



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

06/07/2011

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Jefferson Plan Amendment
DLCD File Number 001-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, June 24, 2011

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Jim Jacks, City of Jefferson
Gloria Gardiner, DLCD Urban Planning Specialist
Steve Oulman, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DATE STAMP

DEPT OF

JUN 03 2011

LAND CONSERVATION AND DEVELOPMENT
For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **City of Jefferson**

Local file number: **ZTA 2011-01**

Date of Adoption: **5/26/2011**

Date Mailed: **6/3/2011**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 1/18/2011

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The amendments changed the procedures of the Jefferson Development Code (JDC). Language was added for determining completeness, contents of hearing notices, contents of decision notices, appeal provisions and many other procedural aspects of the application processing requirements.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **NA**

to: **NA**

Zone Map Changed from: **NA**

to: **NA**

Location: **Citywide.**

Acres Involved: **0**

Specify Density: Previous: **NA**

New: **NA**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Jim Jacks, Mid-Willamette COG**

Phone: (503) 540-1619 Extension: 0

Address: **105 High St. SE**

Fax Number: 503-588-6094

City: **Salem, OR**

Zip: **97301-**

E-mail Address: **jjacks@mwvcog.org**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

ORDINANCE #672

AN ORDINANCE AMENDING THE JEFFERSON DEVELOPMENT CODE; TO CLARIFY PROCEDURES

WHEREAS, on March 3, 2011, the Planning Commission conducted a public hearing regarding Planning File No. Zone Text Amendment 11-01, an application by the City of Jefferson to amend the Jefferson Development Code, to clarify procedures at which time the public was given a full opportunity to be present and heard on the matter; and

WHEREAS, on March 3, 2011, the Planning Commission considered the information provided by City staff and the public, and upon deliberation, voted to recommend the City Council approve the proposed amendments; and

WHEREAS, on April 28, 2011, the City Council conducted a public hearing regarding Planning File No. Zone Text Amendment 11-01, an application by the City of Jefferson to amend the Jefferson Development Code, to clarify procedures at which time the public was given a full opportunity to be present and heard on the matter; and

WHEREAS, on April 28, 2011, the City Council considered the information provided by City staff and the public, received the recommendation of the Planning Commission, and upon deliberation, voted to approve the proposed amendments.

WHEREAS, the normal process of passing this ordinance would make it effective 30-days after passage on June 25, 2011, and the City Council desires the effective date to be on the first day of a month, the City Council desires this ordinance to be effective on July 1, 2011.

NOW THEREFORE, THE CITY OF JEFFERSON, OREGON, ORDAINS AS FOLLOWS:

Section 1. The City Council of the City of Jefferson does hereby amend the Jefferson Development Code adopting language for the Development Code sections shown in the "mark-up" document identified as Exhibit "A" and by this reference made a part hereof.

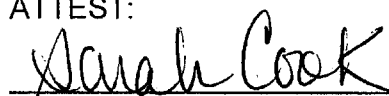
Section 2. The City Council of the City of Jefferson does hereby amend the Jefferson Development Code adopting language for the Development Code sections shown in the "clean copy" document identified as Exhibit "B" and by this reference made a part hereof.

Section 3. The City Council of the City of Jefferson does hereby adopt those certain findings of fact, conclusionary findings and supporting documentation shown in the document identified as Exhibit "C" and by this reference made a part hereof.

Section 4. The City Council of the City of Jefferson does hereby direct and make this ordinance effective on July 1, 2011.

Enacted by City Council: May 26, 2011
Effective: July 1, 2011


Michael D. Myers, Mayor

ATTEST:

Sarah Cook, City Recorder

“EXHIBIT A”

Zone Code Text Amendments – “Mark-up Copy”
Case No. ZTA 2011-01

Added language is in ***bold italics***. Deleted language is in ~~strikeout~~.

Section 1. Section 12.04.080, Definitions, is hereby amended to add the terms “adversely affected” and “aggrieved” and their definitions in alphabetical order as follows:

12.04.080 Definitions.

“Adversely affected” means that a local land use decision impinges upon the petitioner’s use and enjoyment of his or her property or otherwise detracts from interests personal to the petitioner. Examples of adverse effects include, but are not limited to, noise, odors, increased traffic or potential flooding.

“Aggrieved” means a person’s interests are recognized by the local decision maker, the person asserts a position on the merits and the local decision maker renders a decision contrary to that position.

Section 2. Section 12.08.080, Procedures for amending the Development Code and comprehensive land use plan, is hereby amended to read as follows:

12.08.080 Procedures Schedule for amending the Development Code and e Comprehensive land use p Plan.

~~A. A proposal to amend the Development Code or comprehensive land use plan including text, map designations, policies, or urban growth boundary, may be initiated by the Planning Commission, City Council, or by petition of owners as described in Section 12.76.040. Such proposals shall be considered under Type C procedures as outlined in Section 12.72.050 or by legislative action procedures as provided for in Section 12.08.100—12.08.140.~~

B. The City Council, with the recommendation of the Planning Commission, may adopt a schedule to limit the number of times annually for consideration of proposals for Comprehensive Plan ***and Development Code*** amendments. ***Once a schedule is adopted,*** ~~if~~ an emergency is declared by a vote of the City Council, amendments may be considered at any time. In determining that an emergency exists, the Council shall adopt findings that the public interest would be best served by considering a Comprehensive Plan ***or Development Code*** amendment request.
(Ord. 643 § 47, 2004; DC § 3.060)

Section 3. Section 12.08.090, Comprehensive Plan and Development Code amendment criteria, is hereby deleted as follows:

~~12.08.090—Comprehensive Plan and Development Code amendment criteria.~~

~~A. Amendments to the Comprehensive Plan shall be accompanied by findings of compliance with the statewide planning goals.~~

~~B. Amendments to the Development Code shall be accompanied by findings of compliance with the relevant objectives and policies of the Comprehensive Plan.~~

~~C. Planning Commission and City Council deliberations on amendments to the Comprehensive Plan or to the Development Code may include consideration of the following:~~

- ~~1. Citizen review and comment;~~
- ~~2. Input from other affected government agencies;~~
- ~~3. Short and long term impacts;~~
- ~~4. Public benefit;~~
- ~~5. Reasonable alternative proposals;~~
- ~~6. Any other factors deemed relevant by Planning Commission or City Council.~~

~~(Ord. 643 § 48, 2004; DC § 3.070)~~

Section 4. Section 12.08.100, Legislative Actions, is hereby deleted as follows:

~~12.08.100 Legislative actions.~~

~~A. Nothing in this code shall limit the authority of the City Council to make changes in the Comprehensive Plan or Development Code provisions and designations by legislative act where such changes have broad application and where quasi-judicial proceedings would be unnecessary or impractical.~~

~~B. The Planning Commission and/or City Council may hold a public hearing on any legislative matter.~~

~~C. Any property owner or resident of the City may petition the Planning Commission to initiate a public hearing on any legislative matter.~~

~~(Ord. 643 § 49, 2004; DC § 2.050)~~

Section 5. Section 12.08.110, Legislative hearing notice, is hereby deleted as follows:

~~12.08.110 Legislative hearing notice.~~

~~Notice of a hearing on a legislative decision under this code need not include a mailing to property owners, except as required by state law. The development official may provide notice designed to reach persons believed to have a particular interest and to provide the general public with reasonable opportunity to be aware of the hearings on the proposal.~~

~~(Ord. 643 § 50, 2004; DC § 2.060)~~

Section 6. Section 12.08.130, Planning Commission legislative recommendation, is hereby deleted as follows:

~~12.08.130 Planning Commission legislative recommendation.~~

~~In preparing its recommendation, the Planning Commission may do any of the following:~~

~~A. Require the proponent to identify the provisions of the Comprehensive Plan that govern the decision and prepare findings describing how the proposal complies or fails to comply with these plan provisions;~~

~~B. Review the nature of the proposal and describe whether the proposal warrants processing as a legislative matter;~~

~~C. Prepare a recommendation and make findings in support of such recommendations.~~

~~(Ord. 643 § 52, 2004; DC § 2.080)~~

Section 7. Section 12.08.140, City Council legislative action, is hereby deleted as follows:

~~12.08.140—City Council legislative action.~~

~~A. The City Council may limit the nature of the information it will receive at a hearing and may establish separate rules for consideration of each of the following:~~

- ~~1. Compliance with the plan;~~
- ~~2. Appropriateness of the legislative process;~~
- ~~3. Policy changes or refinements proposed.~~

~~B. In reaching a decision on a legislative matter, the council may adopt findings applicable to the relevant criteria in support of the decision.~~

~~C. When making a decision on a legislative matter the City Council may take any of the following steps:~~

- ~~1. Enact or defeat an ordinance on all or part of the proposal under consideration;~~
- ~~2. Refer some or all of the proposal back to the Planning Commission for further consideration.~~

(Ord. 643 § 53, 2004; DC § 2.090)

Section 8. Section 12.72.010, Hearing application review procedures designated, is hereby amended to read as follows:

12.72.010 Hearing Application review procedures designated.

~~The Jefferson Development Code includes four different hearing or review~~ *Five procedures to review and decide land use applications are designated.* ~~These procedures~~ *They vary mainly in the decision authority, provision of public notice and review process.* ~~These procedures~~ *They shall be known as Written e Comment, Type A hearing, Type B , hearing and Type C hearing and Type D.*

(Ord. 642 § 20, 2003; DC § 2.010)

Section 9. Section 12.72.025, Written comment procedure, is hereby amended to read as follows:

12.72.025 Written comment procedure.

~~A. *Written Comment actions are decided by the City Recorder or designee. A public hearing is not provided.* This procedure includes mailed notice and an opportunity for written comment, but does not include a public hearing. The decision is made at the staff level by the development official, and does not involve the Planning Commission unless appealed. The process is as follows:~~

~~AB. *The City Recorder or designee shall mail a public notice* Upon submittal of an application, notice is mailed to the *applicant and* owners of all property within *one hundred (100)* feet of the subject property.~~

~~C. *The mailed notice shall:*~~

- ~~1. *Provide a 15-day period for submission of written comments prior to the decision;*~~
- ~~2. *State that issues which may provide the basis for an appeal to the Planning Commission shall be raised in writing prior to the expiration of the comment period. Issues shall be*~~

raised with sufficient specificity to enable the City Recorder or designee to respond to the issue;

3. *List, by commonly used citation, the applicable criteria for the decision;*
4. *Set forth the street address or other easily understood geographical reference to the subject property;*
5. *State the place, date and time that comments are due;*
6. *State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;*
7. *Include the name and phone number of a city contact person; and*
8. *Briefly summarize the local decision making process.*

D. *For purposes of appeal, Subsection C, above, shall be deemed met when the city can provide an affidavit or other certification that such notice was given. The applicant shall supply the list of names and addresses of property owners to receive the notice, and the assessor's map number and tax lot number for each property. The mailing list of owners shall be provided by the Marion County Tax Assessor at the applicant's expense certified by the applicant as accurate and complete and that it was obtained from a title company or the current county assessor's records. The applicant shall also provide 2 copies of the names and addresses and assessor's map information on peel-off address labels. The notice shall conform to Section 12.72.090 except that the notice shall substitute information on how and when to submit comments in place of the date, time and location of a hearing, and the notice shall state that notice of the decision will be mailed to any party so requesting.*

B. ~~Written comments shall be accepted by the City for at least ten days from when the notice was mailed.~~

E. ~~After reviewing the application, relevant decision criteria, relevant code provisions, and written comments submitted in writing during the 15 day comment period, the development official City Recorder or designee shall make a decision to approve, approve with conditions, or deny the application. The City Recorder or designee may attach conditions in granting an approval if the City Recorder or designee determines the conditions are necessary for the approval criteria to be met, or to mitigate detrimental effects.~~

F. ~~The City Recorder or designee shall mail a copy of the Written Comment decision to the applicant and a written notice of the decision shall be mailed to the applicant, and to all parties that submitted written comments during the 15 day comment period, or to parties that requested such notice, and, in accordance with ORS 227.175(10)(a), to any person who is adversely affected or aggrieved by the decision. The notice shall state the parties are provided a 15 day appeal period, and any appeal shall be in writing and must be received by the City Recorder within the 15 day appeal period.~~

G. ~~The development official's Written Comment decision may be appealed to the Planning Commission by an affected a party that received a notice of the decision or by any person who is adversely affected or aggrieved by the decision by filing a notice of submitting a written appeal to the City Recorder within fifteen 15 days of the day the written notice of decision was mailed beginning with the day after the notice was mailed. If no appeal is filed within the 15 day appeal period, the decision becomes final fifteen days effective on the 16th day after the written notice.~~

(Ord. 642 § 21, 2003)

Section 10. Section 12.72.030, Type A procedures, is hereby amended to read as follows:

