review Commission (DRC) found that Chapter X was not a		
18	"land use regulation" for the reasons set forth below and filed with the Defendant's Answer:		
19	 DRC Findings, Conclusion and Order 		
20	[Defendant's Answer, Exhibit 1-A, PDF pg. 13, line 15 to pg. 15, line 15.];		
21	 Staff Report [Defendant's Answer, Exhibit 1-B, PDF pgs. 38-39 ("City Charter Chapter X (Section 43) 		
22	are not land use regulation standards and criteria.")];		
23	 Staff Memorandum (Evan Boone) dated December 15, 2023 [Defendant's Answer, Exhibit 1-E, PDF pgs. 82-91, and related attachments referenced 		
24	 for legislative history]; and Staff Memorandum (Evan Boone) dated 	December 22, 2023	
25	 Staff Memorandum (Evan Boone) dated December 22, 2023 [Defendant's Answer, Exhibit 1-E, PDF pgs. 131 – 135]. 		
26	<pre>// [Signature next page]</pre>		
	Page 1 –DEFENDANT CITY OF LAKE OSWEGO'S MEMORANDUM RE: WHETHER CHAPTER X IS A "LAND USE REGULATION" Ellen Osoinach, City Attorney Lake Oswego City Attorney's Office PO Box 369 Lake Oswego, OR 97034 Tel: 503-635-0025 Fax: 503-699-7453		

1	Dated this 13 th day of February, 2024.	
2		LAKE OSWEGO CITY ATTORNEY'S OFFICE
3		1 10
4		Gun P. Bone
5		Evan P. Boone, OSB 781518 Deputy City Attorney
6		Lake Oswego City Attorney's Office PO Box 369
7		Lake Oswego, Oregon 97034 Phone: (503) 635-0225 Fax: (503) 699-7453
8		eboone@lakeoswego.city Attorney for Defendant City of Lake Oswego
9		
10 11		
11		
12		
13		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
	Page 2 – DEFENDANT CITY OF LAKE OSWEGO'S MEMORANDUM RE: WHETHER CHAPTER X IS A "LAND USE REGULATION" Ellen Osoinach, City Attorney Lake Oswego City Attorney's Office PO Box 369 Lake Oswego, OR 97034 Tel: 503-635-0025 Fax: 503-699-7453	

	CERTIFICATE OF SERVICE		
1			
2	As stipulated to by the parties herein and pursuant to ORCP 9 G, I hereby certify that I accomplished service of a true and correct copy of DEFENDANT CITY OF LAKE OSWEGO'S		
3	³ MEMORANDUM RE: WHETHER CHAPTER X IS A "LAND USE REGULATION", on the particular below on the date and in the manner indicated:		
4	Ezra L. Hammer, OSB No. 203791 Jordan Ramis PC	Electronic Service to Ezra.Hammer@jordanramis.com	
5	1211 SW Fifth Ave., Ste. 2700 Portland, Oregon 97204	 First-Class U.S. Mail, Postage Prepaid Hand-Delivery 	
6		Fax Service to (503) 598-7373	
7	Of Attorneys for Plaintiff-Relator New Look Development LLC	 Fed Ex/UPS Overnight Courier Courtesy Emails to: 	
8		Julie.Stenberg@jordanramis.com Rose.Hendrick@jordanramis.com	
9	Christopher K. Dolon, OSP No. 022821	Electronic Service to	
10	Christopher K. Dolan, OSB No. 922821 Jordan Ramis PC	Chris.Dolan@jordanramis.com	
11	1211 SW Fifth Ave., Ste. 2700 Portland, Oregon 97204	 First-Class U.S. Mail, Postage Prepaid Hand-Delivery Fax Service to (503) 598-7373 Fed Ex/UPS Overnight Courier 	
12	Of Attorneys for Plaintiff-Relator New Look		
13	Development LLC	Courtesy Emails to: Julie.Stenberg@jordanramis.com	
14		Rose.Hendrick@jordanramis.com	
15	Theresa M. Kohlhoff, OSB No. 80398	Electronic Service to	
16	7512 N. Berkeley Portland, Oregon 97203	theresakohlhoff@gmail.com First-Class U.S. Mail, Postage Prepaid	
17	Attorney for Intervenor Michael Kohlhoff	 Hand-Delivery Fax Service to 	
18		 Fed Ex/UPS Overnight Courier Courtesy Emails to: 	
19			
20			
21	DATED: February 13, 2024. LAKE OSWEGO CITY ATTORNEY'S OFFICE		
22	4	and Bone	
23		an P. Boone, OSB 781518	
24	Lak	puty City Attorney e Oswego City Attorney's Office	
25	Lak	Box 369 «e Oswego, Oregon 97034	
26	Phone: (503) 635-0225 Fax: (503) 699-7453 eboone@lakeoswego.city Attorney for Defendant City of Lake Oswego		
	Page 1 – CERTIFICATE OF SERVICE		
	Ellen Osoinach, Lake Oswego City		
	PO Box 369 Lake Oswego, OR 97034 Tel: 503-635-0025 Fax: 503-699-7453		