12.72.030 Type A procedures.

- A. Type A actions are decided by the Planning Commission. A public hearing is not required.
- B. *Upon receipt of an application for a Type A action, the City staff shall review the application and, within 30 days of its receipt, notify the applicant in writing whether the application is complete.*
1. *If the city determines the application contains sufficient information for review, the city shall advise the applicant in writing that the application is deemed complete as of the date of submittal and begin the application review process.*
 2. *If the city determines the application is incomplete, the city shall advise the applicant in writing of the necessary missing information. The city shall begin review of the application:*
 - a. *Upon receipt of all of the missing information requested by the city; or*
 - b. *Upon receipt of some of the missing information and a written statement from the applicant indicating that none of the other missing information will be provided; or*
 - c. *Upon receipt of a written statement from the applicant indicating that none of the missing information will be provided.*
 3. *On the 181st day after being first submitted, the application will be void if the applicant has been notified of the missing information and has not complied with 2, a; 2, b; or 2, c, of this section.*
 4. *Upon the written request of the applicant submitted to the City Recorder, any applicable time limits may be extended for a specified period of time, but in no case may the total exceed 245 days.*
- C. The City Recorder , *or designee*, shall mail a public notice to *the applicant and owners* of all property owners within one hundred (100) feet of the subject property ~~stating a Type A application has been received and if they have written comments, they must be received by the City Recorder within 15 days from the day the notice was mailed.~~ *For a Property Line Adjustment application, the City Recorder, or designee, shall mail the public notice and a copy of the application to the Marion County Surveyor.*
- D. *The mailed notice shall:*
1. *Provide a 15 day period for submission of written comments prior to the decision;*
 2. *State that issues which may provide the basis for an appeal to the City Council or Oregon Land Use Board of Appeals shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the Planning Commission to respond to the issue;*
 3. *List, by commonly used citation, the applicable criteria for the decision;*
 4. *Set forth the street address or other easily understood geographical reference to the subject property;*
 5. *State the place, date and time that comments are due;*
 6. *State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;*
 7. *Include the name and phone number of a city contact person; and*
 8. *Briefly summarize the local decision making process.*

- E. For purposes of appeal, Subsection C, above, shall be deemed met when the city can provide an affidavit or other certification that such notice was given. The applicant shall supply the list of names and addresses of property owners to receive the notice, and the assessor's map number and tax lot number for each property. The mailing list must shall be certified by the applicant as accurate and complete and that it was as obtained from a title company or the current county assessor's records. The applicant shall also provide 2 copies of the names and addresses and assessor's map information on peel-off address labels.**
- F. Where a railroad-highway crossing provides or will provide the only access to land that is the subject of an application, the City Recorder, or designee, shall mail notice to the Oregon Department of Transportation, Rail Division, and the railroad company consistent with ORS 197.794.**
- G. Except where a land use application would allow a structure less than 35 feet in height and the property is located outside of the runway "approach surface" as defined by the Oregon Department of Aviation, the City Recorder, or designee, shall mail notice of a land use application to the owner of an airport defined by the Oregon Department of Aviation as a "public use airport" in accordance with ORS 227.175(6).**
- H. The City Recorder, or designee, shall mail notice to the Oregon Department of Aviation consistent with ORS 197.183 when the land use application, if approved, would result in a water impoundment larger than one-quarter acre (10,890 square feet) within 10,000 feet of an airport identified in ORS 836.610 (1).**
- I. The City Recorder, or designee, shall provide to the applicant at the time the application is submitted an all-weather plastic notice at least 2 feet by 2 feet.**
- 1. Posting of the notice shall be:**
 - a. By the applicant within 1 week of the application's submittal;**
 - b. On the subject property facing a public street; and**
 - c. Within 15 feet of the public street and be clearly visible to pedestrians and motorists;**
 - 2. Contents of the notice shall:**
 - a. Identify the type of application, for example, "partition," or "property line adjustment;"**
 - b. Identify the file number assigned to the application by the city; and**
 - c. State the address and phone number of City Hall where information may be obtained.**
 - 3. After posting the notice the applicant shall sign an affidavit certifying the notice was properly posted consistent with this section and return it to City Hall within 1 week of the notice being posted.**
 - 4. City staff shall remove the posted notice when the appeal period has lapsed.**
- J. At a Planning Commission meeting the Planning Commission shall consider the application materials, staff report and the written comments submitted during the 15 day comment period. The Planning Commission may attach conditions in granting an approval if the Planning Commission determines the conditions are necessary for the approval criteria to be met, or to mitigate detrimental effects. The Planning Commission shall pass an oral motion directing staff to prepare a Planning Commission Order approving, approving with conditions or denying the application. The Order shall include findings addressing the relevant criteria of the Development Code. The Planning Commission Chair or Vice-Chair shall sign the Order.**

- K.** The City Recorder , *or designee*, shall mail *a copy of the Type A decision to the applicant, and a notice of a Type A the decision shall be mailed to the applicant, to parties that submitted written commented comments during the 15 day comment period , to parties that requested such notice, and, in accordance with ORS 227.175(10)(a)(A), to any person who submits a letter to the City Recorder that was received by the City Recorder before the notice of the decision was mailed stating they are adversely affected or aggrieved by the decision and the reasons therefore.*
- L.** The notice *of the decision* shall state the parties are provided a 15 day appeal period. An appeal shall be in writing and must be received by the City Recorder within the 15 day appeal period. :
- 1.** *Explain the nature of the application and the proposed use or uses which could be authorized;*
 - 2.** *Set forth the street address or other easily understood geographical reference to the subject property;*
 - 3.** *Include the name and telephone number of a city contact person;*
 - 4.** *State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;*
 - 5.** *State that any person who is adversely affected or aggrieved or who receives this written notice may appeal the decision to the City Council;*
 - 6.** *State that a 15 day appeal period is provided and any appeal shall be in writing and shall be received by the City recorder within the 15 day appeal period;*
 - 7.** *State that the decision will not become effective until the period for filing an appeal has expired; and*
 - 8.** *State that a person who is mailed written notice of the decision cannot appeal the decision directly to the Oregon Land Use Board of Appeals under ORS 197.830 to 197.845.*
- M.** An appeal is decided by the City Council. *The Type A decision may be appealed to the City Council by a party that received a notice of the decision, or by any person who is adversely affected or aggrieved by the decision, by submitting a written appeal to the City Recorder within 15 days of the day the written notice of decision was mailed beginning with the day after the notice was mailed. If no appeal is filed within the 15 day appeal period, the decision becomes effective on the 16th day after the mailing of the notice of the decision.*
- N.** *Where the Planning Commission decision is appealed, the effective date is stayed until the final determination on the appeal is rendered.*

Section 11. Section 12.72.040, Type B hearing procedures, is hereby amended to read as follows:

12.72.040 Type B hearing procedures.

- A.** Type B actions are decided by the Planning Commission. The Planning Commission holds a public hearing pursuant to this chapter before the decision is made.
- B.** *Upon receipt of an application for a Type B action, the City staff shall review the application and, within 30 days of its receipt, notify the applicant in writing whether the application is complete.*

1. *If the city determines the application contains sufficient information for review, the city shall advise the applicant in writing that the application is deemed complete as of the date of submittal and begin the application review process.*
 2. *If the city determines the application is incomplete, the city shall advise the applicant in writing of the necessary missing information. The city shall begin review of the application:*
 - a. *Upon receipt of all of the missing information requested by the city; or*
 - b. *Upon receipt of some of the missing information and a written statement from the applicant indicating that none of the other missing information will be provided; or*
 - c. *Upon receipt of a written statement from the applicant indicating that none of the missing information will be provided.*
 3. *On the 181st day after being first submitted, the application will be void if the applicant has been notified of the missing information and has not complied with 2, a; 2, b; or 2, c, of this section.*
 4. *Upon the written request of the applicant submitted to the City Recorder, any applicable time limits may be extended for a specified period of time, but in no case may the total exceed 245 days.*
- C. *The City Recorder, or designee, shall mail a public notice of the hearing to the applicant and owners of all property owners within three hundred (300) feet of the subject property at least 20 days before the evidentiary hearing.*
- D. *The mailed notice shall:*
1. *Explain the nature of the application and the proposed use or uses which could be authorized;*
 2. *List the applicable criteria that apply to the application at issue;*
 3. *Set forth the street address or other easily understood geographical reference to the subject property;*
 4. *State the date, time and location of the hearing;*
 5. *State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals based on that issue;*
 6. *Include the name and phone number of a city contact person;*
 7. *State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;*
 8. *State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost;*
 9. *Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;*
 10. *State that all documents or evidence relied upon by the applicant is available to the public; and*
 11. *State that prior to the conclusion of the hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application.*
- E. *For purposes of appeal, Subsection C, above, shall be deemed met when the city can provide an affidavit or other certification that such notice was given. The applicant shall supply the list of*

the names and addresses of property owners to receive the notice, *and the assessor's map number and tax lot number for each property*. The mailing list must *shall* be certified by the applicant as accurate and complete *and that it was* as obtained from *a title company or* the current county assessor's records. *The applicant shall also provide 2 copies of the names and addresses and assessor's map information on peel-off address labels.*

- F. Except where a land use application would allow a structure less than 35 feet in height and the property is located outside of the runway "approach surface" as defined by the Oregon Department of Aviation, the City Recorder, or designee, shall provide notice of a public hearing on a land use application to the owner of an airport defined by the Oregon Department of Aviation as a "public use airport" in accordance with ORS 227.175(6).*
- G. The City Recorder, or designee, shall provide notice to the Oregon Department of Aviation consistent with ORS 197.183 when the land use application, if approved, would result in a water impoundment larger than one-quarter acre (10,890 square feet) within 10,000 feet of an airport identified in ORS 836.610 (1).*
- H. Where a railroad-highway crossing provides or will provide the only access to land that is the subject of an application, the City Recorder, or designee, shall provide notice to the Oregon Department of Transportation, Rail Division, and the railroad company consistent with ORS 197.794.*
- I. The City Recorder, or designee, shall provide to the applicant at the time the application is submitted an all-weather plastic notice at least 2 feet by 2 feet.*
- 1. Posting of the notice shall be:*
 - a. By the applicant within 1 week of the application's submittal;*
 - b. On the subject property facing a public street; and*
 - c. Within 15 feet of the public street and be clearly visible to pedestrians and motorists;*
 - 2. Contents of the notice shall:*
 - a. Identify the type of application, for example, "subdivision," or "variance;"*
 - b. Identify the file number assigned to the application by the city; and*
 - c. State the address and phone number of City Hall where information may be obtained.*
 - 3. After posting the notice the applicant shall sign an affidavit certifying the notice was properly posted consistent with this section and return it to City Hall within 1 week of the notice being posted.*
 - 4. City staff shall remove the posted notice when the appeal period has lapsed.*
- BJ. At the public hearing, the Planning Commission shall consider the **application materials and** staff report, and the applicant and interested persons may present testimony relevant to the criteria and standards pertinent to the proposal, giving reasons why the application should or should not be approved or proposing modifications that are necessary for approval. The Planning Commission may attach conditions in granting an approval if the Planning Commission determines the conditions are necessary for the approval criteria to be met, or to mitigate detrimental effects to others. The Planning Commission shall pass an oral motion directing staff to prepare a Planning Commission Order approving, approving with conditions or denying the application. The Order shall include findings addressing the relevant criteria of the Development Code. The Planning Commission Chair or Vice-Chair shall sign the Order.*

- K. The City Recorder, or designee, shall mail a copy of the Type B decision to the applicant, and a notice of the decision shall be mailed to the applicant, to parties who participated orally or in writing at the public hearing, to parties that requested such notice, and, in accordance with ORS 227.175(10)(a)(A), to any person who submits a letter to the City Recorder that was received by the City Recorder before the notice of the decision was mailed stating they are adversely affected or aggrieved by the decision and the reasons therefore.*
- L. The notice of the decision shall:*
- 1. Explain the nature of the application and the proposed use or uses which could be authorized;*
 - 2. Set forth the street address or other easily understood geographical reference to the subject property;*
 - 3. Include the name and telephone number of a city contact person;*
 - 4. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;*
 - 5. State that any person who is adversely affected or aggrieved or who receives this written notice may appeal the decision to the City Council;*
 - 6. State that a 15 day appeal period is provided and any appeal shall be in writing and shall be received by the City recorder within the 15 day appeal period;*
 - 7. State that the decision will not become effective until the period for filing an appeal has expired; and*
 - 8. State that a person who is mailed written notice of the decision cannot appeal the decision directly to the Oregon Land Use Board of Appeals under ORS 197.830 to 197.845.*
- M. The Type B decision may be appealed to the City Council by a party that received a notice of the decision, or by any person who is adversely affected or aggrieved by the decision, by submitting a written appeal to the City Recorder within 15 days of the day the written notice of decision was mailed beginning with the day after the notice is mailed. If no appeal is filed within the 15 day appeal period, the decision becomes effective on the 16th day.*
- N. Where the Planning Commission decision is appealed, the effective date is stayed until the final determination on the appeal is rendered.*

Section 12. Section 12.72.050, Type C hearing procedures, is hereby amended to read as follows:

12.72.050 Type C hearing procedures.

- A. Type C actions are quasi-judicial and are decided by the City Council. The Planning Commission holds a public hearing pursuant to this chapter before making and then makes a recommendation to the City Council. The City Council holds a public hearing pursuant to this chapter before the decision is made.*
- B. Upon receipt of an application for a Type C action, the City staff shall review the application and, within 30 days of its receipt, notify the applicant in writing whether the application is complete.*
- 1. If the city determines the application contains sufficient information for review, the city shall advise the applicant in writing that the application is deemed complete as of the date of submittal and begin the application review process.*

2. *If the city determines the application is incomplete, the city shall advise the applicant in writing of the necessary missing information. The city shall begin review of the application:*
 - a. *Upon receipt of all of the missing information requested by the city; or*
 - b. *Upon receipt of some of the missing information and a written statement from the applicant indicating that none of the other missing information will be provided; or*
 - c. *Upon receipt of a written statement from the applicant indicating that none of the missing information will be provided.*
 3. *On the 181st day after being first submitted, the application will be void if the applicant has been notified of the missing information and has not complied with 2, a; 2, b; or 2, c, of this section.*
 4. *Upon the written request of the applicant submitted to the City Recorder, any applicable time limits may be extended for a specified period of time, but in no case may the total exceed 245 days.*
- C. *The City Recorder, or designee, shall cause a public notice to be published in a newspaper of local circulation pursuant to this chapter, and for quasi-judicial Type C actions, mail a public notice for each of the **Planning Commission and City Council** hearings to **the applicant and property owners of all property** within three hundred (300) feet of the subject property **at least 20 days before each hearing.***
- D. *The mailed notice shall:*
1. *Explain the nature of the application and the proposed use or uses which could be authorized;*
 2. *List the applicable criteria that apply to the application at issue;*
 3. *Set forth the street address or other easily understood geographical reference to the subject property;*
 4. *State the date, time and location of the hearing;*
 5. *State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals based on that issue;*
 6. *Include the name of a city representative to contact and the telephone number where additional information may be obtained;*
 7. *State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;*
 8. *State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost;*
 9. *Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;*
 10. *State that all documents or evidence relied upon by the applicant is available to the public; and*
 11. *State that prior to the conclusion of the hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application.*
- E. *For purposes of appeal, Subsection C, above, shall be deemed met when the city can*

*provide an affidavit or other certification that such notice was given. The applicant shall supply the list of the names and addresses of property owners , **manufactured park tenants and other parties** to receive the notice, **and the assessor's map number and tax lot number for each property.** The mailing list ~~must~~ **shall** be certified by the applicant as accurate and complete as **and that it was** obtained from **a title company or the** current county assessor's records. **The applicant shall also provide 3 copies of the names and addresses and assessor's map information on peel-off address labels.***

- F. For a rezoning of a manufactured home park or mobile home park, the City Recorder, or designee, shall give written notice by first class mail to each existing mailing address for tenants of the manufactured home park or mobile home park, as provided by the applicant, at least 20 days, but not more than 40 days before the date of the first hearing on the application consistent with ORS 227.175(8).*
- G. Where State Statute for a proceeding, including but not limited to a right-of-way vacation or annexation, requires newspaper notice, the City Recorder, or designee, shall provide newspaper notice consistent with State Statute in addition to any required notice set forth in Section 12.72.050.*
- H. Except where a land use application would allow a structure less than 35 feet in height and the property is located outside of the runway "approach surface" as defined by the Oregon Department of Aviation, the City Recorder, or designee, shall provide notice of a public hearing on a land use application to the owner of an airport defined by the Oregon Department of Aviation as a "public use airport" in accordance with ORS 227.175(6).*
- I. The City Recorder, or designee, shall provide notice to the Oregon Department of Aviation consistent with ORS 197.183 when the land use application, if approved, would result in a water impoundment larger than one-quarter acre (10,890 square feet) within 10,000 feet of an airport identified in ORS 836.610 (1).*
- J. If a railroad-highway crossing provides or will provide the only access to land that is the subject of an application, the City Recorder, or designee, shall provide notice to the Oregon Department of Transportation, Rail Division, and the railroad company consistent with ORS 197.794.*
- K. The City Recorder , or designee, shall provide to the applicant at the time the application is submitted an all-weather plastic notice at least 2 feet by 2 feet.*
 - 1. Posting of the notice shall be:*
 - a. By the applicant within 1 week of the application's submittal;*
 - b. On the subject property facing a public street; and*
 - c. Within 15 feet of the public street and be clearly visible to pedestrians and motorists;*
 - 2. Contents of the notice shall:*
 - a. Identify the type of application, for example, "zone change," or "annexation;"*
 - b. Identify the file number assigned to the application by the city; and*
 - c. State the address and phone number of City Hall where information may be obtained;*

3. *After posting the notice the applicant shall sign an affidavit certifying the notice was properly posted consistent with this section and return it to City Hall within 1 week of the notice being posted.*
4. *City staff shall remove the posted notice when the appeal period has lapsed.*

BL. At the public hearings, the Planning Commission shall consider the staff report, and the applicant and interested persons may present testimony relevant to the criteria and standards pertinent to the proposal, giving reasons why the application should or should not be approved or proposing modifications they believe are necessary for approval. The Planning Commission shall pass an oral motion directing staff to prepare a Planning Commission Order recommending approval, approval with conditions or denial of the application. The Order shall include findings addressing the relevant criteria of the Development Code. The Planning Commission Chair or Vice-Chair shall sign the Order. The Planning Commission recommendation shall be included in the staff report to the City Council. *The Planning Commission Order may be provided, but is not required to be provided, to the applicant and those parties who participated orally or in writing at the public hearing.*

CM. The City Council shall conduct a public hearing within 60 days of the signing of the Planning Commission Order.

DN. *At the public hearing the City Council shall consider the staff report, and the applicant and interested persons may present testimony relevant to the criteria and standards pertinent to the proposal, giving reasons why the application should or should not be approved or proposing modifications they believe are necessary for approval.* The City Council shall adopt findings addressing the relevant criteria of the Development Code and in doing so may adopt findings different than the Planning Commission's findings. The City Council may delete, add, or modify any of the provisions pertaining to the application, or attach conditions in granting an approval if the City Council determines the conditions are necessary for the approval criteria to be met or to mitigate detrimental effects.

EO. Type C *quasi-judicial* decisions shall be by passage of *a resolution, or an ordinance for amendments to the comprehensive plan text or map or to the development code text.*

P. *The City Recorder, or designee, shall mail a copy of a Type C decision to the applicant, and a notice of the decision shall be mailed to the applicant, to parties who participated orally or in writing at the public hearing, to parties that requested such notice in writing, and, in accordance with ORS 227.175(10)(a)(A), to any person who submits a letter to the City Recorder that was received by the City Recorder before the notice of the decision was mailed stating they are adversely affected or aggrieved by the decision and the reasons therefore.*

Q. *The notice of decision shall:*

1. *Explain the nature of the application and the proposed use or uses which could be authorized;*
2. *Set forth the street address or other easily understood geographical reference to the subject property;*
3. *Include the name and telephone number of a city contact person;*

4. *State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;*
 5. *State that the decision may be appealed to the Oregon Land Use Board of Appeals;*
 6. *State that a notice of intent to appeal the decision to the Oregon Land Use Board of Appeals shall be filed consistent with Oregon Revised Statute 197.830 to 197.845 not later than 21 days after the decision becomes final; and*
 7. *State that the decision will not become effective until the period for filing a notice of intent to appeal has expired, provided no intent to appeal was filed.*
- R. *The City Council's decision is final when the resolution or ordinance is signed, and for a resolution it is effective on the day after the period for filing a notice of intent to appeal to the Oregon Land Use Board of Appeals has expired, provided an intent to appeal was not timely filed.*
- S. *The City Council's decision may be appealed in accordance with Oregon Revised Statute 197.830 to 197.845.*
- T. *Where the City Council decision is appealed, the effective date is stayed until the final determination on the appeal is rendered.*

Section 13. Section 12.72.055, Type D procedures, is hereby added to read as follows:

12.72.055 Type D procedures.

- A. *Type D actions are legislative and are decided by the City Council. The Planning Commission holds a public hearing pursuant to this chapter and then makes a recommendation to the City Council. The City Council holds a public hearing pursuant to this chapter before the decision is made.*
1. *Nothing in this code shall limit the authority of the City Council to make changes in the Comprehensive Plan or Development Code provisions and designations where such changes are legislative actions.*
 2. *The Planning Commission and City Council shall each hold a public hearing on any legislative matter.*
- B. *The City Recorder, or designee, shall cause a public notice to be published in a newspaper of general circulation for the Planning Commission hearing and the City Council hearing at least 20 days before each hearing. The City Recorder, or designee, shall provide a copy of the newspaper notice for each of the Planning Commission and City Council hearings to the applicant at the time the notice is provided to the newspaper.*
1. *The newspaper notice shall:*
 - a. *Explain the nature of the application;*
 - b. *List the applicable criteria that apply to the application;*
 - c. *Set forth a general geographical reference to the area affected;*
 - d. *State the date, time and location of the hearing;*
 - e. *Include the name and telephone number of a city representative; and*
 - f. *State that a copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing and will be provided at reasonable cost;*
 2. *Except where a legislative application would allow a structure less than 35 feet in height and the property is located outside of the runway "approach surface" as*

defined by the Oregon Department of Aviation, the City Recorder, or designee, shall mail a copy of the newspaper notice on a legislative application to the owner of an airport defined by the Oregon Department of Aviation as a "public use airport" in accordance with ORS 227.175(6).

3. *The City Recorder, or designee, shall mail a copy of the newspaper notice on a legislative application to the Oregon Department of Aviation consistent with ORS 197.183 when the application, if approved, would result in a water impoundment larger than one-quarter acre (10,890 square feet) within 10,000 feet of an airport identified in ORS 836.610 (1).*
 4. *If a railroad-highway crossing provides or will provide the only access to land that is the subject of an application, the City Recorder, or designee, shall mail a copy of the newspaper notice on a legislative application to the Oregon Department of Transportation, Rail Division, and the railroad company consistent with ORS 197.794.*
 5. *For purposes of appeal, Subsection B, above, shall be deemed met when the city can provide an affidavit or other certification that such notice was given.*
- C. *At the public hearing the Planning Commission shall consider the staff report, and the applicant and interested persons may present testimony relevant to the criteria and standards pertinent to the proposal, giving reasons why the application should or should not be approved or proposing modifications they believe are necessary for approval. The Planning Commission shall pass an oral motion directing staff to prepare a Planning Commission Order recommending approval, approval with modifications or denial of the application. The Order shall include findings addressing the relevant criteria of the Development Code, applicable Comprehensive Plan Goals and Policies and the applicable Statewide Planning Goals. The Planning Commission Chair or Vice-Chair shall sign the Order. The Planning Commission recommendation shall be included in the staff report to the City Council. The Planning Commission Order may be provided, but is not required to be provided, to the applicant and those parties who participated orally or in writing at the public hearing.*
- D. *The City Council shall open a de novo public hearing within 60 days of the signing of the Planning Commission Order.*
- E. *At the public hearing the City Council shall consider the staff report, and the applicant and interested persons may present testimony relevant to the criteria and standards pertinent to the proposal, giving reasons why the application should or should not be approved or proposing modifications they believe are necessary for approval. The City Council shall adopt findings addressing the relevant criteria of the Development Code, applicable Comprehensive Plan Goals and Policies and the applicable Statewide Planning Goals, and in doing so may adopt findings different than the Planning Commission's findings. The City Council may delete, add, or modify any of the provisions pertaining to the application, or make modifications in granting an approval if the City Council determines the modifications are necessary for the approval criteria, comprehensive plan policies or goals, or the Statewide Planning Goals to be met, or to mitigate detrimental effects.*
- F. *Consistent with ORS 227.186(2) a Type D decision to approve a legislative application shall be by passage of an ordinance for amendments to the comprehensive plan text or map, or to the development code text or zoning districts.*

- G. The City Recorder, or designee, shall:**
- 1. Mail or hand deliver a copy of the adopted decision to the Oregon Department of Land Conservation and Development (DLCD) using the Department's Form within 5 working days of the Council's adoption of the amendment.**
 - 2. On the same day that the decision and findings are mailed or delivered to DLCD, the local government shall mail or otherwise submit notice to persons who:**
 - a. Participated in the proceedings leading to the adoption of the amendment to the comprehensive plan or land use regulation or the new land use regulation; or**
 - b. Requested of the local government in writing that they be given such notice.**
 - 3. The notice shall:**
 - a. Briefly describe the action taken by the local government;**
 - b. State the date of the decision;**
 - c. If delivered by mail, include a certificate of mailing containing a statement signed by the person mailing it indicating the date the notice was deposited in the mail;**
 - d. List the place where and the time when the amendment to the acknowledged comprehensive plan or land use regulation or the new land use regulation, and findings, may be reviewed; and**
 - e. Explain the requirements for appealing the action of the local government under ORS 197.830 to 197.845.**
- H. The City Council's decision approving the application is final when the ordinance is signed, or where the application is denied, when the resolution is signed.**
- I. The City Council's decision approving a legislative amendment may be appealed in accordance with ORS 197.830 to 197.845.**
- J. Consistent with ORS 197.620(1) a decision to not adopt a legislative amendment or a new land use regulation is not appealable, except where the amendment is necessary to address the requirements of a new or amended State Planning Goal, Oregon Administrative Rule or State Statute. Because a decision to deny a legislative application cannot, generally, be appealed, no ordinance or resolution must be passed, however, a resolution would provide better documentation compared to the meeting minutes.**
- K. Where the City Council decision is appealed, the effective date is stayed until the final determination on the appeal is rendered.**

Section 14. Section 12.72.060, Type of procedure by application, is hereby amended to read as follows:

12.72.060 Type of procedure by application.

Applications submitted to the City shall be processed according to the procedure listed below.

- A. The following changes or activities do not require any application to the City or review:**
- 1. Change in owner, tenant, or occupant without change in use.**
 - 2. Change in use within a category of use as listed in the relevant section of the Development Code (e.g. 12.12.040 , *Zoning Districts Permitted and Conditional Uses*, and 12.30.030 , *Mixed Use Permitted Uses*)**

3. Operation of a group child day care home as defined by ORS 418.805 or a residential home as defined by ORS 443.400 that does not require a building permit.
- B. **A building permit for** ~~the~~ the following activities shall be reviewed by the development official without notice or hearing:
1. Construction, alteration or expansion of detached single-family dwellings and duplexes , **except for nonconforming structures and uses which shall be reviewed consistent with Section 12.92 before the building permit is issued;**
 2. Construction of the first accessory building in a residential zone , **except for a nonconforming use which shall be reviewed consistent with Section 12.92 before the building permit is issued ; and**
 3. Accessory dwellings within the Mixed Use Zone .
- C. Written Comment Procedure. This procedure shall be used to process applications for the following activities **applications**:
1. Change of use of an existing building from one category of use to a different category of use as listed in the relevant section of the Development Code (e.g. **Sections 12.12.040 , Zoning Districts Permitted and Conditional Uses, 12.12.050, Other Uses and 12.30.030 , Mixed Use Permitted Uses**).
 2. **Except for a single-family dwelling or duplex, E expansion s of a building (other than a single family dwelling or duplex) by less than 400 square-feet or less which comprises less by less than 25% of the existing area gross floor area, whichever is less.**
 3. **Floodplain Development Permit (when factual, policy or legal judgment is not exercised).**
- D. Type A Procedure. This procedure shall be used to process applications for the following activities **applications** :
1. Site Plan Review for **a** new building s ~~intended~~ for uses listed as permitted uses, **in accordance with** Sections 12.12.040, **Permitted Uses, 12.12.050, Other Uses, and 12.30.030 , Mixed Use District Permitted Uses;**
 2. Site Plan Review for **an** accessory dwellings **building** outside of the Mixed Use Zone;
 3. Site Plan Review for **an** expansion s of a building (other than a single-family dwelling or duplex) by more than 400 square-feet or **by greater more** than 25% of the existing area **gross floor area, whichever is less; and**
 4. Partitions; ;
 5. Property Line Adjustment; ;
 6. Time Extension for Restoration of a Nonconformity allowed in Section 12.92.030, D; **and**
 7. **Floodplain Development Permit (when factual, policy or legal judgment is exercised).**
- E. Type B Procedure. This procedure shall be used to process the following applications:
1. Conditional Use Permits for activities listed as conditional uses, Sections 12.12.040, **Permitted Uses, 12.12.050 , Other Uses, and 12.30.040 , Mixed Use Conditional Uses;**
 2. Subdivisions;
 3. Variances ~~to required standards;~~
 4. Development on nonconforming lots ~~or noneonforming developments;~~ and
 5. Interpretation of the Comprehensive Plan or Development Code.
- F. Type C **Quasi-judicial** Procedure. This procedure shall be used to process the following **quasi-judicial** applications:
1. Annexations;

2. Development Code text amendments;
3. Zone *map* changes;
4. *Amendments to the Comprehensive Plan text or the Comprehensive Plan* amendments, including ~~in~~ Map designations; *and*
5. Vacations of publicly owned property; *and*.

G. Type D Legislative Procedure. This procedure shall be used to process the following legislative applications:

1. *Annexation;*
2. *Development Code text amendment;*
3. *Zoning district map change; and*
4. *Amendments to the Comprehensive Plan text or the Comprehensive Plan Map designations.*

(Ord. 642 § 22, 2003; DC § 2.100)

Section 15. Section 12.72.070, Responsibility for hearings, is hereby amended to read as follows:

12.72.070 Responsibility for hearings.

The City Recorder , *or designee*, shall carry out the following duties pertaining to a hearing, ~~all~~ in accordance with other provisions of the Development Code *and the following*:

- A. Schedule and assign the matter for review and hearing;
- B. Conduct the correspondence of the hearing body;
- C. Mail *and cause to be published* required notices of public hearings at least twenty (20) days before the evidentiary hearing or ten (10) days before the first evidentiary hearing if two or more are allowed *consistent with the requirements of Section 12.72; and*
- D. Provide advance notice of all hearings and written decisions to persons requesting the same and *who are* not entitled to such by this chapter, provided *the request is in writing and is received by the City Recorder, and* that such persons pay the actual cost for the service provided as established by the City (applicants excepted).

Section 16. Section 12.72.080, Planning Commission's responsibility for hearing, is hereby amended to read as follows:

12.72.080 Planning Commission's responsibility for hearing.

The secretary of the Planning Commission *City staff* shall carry out the following duties pertaining to a hearing before the Planning Commission:

- A. Maintain a record and enter into the record relevant dates such as those of giving notice, hearings, postponements and continuances, and a summary of action taken by the hearings body *Record the meetings by tape recording, electronic or digital means and retain the recordings in accordance with applicable State Statutes;*
- B. Prepare *written meeting* minutes to include *postponements, continuances,* the decisions on the matters heard and *a summary of* the reasons given for the decision.

Section 17. Section 12.72.090, Notice of hearing, is hereby amended to read as follows:

12.72.090 Notice of hearing.

Notice of a hearing *for Type B, C and D actions shall be consistent with Sections 12.72.040, 12.72.050 and 12.72.055, respectively.* shall be reasonably calculated to give actual notice and, other than for a legislative action, the contents of the notice shall:

- A. Explain the nature of the application and the proposed use or uses which could be authorized. In the case of a zone change, then a list of potential permitted uses should be listed;
- B. List the applicable approval criteria to the issue;
- C. Identify the location of subject property for which a development permit or other action is pending, including but not limited to use of a map or postal address, or a subdivision lot and block designation, or a metes and bounds description, or the tax map designation of the county assessor;
- D. State the date, time and location of the hearing;
- E. State that failure to raise an issue with sufficient specificity will preclude the ability to raise that issue before LUBA;
- F. Include the name of a local government representative to contact for additional information;
- G. State that a copy of the application and all documents and evidence relied upon by the applicant are available for inspection at no cost and will be provided at reasonable cost;
- H. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be available at reasonable cost;
- I. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

Section 18. Section 12.72.100, Availability of documents and additional evidence, is hereby amended to read as follows:

12.72.100 Availability of documents and additional evidence.

- A. All documents or evidence relied upon by the applicant shall be available twenty (20) days prior to the first evidentiary hearing *submitted to the City and the City shall make them available for inspection at no cost and will be provided at reasonable cost.* All information for processing applications under a Type A procedure shall be available ten (10) days prior to the Planning Commission meeting date scheduled to review the application.
- B. A *ny land use decision* staff report shall be available seven *at least* 7 days prior to the *meeting for a Type A action or hearing for a Type B, C or D action.*
- C. If additional documents or evidence is *are* provided in support of the application, *by any party, shall be entitled to a continuance of the hearing the City may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by an applicant shall result in a corresponding extension of the time limitation commonly known as the "120-day Rule" set forth in ORS 227.178 and ORS 227.179.*
- D. Any party may request that the record remain open for at least seven days *Prior to the conclusion of the hearing, any participant may request an opportunity to present additional information*

regarding the application. The City shall grant such request as determined by the hearing body by continuing the public hearing or leaving the record open for additional written information.

Section 19. Section 12.72.110, Procedure for mailed notice, is hereby amended to read as follows:

12.72.110 Procedure for mailed notice.

- ~~A. Unless otherwise provided, addresses for a mailed notice required by the Development Code shall be provided by the applicants. The mailing list must be certified by the applicant as accurate and complete as found from current county assessor's records. A person whose name is not in the tax records at the time of filing of an application, or of initiating other actions not based on an application, may only receive a notice if the person provides the planning department with the necessary address(es). Any failure of a property owner to receive notice shall not invalidate an action if a good faith attempt was made to comply with the requirements of the Development Code for notice.~~
- ~~BA.~~ In addition to persons receiving notice as required by the matter under consideration, the eCity Recorder *or designee*, may provide notice to others he/she has reason to be believed to be affected, or otherwise represent an interest that may be affected by the proposed development.
- ~~C. If posted notice is required, it shall be posted in at least one conspicuous place within the area containing the affected property.~~
- ~~D. Required published notice shall be published in a newspaper of general circulation at least once during the week preceding the hearing and additionally as may be required by state law for a particular proceeding.~~
- ~~EB.~~ Cost of notice mailings shall be included in the development application fee.
- ~~F. When the City receives a request for a proposed change in zoning for an area which is, at that time, a manufactured/mobilehome park, notice shall be mailed to the tenants of the park at least twenty (20) days, but not more than forty (40) days, prior to the date of the initial hearing before the Planning Commission. This requirement shall be additional to all other notification requirements.~~

Section 20. Section 12.72.120, Challenges to impartiality, is hereby amended to read as follows:

12.72.120 Challenges to impartiality.

Except for legislative hearings, a party to a hearing ~~or a member of a hearing body~~ may challenge the qualifications of a member of the hearing body to participate in the hearing and decision regarding the matter. The challenge shall state by affidavit the facts relied upon by the challenger relating to a person's bias, prejudice, personal interest, or other facts from which the challenger has concluded that the member of the hearing body cannot participate in an impartial manner. A challenge shall be delivered by personal service to the city recorder not less than ~~forty-eight (48)~~ hours preceding the time set for public hearing. The city recorder shall attempt to notify the person whose qualifications are challenged prior to the meeting. The challenge shall be incorporated into the record at the time of hearing. *The challenge shall be decided by the hearing body.*

Section 21. Section 12.72.130, Disqualification, is hereby amended to read as follows:

12.72.130 Disqualification.

Except for legislative hearings, ~~a~~ No member of a hearing body shall participate in a discussion ~~their~~ *official capacity as a Planning Commissioner or City Councilor in the public hearing phase or the deliberation phase of the decision making process and* of the proposal without removing himself/herself from the bench or shall *not* vote on the proposal when any of the following conditions exist:

- A. *A violation of the Oregon Revised Statutes or Oregon Administrative Rules regarding a conflict of interest exists.* Any of the following have a direct or substantial financial interest in the proposal: The hearing body member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the previous two years, or any business in which the member is a principal or employee or in which the member is negotiating for acquisition of such interest or employment.
- B. If a quorum of a hearing body abstains or is disqualified, all members present after stating their reasons for abstention or disqualification shall, by so doing, be requalified and proceed to resolve the issues.
- C. Except for legislative hearings, any members absent during the presentation of evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless the member has reviewed the evidence received and so states on the record.

Section 22. Section 12.72.140, Burden and nature of proof, is hereby amended to read as follows:

12.72.140 Burden and nature of proof.

Except for a legislative determination, ~~t~~ The burden of proof is upon the proponent *applicant*. The more drastic *significant* the change or the greater the impact of the proposal in the area, the greater is the burden upon the proponent *applicant*. The proposal must be supported by proof that it conforms to the applicable elements of the Comprehensive Plan and to applicable provisions of *approval criteria listed in* the Development Code, *comprehensive plan or Statewide Planning Goals, as applicable*, especially the specific criteria set forth for the particular type of decision under consideration. Additionally, the following factors deemed relevant and material and shall be considered by the hearing body in reaching its decision on a proposal:

- A. ~~Mistake in the original designation or provision;~~
- B. ~~Change of circumstances such that the existing condition is no longer in conformance with the intent of the Comprehensive Plan.~~

Section 23. Section 12.76.040, Amendment of major zoning districts and special purpose districts, is hereby deleted as follows:

~~12.76.040—Amendments of major zoning districts and special purpose districts.~~

~~A proposal to change the zoning or special purpose district designation of a particular piece of property or area of the City may be initiated by the Planning Commission, City Council, or by petition of not less than half of the property owners representing more than half of the land area involved. Such proposals shall be considered under the Type C procedures as outlined in Section 12.72.050 or by the legislative action procedures as provided for in Sections 12.08.100–12.08.140.~~

~~All proposals for district amendments shall be submitted to the city recorder on a form prescribed by the City and shall include payment of required fees prior to processing. When the city recorder has determined that all of the required information has been submitted, the application shall be processed as required. (DC § 3.040)~~

Section 24. Section 12.76.050, District amendment criteria, is hereby deleted as follows:

~~12.76.050—District amendment criteria.~~

~~Any zoning or special purpose district amendment proposal considered under a Type C procedure must be demonstrated to be in conformance with each of the following criteria:~~

- ~~A— The proposed amendment conforms to the Comprehensive Plan, or substantial changes have occurred which render the Comprehensive Plan inapplicable to the requested change and the plan should be amended as proposed by the proponent of the change (in which case the plan must be amended prior to the final action on the district amendment);~~
- ~~B— If residential zoning is involved, the proposed residential zone or zones best satisfy the objectives of the Comprehensive Plan and do not exclude opportunities for adequate provision of low and moderate income housing within the subject neighborhood areas.~~

~~(DC § 3.050)~~

Section 25. Chapter 12.100, Quasi-judicial zoning district applications, is hereby added as follows:

Chapter 12.100 – QUASI-JUDICIAL ZONING DISTRICT APPLICATIONS

Sections:

- 12.100.010 Description and purpose.*
- 12.100.020 Procedure.*
- 12.100.030 Applicability of provisions.*
- 12.100.040 Applications and submittal requirements.*
- 12.100.050 Criteria.*
- 12.100.060 Expiration of approval.*

12.100.010 Description and purpose.

- A. The zoning district map amendment process is intended to:**
 - 1. Guide future growth and development in accordance with the Comprehensive Plan and other applicable ordinances;**
 - 2. Provide an efficient process and framework to review amendments to the zoning district map;**
 - 3. Ensure a safe, functional, compatible and energy-efficient lay-out of land uses in**

- the City; and*
- 4. *Resolve potential conflicts between land uses;***

B. *The zoning district map amendment review provisions are not intended to preclude uses that are allowed by the Comprehensive Plan Map designations.*

12.100.020 Procedure.

An application for a quasi-judicial zoning district map amendment shall:

- A. *Be processed as a Type C procedure;***
- B. *Be made by the owner of the subject property or authorized agent;***
- C. *Be on a form prescribed by the City;***
- D. *Be accompanied by the prescribed fee; and***
- E. *Be accompanied by evidence demonstrating compliance with the criteria.***

12.100.030 Applicability of provisions.

A zoning district map amendment shall be applicable to applications to change the zoning district of a property.

12.100.040 Applications and submittal requirements.

The following information shall be submitted as part of a complete application for a zoning district map amendment:

- A. *A completed application form;***
- B. *Name, address and telephone number of the property owner;***
- C. *A copy of the deed showing the subject property and the property owner;***
- D. *If an authorized agent is used, a statement signed by the property owner designating the authorized agent by name, and the address and telephone number of the authorized agent;***
- E. *The names, addresses and Tax Map/Tax Lot numbers of the owners of all property within 300 feet of the subject property and complying with Section 12.72.050, C, 7;***
- F. *Six copies of the applicant's responses to the approval criteria set forth in Section 12.100.050 – the response shall state each criterion and respond to each criterion;***
- G. *One original and six copies of a site plan drawn to scale showing the layout of the proposed use on the property and showing the following;***
 - 1. *Scale of the plan, and north arrow;***
 - 2. *Assessor's map and tax lot number, and lot and block description, or other legal description,***
 - 3. *Lot or parcel dimensions and total lot or parcel area;***
 - 4. *Location of all existing and proposed structures, including minimum distances from structures to lot or parcel lines;***
 - 5. *Adjacent zoning designations and adjacent land uses including approximate location of buildings;***

6. *Rights-of-way of abutting streets, whether public or private, and proposed driveways;*
7. *Locations and dimensions of all easements and nature of easements;*
8. *Natural drainage patterns; and*
9. *Location and dimensions of parking and circulation areas;*

H. A full size copy of the county assessor's map covering the subject property and the public hearing notification area.

I. The number of acres of land in the current zoning district and the number of acres of land in the proposed zoning district, and the number of acres in each zoning district if the application is approved;

12.100.050 Criteria.

A zoning district map amendment application considered under a Type C procedure shall be demonstrated by the application materials to be in conformance with each of the following criteria:

- A. The proposed amendment conforms to the Comprehensive Plan, or substantial changes have occurred which render the Comprehensive Plan inapplicable to the requested change and the plan should be amended as proposed by the proponent of the zoning district change (in which case the Comprehensive Plan must be amended prior to , or concurrent with, the zoning district amendment);*
- B. If residential zoning is involved, the proposed residential zone or zones best satisfy the objectives of the Comprehensive Plan and do not exclude opportunities for adequate provision of low and moderate income housing within the subject neighborhood areas.*

12.100.060 Expiration of approval.

There is no expiration of a quasi-judicial decision approving a zoning district map amendment.

Section 26. Chapter 12.104, Legislative comprehensive plan and development code applications, is hereby added as follows:

Chapter 12.104 – LEGISLATIVE COMPREHENSIVE PLAN AND DEVELOPMENT CODE APPLICATIONS

Sections:

- 12.104.010** *Description and purpose.*
- 12.104.020** *Procedure.*
- 12.104.030** *Applicability of provisions.*
- 12.104.040** *Applications and submittal requirements.*
- 12.104.050** *Criteria.*
- 12.104.060** *Expiration of approval.*

12.104.010 Description and purpose.

The legislative amendment process is intended to:

- A. Guide future growth and development in accordance with the Comprehensive Plan and statewide Planning Goals;*

- B. Provide an efficient process and framework to review legislative amendments;*
- C. Ensure a safe, functional, compatible and energy-efficient lay-out of land uses within the urban growth boundary; and*
- D. Resolve potential conflicts between land uses.*

12.104.020 Procedure.

An application for a legislative amendment shall:

- A. Be processed as a Type D procedure;*
- B. Be initiated by the:

 - 1. Planning Commission;*
 - 2. City Council;*
 - 3. City staff; and*
 - 4. An owner of property or a resident in the city or urban growth boundary may petition the Planning Commission to initiate a legislative amendment.**
- C. Be on a form prescribed by the City;*
- D. Be accompanied by a fee prescribed by the City; and*
- E. Be accompanied by written evidence demonstrating compliance with the applicable criteria.*

12.104.030 Applicability of provisions.

A legislative amendment shall be applicable to legislative applications for amendments to the text or map of the comprehensive plan and to the text of the Jefferson Development Code or zoning district map.

12.104.040 Applications and submittal requirements.

The following information shall be submitted as part of a complete application for a legislative application:

- A. A completed application form;*
- B. Name, address and telephone number of the property owner(s);*
- C. If an authorized agent is used, a statement signed by the property owner designating the authorized agent by name, and the address and telephone number of the authorized agent;*
- D. Identification of the proposed text amendment, including the current language and the proposed language;*
- E. Six copies of the applicant's written responses to the approval criteria set forth in Section 12.104.050 – the response shall state each criterion and the respond shall follow each criterion;*
- F. For map amendments six copies of a map drawn to scale showing the proposed subject property and the following:

 - 1. Scale of the plan, and north arrow;**

2. *Total lot or parcel area of subject property;*
3. *The comprehensive plan designation, zoning district and land uses on the subject property and abutting properties;*
4. *Street rights-of-way in and abutting the subject property, whether public or private;*
5. *Locations and dimensions of all easements and nature of easements; and*
6. *Natural drainage patterns.*

G. For map amendments, a set of full size county assessor's maps covering the subject properties;

H. For map amendments the number of acres of land in the current comprehensive plan designation and zoning district and if the amendment is granted, the number of acres of land in the proposed comprehensive plan designation and zoning district;

I. Draft findings to support the application.

12.104.050 Criteria.

A legislative Type D application shall show conformance with each of the following:

A. The applicable Comprehensive Plan Policies and Objectives;

B. The applicable Statewide Planning Goals; and

C. The applicable Oregon Administrative Rules.

D. Short- and long-term impacts;

E. Public benefit;

F. Reasonable alternative proposals;

G. Any other factors deemed relevant by Planning Commission or City Council.

12.104.060 Expiration of approval.

There is no expiration of an approval of a legislative amendment.

END OF AMENDMENTS.

“EXHIBIT B”

Zone Code Text Amendments – “Clean Copy”
Case No. ZTA 2011-01

Section 1. Section 12.04.080, Definitions, is hereby amended to add the terms “adversely affected” and “aggrieved” and their definitions in alphabetical order as follows:

12.04.080 Definitions.

“Adversely affected” means that a local land use decision impinges upon the petitioner’s use and enjoyment of his or her property or otherwise detracts from interests personal to the petitioner. Examples of adverse effects include, but are not limited to, noise, odors, increased traffic or potential flooding.

“Aggrieved” means a person’s interests are recognized by the local decision maker, the person asserts a position on the merits and the local decision maker renders a decision contrary to that position.

Section 2. Section 12.08.080, Procedures for amending the Development Code and comprehensive land use plan, is hereby amended to read as follows:

12.08.080 Schedule for amending the Development Code and Comprehensive Plan.

The City Council, with the recommendation of the Planning Commission, may adopt a schedule to limit the number of times annually for consideration of proposals for Comprehensive Plan and Development Code amendments. Once a schedule is adopted, if an emergency is declared by a vote of the City Council, amendments may be considered at any time. In determining that an emergency exists, the Council shall adopt findings that the public interest would be best served by considering a Comprehensive Plan or Development Code amendment request.
(Ord. 643 § 47, 2004; DC § 3.060)

Section 3. Section 12.08.090, Comprehensive Plan and Development Code amendment criteria, is hereby deleted:

12.08.090 [Deleted.]
(Ord. 643 § 48, 2004; DC § 3.070)

Section 4. Section 12.08.100, Legislative Actions, is hereby deleted:

12.08.100 [Deleted.]
(Ord. 643 § 49, 2004; DC § 2.050)

Section 5. Section 12.08.110, Legislative hearing notice, is hereby deleted:

12.08.110 [Deleted.]

(Ord. 643 § 50, 2004; DC § 2.060)

Section 6. Section 12.08.130, Planning Commission legislative recommendation, is hereby deleted:

12.08.130 [Deleted.]

(Ord. 643 § 52, 2004; DC § 2.080)

Section 7. Section 12.08.140, City Council legislative action, is hereby deleted:

12.08.140 [Deleted.]

(Ord. 643 § 53, 2004; DC § 2.090)

Section 8. Section 12.72.010, Hearing application review procedures designated, is hereby amended to read as follows:

12.72.010 Application review procedures designated.

Five procedures to review and decide land use applications are designated. They vary in the decision authority, provision of public notice and review process. They shall be known as Written Comment, Type A, Type B, Type C and Type D.

(Ord. 642 § 20, 2003; DC § 2.010)

Section 9. Section 12.72.025, Written comment procedure, is hereby amended to read as follows:

12.72.025 Written comment procedure.

- A. Written Comment actions are decided by the City Recorder or designee. A public hearing is not provided.
- B. The City Recorder or designee shall mail a public notice to the applicant and owners of all property within one hundred (100) feet of the subject property.
- C. The mailed notice shall:
 1. Provide a 15-day period for submission of written comments prior to the decision;
 2. State that issues which may provide the basis for an appeal to the Planning Commission shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the City Recorder or designee to respond to the issue;
 3. List, by commonly used citation, the applicable criteria for the decision;
 4. Set forth the street address or other easily understood geographical reference to the subject property;
 5. State the place, date and time that comments are due;
 6. State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;
 7. Include the name and phone number of a city contact person; and

8. Briefly summarize the local decision making process.
- D. For purposes of appeal, Subsection C, above, shall be deemed met when the city can provide an affidavit or other certification that such notice was given. The applicant shall supply the list of names and addresses of property owners to receive the notice, and the assessor's map number and tax lot number for each property. The mailing list shall be certified by the applicant as accurate and complete and that it was obtained from a title company or the current county assessor's records. The applicant shall also provide 2 copies of the names and addresses and assessor's map information on peel-off address labels.
- E. After reviewing the application, relevant decision criteria, relevant code provisions, and written comments submitted in writing during the 15 day comment period, the City Recorder or designee shall approve, approve with conditions, or deny the application. The City Recorder or designee may attach conditions in granting an approval if the City Recorder or designee determines the conditions are necessary for the approval criteria to be met, or to mitigate detrimental effects.
- F. The City Recorder or designee shall mail a copy of the Written Comment decision to the applicant and a notice of the decision shall be mailed to the applicant, to parties that submitted written comments during the 15 day comment period, to parties that requested such notice, and, in accordance with ORS 227.175(10)(a), to any person who is adversely affected or aggrieved by the decision. The notice shall state the parties are provided a 15 day appeal period, and any appeal shall be in writing and must be received by the City Recorder within the 15 day appeal period.
- G. The Written Comment decision may be appealed to the Planning Commission by a party that received a notice of the decision or by any person who is adversely affected or aggrieved by the decision by submitting a written appeal to the City Recorder within 15 days of the day the written notice of decision was mailed beginning with the day after the notice was mailed. If no appeal is filed within the 15 day appeal period, the decision becomes effective on the 16th day.
(Ord. 642 § 21, 2003)

Section 10. Section 12.72.030, Type A procedures, is hereby amended to read as follows:

12.72.030 Type A procedures.

- A. Type A actions are decided by the Planning Commission. A public hearing is not required.
- B. Upon receipt of an application for a Type A action, the City staff shall review the application and, within 30 days of its receipt, notify the applicant in writing whether the application is complete.
1. If the city determines the application contains sufficient information for review, the city shall advise the applicant in writing that the application is deemed complete as of the date of submittal and begin the application review process.
 2. If the city determines the application is incomplete, the city shall advise the applicant in writing of the necessary missing information. The city shall begin review of the application:
 - a. Upon receipt of all of the missing information requested by the city; or
 - b. Upon receipt of some of the missing information and a written statement from the applicant indicating that none of the other missing information will be provided; or
 - c. Upon receipt of a written statement from the applicant indicating that none of the missing information will be provided.

3. On the 181st day after being first submitted, the application will be void if the applicant has been notified of the missing information and has not complied with 2, a; 2, b; or 2, c, of this section.
 4. Upon the written request of the applicant submitted to the City Recorder, any applicable time limits may be extended for a specified period of time, but in no case may the total exceed 245 days.
- C. The City Recorder, or designee, shall mail a public notice to the applicant and owners of all property within one hundred (100) feet of the subject property. For a Property Line Adjustment application, the City Recorder, or designee, shall mail the public notice and a copy of the application to the Marion County Surveyor.
- D. The mailed notice shall:
1. Provide a 15 day period for submission of written comments prior to the decision;
 2. State that issues which may provide the basis for an appeal to the City Council or Oregon Land Use Board of Appeals shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the Planning Commission to respond to the issue;
 3. List, by commonly used citation, the applicable criteria for the decision;
 4. Set forth the street address or other easily understood geographical reference to the subject property;
 5. State the place, date and time that comments are due;
 6. State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;
 7. Include the name and phone number of a city contact person; and
 8. Briefly summarize the local decision making process.
- E. For purposes of appeal, Subsection C, above, shall be deemed met when the city can provide an affidavit or other certification that such notice was given. The applicant shall supply the list of names and addresses of property owners to receive the notice, and the assessor's map number and tax lot number for each property. The mailing list shall be certified by the applicant as accurate and complete and that it was obtained from a title company or the current county assessor's records. The applicant shall also provide 2 copies of the names and addresses and assessor's map information on peel-off address labels.
- F. Where a railroad-highway crossing provides or will provide the only access to land that is the subject of an application, the City Recorder, or designee, shall mail notice to the Oregon Department of Transportation, Rail Division, and the railroad company consistent with ORS 197.794.
- G. Except where a land use application would allow a structure less than 35 feet in height and the property is located outside of the runway "approach surface" as defined by the Oregon Department of Aviation, the City Recorder, or designee, shall mail notice of a land use application to the owner of an airport defined by the Oregon Department of Aviation as a "public use airport" in accordance with ORS 227.175(6).
- H. The City Recorder, or designee, shall mail notice to the Oregon Department of Aviation consistent with ORS 197.183 when the land use application, if approved, would result in a water

impoundment larger than one-quarter acre (10,890 square feet) within 10,000 feet of an airport identified in ORS 836.610 (1).

- I. The City Recorder , or designee, shall provide to the applicant at the time the application is submitted an all-weather plastic notice at least 2 feet by 2 feet.
 1. Posting of the notice shall be:
 - a. By the applicant within 1 week of the application's submittal;
 - b. On the subject property facing a public street; and
 - c. Within 15 feet of the public street and be clearly visible to pedestrians and motorists;
 2. Contents of the notice shall:
 - a. Identify the type of application, for example, "partition," or "property line adjustment;"
 - b. Identify the file number assigned to the application by the city; and
 - c. State the address and phone number of City Hall where information may be obtained.
 3. After posting the notice the applicant shall sign an affidavit certifying the notice was properly posted consistent with this section and return it to City Hall within 1 week of the notice being posted.
 4. City staff shall remove the posted notice when the appeal period has lapsed.

- J. At a Planning Commission meeting the Planning Commission shall consider the application materials, staff report and the written comments submitted during the 15 day comment period. The Planning Commission may attach conditions in granting an approval if the Planning Commission determines the conditions are necessary for the approval criteria to be met, or to mitigate detrimental effects. The Planning Commission shall pass an oral motion directing staff to prepare a Planning Commission Order approving, approving with conditions or denying the application. The Order shall include findings addressing the relevant criteria of the Development Code. The Planning Commission Chair or Vice-Chair shall sign the Order.

- K. The City Recorder, or designee, shall mail a copy of the Type A decision to the applicant, and a notice of the decision shall be mailed to the applicant, to parties that submitted written comments during the 15 day comment period, to parties that requested such notice, and, in accordance with ORS 227.175(10)(a)(A), to any person who submits a letter to the City Recorder that was received by the City Recorder before the notice of the decision was mailed stating they are adversely affected or aggrieved by the decision and the reasons therefore.

- L. The notice of the decision shall:
 1. Explain the nature of the application and the proposed use or uses which could be authorized;
 2. Set forth the street address or other easily understood geographical reference to the subject property;
 3. Include the name and telephone number of a city contact person;
 4. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
 5. State that any person who is adversely affected or aggrieved or who receives this written notice may appeal the decision to the City Council;
 6. State that a 15 day appeal period is provided and any appeal shall be in writing and shall be received by the City recorder within the 15 day appeal period;
 7. State that the decision will not become effective until the period for filing an appeal has expired; and

8. State that a person who is mailed written notice of the decision cannot appeal the decision directly to the Oregon Land Use Board of Appeals under ORS 197.830 to 197.845.
- M. The Type A decision may be appealed to the City Council by a party that received a notice of the decision, or by any person who is adversely affected or aggrieved by the decision, by submitting a written appeal to the City Recorder within 15 days of the day the written notice of decision was mailed beginning with the day after the notice was mailed. If no appeal is filed within the 15 day appeal period, the decision becomes effective on the 16th day.
- N. Where the Planning Commission decision is appealed, the effective date is stayed until the final determination on the appeal is rendered.

Section 11. Section 12.72.040, Type B hearing procedures, is hereby amended to read as follows:

12.72.040 Type B procedures.

- A. Type B actions are decided by the Planning Commission. The Planning Commission holds a public hearing pursuant to this chapter before the decision is made.
- B. Upon receipt of an application for a Type B action, the City staff shall review the application and, within 30 days of its receipt, notify the applicant in writing whether the application is complete.
 1. If the city determines the application contains sufficient information for review, the city shall advise the applicant in writing that the application is deemed complete as of the date of submittal and begin the application review process.
 2. If the city determines the application is incomplete, the city shall advise the applicant in writing of the necessary missing information. The city shall begin review of the application:
 - a. Upon receipt of all of the missing information requested by the city; or
 - b. Upon receipt of some of the missing information and a written statement from the applicant indicating that none of the other missing information will be provided; or
 - c. Upon receipt of a written statement from the applicant indicating that none of the missing information will be provided.
 3. On the 181st day after being first submitted, the application will be void if the applicant has been notified of the missing information and has not complied with 2, a; 2, b; or 2, c, of this section.
 4. Upon the written request of the applicant submitted to the City Recorder, any applicable time limits may be extended for a specified period of time, but in no case may the total exceed 245 days.
- C. The City Recorder, or designee, shall mail a public notice of the hearing to the applicant and owners of all property within three hundred (300) feet of the subject property at least 20 days before the evidentiary hearing.
- D. The mailed notice shall:
 1. Explain the nature of the application and the proposed use or uses which could be authorized;
 2. List the applicable criteria that apply to the application at issue;
 3. Set forth the street address or other easily understood geographical reference to the subject property;
 4. State the date, time and location of the hearing;

5. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals based on that issue;
 6. Include the name and phone number of a city contact person;
 7. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
 8. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost;
 9. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
 10. State that all documents or evidence relied upon by the applicant is available to the public; and
 11. State that prior to the conclusion of the hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application.
- E. For purposes of appeal, Subsection C, above, shall be deemed met when the city can provide an affidavit or other certification that such notice was given. The applicant shall supply the list of names and addresses of property owners to receive the notice, and the assessor's map number and tax lot number for each property. The mailing list shall be certified by the applicant as accurate and complete and that it was obtained from a title company or the current county assessor's records. The applicant shall also provide 2 copies of the names and addresses and assessor's map information on peel-off address labels.
- F. Except where a land use application would allow a structure less than 35 feet in height and the property is located outside of the runway "approach surface" as defined by the Oregon Department of Aviation, the City Recorder, or designee, shall provide notice of a public hearing on a land use application to the owner of an airport defined by the Oregon Department of Aviation as a "public use airport" in accordance with ORS 227.175(6).
- G. The City Recorder, or designee, shall provide notice to the Oregon Department of Aviation consistent with ORS 197.183 when the land use application, if approved, would result in a water impoundment larger than one-quarter acre (10,890 square feet) within 10,000 feet of an airport identified in ORS 836.610 (1).
- H. Where a railroad-highway crossing provides or will provide the only access to land that is the subject of an application, the City Recorder, or designee, shall provide notice to the Oregon Department of Transportation, Rail Division, and the railroad company consistent with ORS 197.794.
- I. The City Recorder, or designee, shall provide to the applicant at the time the application is submitted an all-weather plastic notice at least 2 feet by 2 feet.
1. Posting of the notice shall be:
 - a. By the applicant within 1 week of the application's submittal;
 - b. On the subject property facing a public street; and
 - c. Within 15 feet of the public street and be clearly visible to pedestrians and motorists;
 2. Contents of the notice shall:
 - a. Identify the type of application, for example, "subdivision," or "variance;"

- b. Identify the file number assigned to the application by the city; and
 - c. State the address and phone number of City Hall where information may be obtained.
3. After posting the notice the applicant shall sign an affidavit certifying the notice was properly posted consistent with this section and return it to City Hall within 1 week of the notice being posted.
 4. City staff shall remove the posted notice when the appeal period has lapsed.
- J. At the public hearing, the Planning Commission shall consider the application materials and staff report, and the applicant and interested persons may present testimony relevant to the criteria and standards pertinent to the proposal, giving reasons why the application should or should not be approved or proposing modifications that are necessary for approval. The Planning Commission may attach conditions in granting an approval if the Planning Commission determines the conditions are necessary for the approval criteria to be met, or to mitigate detrimental effects to others. The Planning Commission shall pass an oral motion directing staff to prepare a Planning Commission Order approving, approving with conditions or denying the application. The Order shall include findings addressing the relevant criteria of the Development Code. The Planning Commission Chair or Vice-Chair shall sign the Order.
- K. The City Recorder, or designee, shall mail a copy of the Type B decision to the applicant, and a notice of the decision shall be mailed to the applicant, to parties who participated orally or in writing at the public hearing, to parties that requested such notice, and, in accordance with ORS 227.175(10)(a)(A), to any person who submits a letter to the City Recorder that was received by the City Recorder before the notice of the decision was mailed stating they are adversely affected or aggrieved by the decision and the reasons therefore.
- L. The notice of the decision shall:
1. Explain the nature of the application and the proposed use or uses which could be authorized;
 2. Set forth the street address or other easily understood geographical reference to the subject property;
 3. Include the name and telephone number of a city contact person;
 4. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
 5. State that any person who is adversely affected or aggrieved or who receives this written notice may appeal the decision to the City Council;
 6. State that a 15 day appeal period is provided and any appeal shall be in writing and shall be received by the City recorder within the 15 day appeal period;
 7. State that the decision will not become effective until the period for filing an appeal has expired; and
 8. State that a person who is mailed written notice of the decision cannot appeal the decision directly to the Oregon Land Use Board of Appeals under ORS 197.830 to 197.845.
- M. The Type B decision may be appealed to the City Council by a party that received a notice of the decision, or by any person who is adversely affected or aggrieved by the decision, by submitting a written appeal to the City Recorder within 15 days of the day the written notice of decision was mailed beginning with the day after the notice is mailed. If no appeal is filed within the 15 day appeal period, the decision becomes effective on the 16th day.

- N. Where the Planning Commission decision is appealed, the effective date is stayed until the final determination on the appeal is rendered.

Section 12. Section 12.72.050, Type C hearing procedures, is hereby amended to read as follows:

12.72.050 Type C procedures.

- A. Type C actions are quasi-judicial and are decided by the City Council. The Planning Commission holds a public hearing pursuant to this chapter and then makes a recommendation to the City Council. The City Council holds a public hearing pursuant to this chapter before the decision is made.
- B. Upon receipt of an application for a Type C action, the City staff shall review the application and, within 30 days of its receipt, notify the applicant in writing whether the application is complete.
1. If the city determines the application contains sufficient information for review, the city shall advise the applicant in writing that the application is deemed complete as of the date of submittal and begin the application review process.
 2. If the city determines the application is incomplete, the city shall advise the applicant in writing of the necessary missing information. The city shall begin review of the application:
 - a. Upon receipt of all of the missing information requested by the city; or
 - b. Upon receipt of some of the missing information and a written statement from the applicant indicating that none of the other missing information will be provided; or
 - c. Upon receipt of a written statement from the applicant indicating that none of the missing information will be provided.
 3. On the 181st day after being first submitted, the application will be void if the applicant has been notified of the missing information and has not complied with 2, a; 2, b; or 2, c, of this section.
 4. Upon the written request of the applicant submitted to the City Recorder, any applicable time limits may be extended for a specified period of time, but in no case may the total exceed 245 days.
- C. The City Recorder, or designee, shall mail a public notice for each of the Planning Commission and City Council hearings to the applicant and owners of all property within three hundred (300) feet of the subject property at least 20 days before each hearing.
- D. The mailed notice shall:
1. Explain the nature of the application and the proposed use or uses which could be authorized;
 2. List the applicable criteria that apply to the application at issue;
 3. Set forth the street address or other easily understood geographical reference to the subject property;
 4. State the date, time and location of the hearing;
 5. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals based on that issue;
 6. Include the name of a city representative to contact and the telephone number where additional information may be obtained;

7. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
 8. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and ~~will be provided at reasonable cost;~~
 9. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
 10. State that all documents or evidence relied upon by the applicant is available to the public; and
 11. State that prior to the conclusion of the hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application.
- E. For purposes of appeal, Subsection C, above, shall be deemed met when the city can provide an affidavit or other certification that such notice was given. The applicant shall supply the list of the names and addresses of property owners, manufactured park tenants and other parties to receive the notice, and the assessor's map number and tax lot number for each property. The mailing list shall be certified by the applicant as accurate and complete and that it was obtained from a title company or the current county assessor's records. The applicant shall also provide 3 copies of the names and addresses and assessor's map information on peel-off address labels.
- F. For a rezoning of a manufactured home park or mobile home park, the City Recorder, or designee, shall give written notice by first class mail to each existing mailing address for tenants of the manufactured home park or mobile home park, as provided by the applicant, at least 20 days, but not more than 40 days before the date of the first hearing on the application consistent with ORS 227.175(8).
- G. Where State Statute for a proceeding, including but not limited to a right-of-way vacation or annexation, requires newspaper notice, the City Recorder, or designee, shall provide newspaper notice consistent with State Statute in addition to any required notice set forth in Section 12.72.050.
- H. Except where a land use application would allow a structure less than 35 feet in height and the property is located outside of the runway "approach surface" as defined by the Oregon Department of Aviation, the City Recorder, or designee, shall provide notice of a public hearing on a land use application to the owner of an airport defined by the Oregon Department of Aviation as a "public use airport" in accordance with ORS 227.175(6).
- I. The City Recorder, or designee, shall provide notice to the Oregon Department of Aviation consistent with ORS 197.183 when the land use application, if approved, would result in a water impoundment larger than one-quarter acre (10,890 square feet) within 10,000 feet of an airport identified in ORS 836.610 (1).
- J. If a railroad-highway crossing provides or will provide the only access to land that is the subject of an application, the City Recorder, or designee, shall provide notice to the Oregon Department of Transportation, Rail Division, and the railroad company consistent with ORS 197.794.
- K. The City Recorder, or designee, shall provide to the applicant at the time the application is submitted an all-weather plastic notice at least 2 feet by 2 feet.
1. Posting of the notice shall be:

- a. By the applicant within 1 week of the application's submittal;
 - b. On the subject property facing a public street; and
 - c. Within 15 feet of the public street and be clearly visible to pedestrians and motorists;
2. Contents of the notice shall:
 - a. Identify the type of application, for example, "zone change," or "annexation;"
 - b. Identify the file number assigned to the application by the city; and
 - c. State the address and phone number of City Hall where information may be obtained;
 3. After posting the notice the applicant shall sign an affidavit certifying the notice was properly posted consistent with this section and return it to City Hall within 1 week of the notice being posted.
 4. City staff shall remove the posted notice when the appeal period has lapsed.
- L. At the public hearings, the Planning Commission shall consider the staff report, and the applicant and interested persons may present testimony relevant to the criteria and standards pertinent to the proposal, giving reasons why the application should or should not be approved or proposing modifications they believe are necessary for approval. The Planning Commission shall pass an oral motion directing staff to prepare a Planning Commission Order recommending approval, approval with conditions or denial of the application. The Order shall include findings addressing the relevant criteria of the Development Code. The Planning Commission Chair or Vice-Chair shall sign the Order. The Planning Commission recommendation shall be included in the staff report to the City Council. The Planning Commission Order may be provided, but is not required to be provided, to the applicant and those parties who participated orally or in writing at the public hearing.
- M. The City Council shall conduct a public hearing within 60 days of the signing of the Planning Commission Order.
- N. At the public hearing the City Council shall consider the staff report, and the applicant and interested persons may present testimony relevant to the criteria and standards pertinent to the proposal, giving reasons why the application should or should not be approved or proposing modifications they believe are necessary for approval. The City Council shall adopt findings addressing the relevant criteria of the Development Code and in doing so may adopt findings different than the Planning Commission's findings. The City Council may delete, add, or modify any of the provisions pertaining to the application, or attach conditions in granting an approval if the City Council determines the conditions are necessary for the approval criteria to be met or to mitigate detrimental effects.
- O. Type C quasi-judicial decisions shall be by passage of a resolution, or an ordinance for amendments to the comprehensive plan text or map or to the development code text.
- P. The City Recorder, or designee, shall mail a copy of a Type C decision to the applicant, and a notice of the decision shall be mailed to the applicant, to parties who participated orally or in writing at the public hearing, to parties that requested such notice in writing, and, in accordance with ORS 227.175(10)(a)(A), to any person who submits a letter to the City Recorder that was received by the City Recorder before the notice of the decision was mailed stating they are adversely affected or aggrieved by the decision and the reasons therefore.
- Q. The notice of decision shall:
1. Explain the nature of the application and the proposed use or uses which could be authorized;

2. Set forth the street address or other easily understood geographical reference to the subject property;
 3. Include the name and telephone number of a city contact person;
 4. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
 5. State that the decision may be appealed to the Oregon Land Use Board of Appeals;
 6. State that a notice of intent to appeal the decision to the Oregon Land Use Board of Appeals shall be filed consistent with Oregon Revised Statute 197.830 to 197.845 not later than 21 days after the decision becomes final; and
 7. State that the decision will not become effective until the period for filing a notice of intent to appeal has expired, provided no intent to appeal was filed.
- R. The City Council's decision is final when the resolution or ordinance is signed, and for a resolution it is effective on the day after the period for filing a notice of intent to appeal to the Oregon Land Use Board of Appeals has expired, provided an intent to appeal was not timely filed.
- S. The City Council's decision may be appealed in accordance with Oregon Revised Statute 197.830 to 197.845.
- T. Where the City Council decision is appealed, the effective date is stayed until the final determination on the appeal is rendered.

Section 13. Section 12.72.055, Type D procedures, is hereby added to read as follows:

12.72.055 Type D procedures.

- A. Type D actions are legislative and are decided by the City Council. The Planning Commission holds a public hearing pursuant to this chapter and then makes a recommendation to the City Council. The City Council holds a public hearing pursuant to this chapter before the decision is made.
1. Nothing in this code shall limit the authority of the City Council to make changes in the Comprehensive Plan or Development Code provisions and designations where such changes are legislative actions.
 2. The Planning Commission and City Council shall each hold a public hearing on any legislative matter.
- B. The City Recorder, or designee, shall cause a public notice to be published in a newspaper of general circulation for the Planning Commission hearing and the City Council hearing at least 20 days before each hearing. The City Recorder, or designee, shall provide a copy of the newspaper notice for each of the Planning Commission and City Council hearings to the applicant at the time the notice is provided to the newspaper.
1. The newspaper notice shall:
 - a. Explain the nature of the application;
 - b. List the applicable criteria that apply to the application;
 - c. Set forth a general geographical reference to the area affected;
 - d. State the date, time and location of the hearing;
 - e. Include the name and telephone number of a city representative; and
 - f. State that a copy of the staff report will be available for inspection at no cost at

- least 7 days prior to the hearing and will be provided at reasonable cost;
2. Except where a legislative application would allow a structure less than 35 feet in height and the property is located outside of the runway “approach surface” as defined by the Oregon Department of Aviation, the City Recorder, or designee, shall mail a copy of the newspaper notice on a legislative application to the owner of an airport defined by the Oregon Department of Aviation as a “public use airport” in accordance with ORS 227.175(6).
 3. The City Recorder, or designee, shall mail a copy of the newspaper notice on a legislative application to the Oregon Department of Aviation consistent with ORS 197.183 when the application, if approved, would result in a water impoundment larger than one-quarter acre (10,890 square feet) within 10,000 feet of an airport identified in ORS 836.610 (1).
 4. If a railroad-highway crossing provides or will provide the only access to land that is the subject of an application, the City Recorder, or designee, shall mail a copy of the newspaper notice on a legislative application to the Oregon Department of Transportation, Rail Division, and the railroad company consistent with ORS 197.794.
 5. For purposes of appeal, Subsection B, above, shall be deemed met when the city can provide an affidavit or other certification that such notice was given.
- C. At the public hearing the Planning Commission shall consider the staff report, and the applicant and interested persons may present testimony relevant to the criteria and standards pertinent to the proposal, giving reasons why the application should or should not be approved or proposing modifications they believe are necessary for approval. The Planning Commission shall pass an oral motion directing staff to prepare a Planning Commission Order recommending approval, approval with modifications or denial of the application. The Order shall include findings addressing the relevant criteria of the Development Code, applicable Comprehensive Plan Goals and Policies and the applicable Statewide Planning Goals. The Planning Commission Chair or Vice-Chair shall sign the Order. The Planning Commission recommendation shall be included in the staff report to the City Council. The Planning Commission Order may be provided, but is not required to be provided, to the applicant and those parties who participated orally or in writing at the public hearing.
- D. The City Council shall open a de novo public hearing within 60 days of the signing of the Planning Commission Order.
- E. At the public hearing the City Council shall consider the staff report, and the applicant and interested persons may present testimony relevant to the criteria and standards pertinent to the proposal, giving reasons why the application should or should not be approved or proposing modifications they believe are necessary for approval. The City Council shall adopt findings addressing the relevant criteria of the Development Code, applicable Comprehensive Plan Goals and Policies and the applicable Statewide Planning Goals, and in doing so may adopt findings different than the Planning Commission’s findings. The City Council may delete, add, or modify any of the provisions pertaining to the application, or make modifications in granting an approval if the City Council determines the modifications are necessary for the approval criteria, comprehensive plan policies or goals, or the Statewide Planning Goals to be met, or to mitigate detrimental effects.
- F. Consistent with ORS 227.186(2) a Type D decision to approve a legislative application shall be by passage of an ordinance for amendments to the comprehensive plan text or map, or to

the development code text or zoning districts.

- G. The City Recorder, or designee, shall:
1. Mail or hand deliver a copy of the adopted decision to the Oregon Department of Land Conservation and Development (DLCD) using the Department's Form within 5 working days of the Council's adoption of the amendment.
 2. On the same day that the decision and findings are mailed or delivered to DLCD, the local government shall mail or otherwise submit notice to persons who:
 - a. Participated in the proceedings leading to the adoption of the amendment to the comprehensive plan or land use regulation or the new land use regulation; or
 - b. Requested of the local government in writing that they be given such notice.
 3. The notice shall:
 - a. Briefly describe the action taken by the local government;
 - b. State the date of the decision;
 - c. If delivered by mail, include a certificate of mailing containing a statement signed by the person mailing it indicating the date the notice was deposited in the mail;
 - d. List the place where and the time when the amendment to the acknowledged comprehensive plan or land use regulation or the new land use regulation, and findings, may be reviewed; and
 - e. Explain the requirements for appealing the action of the local government under ORS 197.830 to 197.845.
- H. The City Council's decision approving the application is final when the ordinance is signed, or where the application is denied, when the resolution is signed.
- I. The City Council's decision approving a legislative amendment may be appealed in accordance with ORS 197.830 to 197.845.
- J. Consistent with ORS 197.620(1) a decision to not adopt a legislative amendment or a new land use regulation is not appealable, except where the amendment is necessary to address the requirements of a new or amended State Planning Goal, Oregon Administrative Rule or State Statute. Because a decision to deny a legislative application cannot, generally, be appealed, no ordinance or resolution must be passed, however, a resolution would provide better documentation compared to the meeting minutes.
- K. Where the City Council decision is appealed, the effective date is stayed until the final determination on the appeal is rendered.

Section 14. Section 12.72.060, Type of procedure by application, is hereby amended to read as follows:

12.72.060 Type of procedure by application.

Applications submitted to the City shall be processed according to the procedure listed below.

- A. The following changes or activities do not require any application to the City or review:
1. Change in owner, tenant, or occupant without change in use.
 2. Change in use within a category of use as listed in the relevant section of the Development

Code (e.g. 12.12.040, Zoning Districts Permitted and Conditional Uses, and 12.30.030, Mixed Use Permitted Uses).

3. Operation of a group child day care home as defined by ORS 418.805 or a residential home as defined by ORS 443.400 that does not require a building permit.
- B. A building permit for the following shall be reviewed by the development official without notice or hearing:
1. Construction, alteration or expansion of detached single-family dwellings and duplexes, except for nonconforming structures and uses which shall be reviewed consistent with Section 12.92 before the building permit is issued;
 2. Construction of the first accessory building in a residential zone, except for a nonconforming use which shall be reviewed consistent with Section 12.92 before the building permit is issued; and
 3. Accessory dwellings within the Mixed Use Zone.
- C. Written Comment Procedure. This procedure shall be used to process the following applications:
1. Change of use of an existing building from one category of use to a different category of use as listed in Sections 12.12.040, Zoning Districts Permitted and Conditional Uses, 12.12.050, Other Uses and 12.30.030, Mixed Use Permitted Uses).
 2. Except for a single-family dwelling or duplex, expansion of a building by less than 400 square-feet or by less than 25% of the gross floor area, whichever is less.
 3. Floodplain Development Permit (when factual, policy or legal judgment is not exercised).
- D. Type A Procedure. This procedure shall be used to process the following applications:
1. Site Plan Review for a new building for uses permitted in accordance with Sections 12.12.040, Permitted Uses, 12.12.050, Other Uses, and 12.30.030, Mixed Use District Permitted Uses;
 2. Site Plan Review for an accessory building outside of the Mixed Use Zone;
 3. Site Plan Review for an expansion s of a building (other than a single-family dwelling or duplex) by more than 400 square-feet or by more than 25% of the gross floor area, whichever is less;
 4. Partitions;
 5. Property Line Adjustment;
 6. Time Extension for Restoration of a Nonconformity allowed in Section 12.92.030, D; and
 7. Floodplain Development Permit (when factual, policy or legal judgment is exercised).
- E. Type B Procedure. This procedure shall be used to process the following applications:
1. Conditional Use Permits for activities listed as conditional uses, Sections 12.12.040, Permitted Uses, 12.12.050, Other Uses, and 12.30.040, Mixed Use Conditional Uses;
 2. Subdivisions;
 3. Variances;
 4. Development on nonconforming lots; and
 5. Interpretation of the Comprehensive Plan or Development Code.
- F. Type C Quasi-judicial Procedure. This procedure shall be used to process the following quasi-judicial applications:
1. Annexations;
 2. Development Code text amendments;
 3. Zone map changes;

4. Amendments to the Comprehensive Plan text or the Comprehensive Plan Map designations;
and
5. Vacations.

G. Type D Legislative Procedure. This procedure shall be used to process the following legislative applications:

1. Annexation;
 2. Development Code text amendment;
 3. Zoning district map change; and
 4. Amendments to the Comprehensive Plan text or the Comprehensive Plan Map designations.
- (Ord. 642 § 22, 2003; DC § 2.100)

Section 15. Section 12.72.070, Responsibility for hearings, is hereby amended to read as follows:

12.72.070 Responsibility for hearings.

The City Recorder , or designee, shall carry out the following duties pertaining to a hearing in accordance with other provisions of the Development Code and the following:

- A. Schedule and assign the matter for review and hearing;
- B. Conduct the correspondence of the hearing body;
- C. Mail and cause to be published required notices of public hearings consistent with the requirements of Section 12.72; and
- D. Provide notice of all hearings and written decisions to persons requesting the same and who are not entitled to such by this chapter, provided the request is in writing and is received by the City Recorder, and that such persons pay the actual cost for the service provided as established by the City (applicants excepted).

Section 16. Section 12.72.080, Planning Commission's responsibility for hearing, is hereby amended to read as follows:

12.72.080 Planning Commission's responsibility for hearing.

City staff shall carry out the following duties pertaining to a hearing before the Planning Commission:

- A. Record the meetings by tape recording, electronic or digital means and retain the recordings in accordance with applicable State Statutes;
- B. Prepare written meeting minutes to include postponements, continuances, decisions on the matters heard and a summary of the reasons given for the decision.

(DC § 4.015)

Section 17. Section 12.72.090, Notice of hearing, is hereby amended to read as follows:

12.72.090 Notice of hearing.

Notice of a hearing for Type B, C and D actions shall be consistent with Sections 12.72.040, 12.72.050 and 12.72.055, respectively.

Section 18. Section 12.72.100, Availability of documents and additional evidence, is hereby amended to read as follows:

12.72.100 Availability of documents and additional evidence.

- A. All documents or evidence relied upon by the applicant shall be submitted to the City and the City shall make them available for inspection at no cost and will be provided at reasonable cost.
- B. A land use decision staff report shall be available at least 7 days prior to the meeting for a Type A action or hearing for a Type B, C or D action.
- C. If additional documents or evidence are provided by any party, the City may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by an applicant shall result in a corresponding extension of the time limitation commonly known as the "120-day Rule" set forth in ORS 227.178 and ORS 227.179.
- D. Prior to the conclusion of the hearing, any participant may request an opportunity to present additional information regarding the application. The City shall grant such request as determined by the hearing body by continuing the public hearing or leaving the record open for additional written information.

Section 19. Section 12.72.110, Procedure for mailed notice, is hereby amended to read as follows:

12.72.110 Procedure for mailed notice.

- A. In addition to persons receiving notice as required by the matter under consideration, the City Recorder or designee, may provide notice to others believed to be affected, or otherwise represent an interest that may be affected by the proposed development.
- B. Cost of notice mailings shall be included in the development application fee.

Section 20. Section 12.72.120, Challenges to impartiality, is hereby amended to read as follows:

12.72.120 Challenges to impartiality.

Except for legislative hearings, a party to a hearing may challenge the qualifications of a member of the hearing body to participate in the hearing and decision regarding the matter. The challenge shall state by affidavit the facts relied upon by the challenger relating to a person's bias, prejudgment, personal interest, or other facts from which the challenger has concluded that the member of the hearing body cannot participate in an impartial manner. A challenge shall be delivered by personal service to the city recorder not less than 48 hours preceding the time set for public hearing. The city recorder shall attempt to notify the person whose qualifications are challenged prior to the meeting.

The challenge shall be incorporated into the record at the time of hearing. The challenge shall be decided by the hearing body.

Section 21. Section 12.72.130, Disqualification, is hereby amended to read as follows:

12.72.130 Disqualification.

No member of a hearing body shall participate in their official capacity as a Planning Commissioner or City Councilor in the public hearing phase or the deliberation phase of the decision making process and shall not vote on the proposal when any of the following conditions exist:

- A. A violation of the Oregon Revised Statutes or Oregon Administrative Rules regarding a conflict of interest exists.

- B. If a quorum of a hearing body abstains or is disqualified, all members present after stating their reasons for abstention or disqualification shall, by so doing, be requalified and proceed to resolve the issues.

- C. Except for legislative hearings, any members absent during the presentation of evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless the member has reviewed the evidence received and so states on the record.

Section 22. Section 12.72.140, Burden and nature of proof, is hereby amended to read as follows:

12.72.140 Burden and nature of proof.

The burden of proof is upon the applicant. The more significant the change or the greater the impact of the proposal, the greater is the burden upon the applicant. The proposal must be supported by proof that it conforms to the approval criteria listed in the Development Code, comprehensive plan or Statewide Planning Goals, as applicable.

Section 23. Section 12.76.040, Amendment of major zoning districts and special purpose districts, is hereby deleted:

12.76.040 [Deleted.]

(DC § 3.040)

Section 24. Section 12.76.050, District amendment criteria, is hereby deleted:

12.76.050 [Deleted.]

(DC § 3.050)

Section 25. Chapter 12.100, Quasi-judicial zoning district applications, is hereby added as follows:

Chapter 12.100 – QUASI-JUDICIAL ZONING DISTRICT APPLICATIONS

Sections:

- 12.100.010 Description and purpose.
- 12.100.020 Procedure.
- 12.100.030 Applicability of provisions.
- 12.100.040 Applications and submittal requirements.
- 12.100.050 Criteria.
- 12.100.060 Expiration of approval.

12.100.010 Description and purpose.

- A. The zoning district map amendment process is intended to:
 - 1. Guide future growth and development in accordance with the Comprehensive Plan and other applicable ordinances;
 - 2. Provide an efficient process and framework to review amendments to the zoning district map;
 - 3. Ensure a safe, functional, compatible and energy-efficient lay-out of land uses in the City; and
 - 4. Resolve potential conflicts between land uses;

- B. The zoning district map amendment review provisions are not intended to preclude uses that are allowed by the Comprehensive Plan Map designations.

12.100.020 Procedure.

An application for a quasi-judicial zoning district map amendment shall:

- A. Be processed as a Type C procedure;

- B. Be made by the owner of the subject property or authorized agent;

- C. Be on a form prescribed by the City;

- D. Be accompanied by the prescribed fee; and

- E. Be accompanied by evidence demonstrating compliance with the criteria.

12.100.030 Applicability of provisions.

A zoning district map amendment shall be applicable to applications to change the zoning district of a property.

12.100.040 Applications and submittal requirements.

The following information shall be submitted as part of a complete application for a zoning district map amendment:

- A. A completed application form;

- B. Name, address and telephone number of the property owner;

- C. A copy of the deed showing the subject property and the property owner;

- D. If an authorized agent is used, a statement signed by the property owner designating the authorized agent by name, and the address and telephone number of the authorized agent;

- E. The names, addresses and Tax Map/Tax Lot numbers of the owners of all property within 300 feet of the subject property and complying with Section 12.72.050, C, 7;
- F. Six copies of the applicant's responses to the approval criteria set forth in Section 12.100.050 – the response shall state each criterion and respond to each criterion;
- G. One original and six copies of a site plan drawn to scale showing the layout of the proposed use on the property and showing the following:
 - 1. Scale of the plan, and north arrow;
 - 2. Assessor's map and tax lot number, and lot and block description, or other legal description,
 - 3. Lot or parcel dimensions and total lot or parcel area;
 - 4. Location of all existing and proposed structures, including minimum distances from structures to lot or parcel lines;
 - 5. Adjacent zoning designations and adjacent land uses including approximate location of buildings;
 - 6. Rights-of-way of abutting streets, whether public or private, and proposed driveways;
 - 7. Locations and dimensions of all easements and nature of easements;
 - 8. Natural drainage patterns; and
 - 9. Location and dimensions of parking and circulation areas;
- H. A full size copy of the county assessor's map covering the subject property and the public hearing notification area.
- I. The number of acres of land in the current zoning district and the number of acres of land in the proposed zoning district, and the number of acres in each zoning district if the application is approved;

12.100.050 Criteria.

A zoning district map amendment application considered under a Type C procedure shall be demonstrated by the application materials to be in conformance with each of the following criteria:

- A. The proposed amendment conforms to the Comprehensive Plan, or substantial changes have occurred which render the Comprehensive Plan inapplicable to the requested change and the plan should be amended as proposed by the proponent of the zoning district change (in which case the Comprehensive Plan must be amended prior to , or concurrent with, the zoning district amendment);
- B. If residential zoning is involved, the proposed residential zone or zones best satisfy the objectives of the Comprehensive Plan and do not exclude opportunities for adequate provision of low and moderate income housing within the subject neighborhood areas.

12.100.060 Expiration of approval.

There is no expiration of a quasi-judicial decision approving a zoning district map amendment.

Section 26. Chapter 12.104, Legislative comprehensive plan and development code applications, is hereby added as follows:

Chapter 12.104 – LEGISLATIVE COMPREHENSIVE PLAN AND DEVELOPMENT CODE APPLICATIONS

Sections:

- 12.104.010 Description and purpose.
- 12.104.020 Procedure.
- 12.104.030 Applicability of provisions.
- 12.104.040 Applications and submittal requirements.
- 12.104.050 Criteria.
- 12.104.060 Expiration of approval.

12.104.010 Description and purpose.

The legislative amendment process is intended to:

- A. Guide future growth and development in accordance with the Comprehensive Plan and statewide Planning Goals;
- B. Provide an efficient process and framework to review legislative amendments;
- C. Ensure a safe, functional, compatible and energy-efficient lay-out of land uses within the urban growth boundary; and
- D. Resolve potential conflicts between land uses.

12.104.020 Procedure.

An application for a legislative amendment shall:

- A. Be processed as a Type D procedure;
- B. Be initiated by the:
 - 1. Planning Commission;
 - 2. City Council;
 - 3. City staff; and
 - 4. An owner of property or a resident in the city or urban growth boundary may petition the Planning Commission to initiate a legislative amendment.
- C. Be on a form prescribed by the City;
- D. Be accompanied by a fee prescribed by the City; and
- E. Be accompanied by written evidence demonstrating compliance with the applicable criteria.

12.104.030 Applicability of provisions.

A legislative amendment shall be applicable to legislative applications for amendments to the text or map of the comprehensive plan and to the text of the Jefferson Development Code or zoning district map.

12.104.040 Applications and submittal requirements.

The following information shall be submitted as part of a complete application for a legislative application:

- A. A completed application form;

- B. Name, address and telephone number of the property owner(s);
- C. If an authorized agent is used, a statement signed by the property owner designating the authorized agent by name, and the address and telephone number of the authorized agent;
- D. Identification of the proposed text amendment, including the current language and the proposed language;
- E. Six copies of the applicant's written responses to the approval criteria set forth in Section 12.104.050 – the response shall state each criterion and the respond shall follow each criterion;
- F. For map amendments six copies of a map drawn to scale showing the proposed subject property and the following;
 - 1. Scale of the plan, and north arrow;
 - 2. Total lot or parcel area of subject property;
 - 3. The comprehensive plan designation, zoning district and land uses on the subject property and abutting properties;
 - 4. Street rights-of-way in and abutting the subject property, whether public or private;
 - 5. Locations and dimensions of all easements and nature of easements; and
 - 6. Natural drainage patterns.
- G. For map amendments, a set of full size county assessor's maps covering the subject properties;
- H. For map amendments the number of acres of land in the current comprehensive plan designation and zoning district and if the amendment is granted, the number of acres of land in the proposed comprehensive plan designation and zoning district;
- I. Draft findings to support the application.

12.104.050 Criteria.

A legislative Type D application shall show conformance with each of the following:

- A. The applicable Comprehensive Plan Policies and Objectives;
- B. The applicable Statewide Planning Goals; and
- C. The applicable Oregon Administrative Rules.
- D. Short- and long-term impacts;
- E. Public benefit;
- F. Reasonable alternative proposals;
- G. Any other factors deemed relevant by Planning Commission or City Council.

12.104.060 Expiration of approval.

There is no expiration of an approval of a legislative amendment.
 END OF AMENDMENTS.

“EXHIBIT C”

Zone Code Text Amendments – Findings
Case No. ZTA 2011-01

The Jefferson City Council, after careful consideration of the testimony and evidence in the record, adopts the following Findings of Fact and Conclusion:

1. The Planning Commission reviewed the proposed amendments to the Jefferson Development Code (JDC) at the May 6, 2010, November 4, 2010, January 6, 2011, and February 3, 2011 meetings. The Commission discussed the memos that had been provided prior to each meeting.

2. At the May 6, 2010 meeting the Commission reviewed the proposed amendments presented in the memo dated May 6, 2010, and directed the Mid-Willamette Valley Council of Governments (COG) staff to proceed with the process to amend the JDC language. In accordance with the post-acknowledgement plan amendment (PAPA) process set forth in Oregon Revised Statute 197.610(1) COG staff submitted the proposed amendments to the Oregon Department of Land Conservation and Development on January 18, 2011 which was 45-days prior to the first evidentiary hearing on March 3, 2011.

3. The proposed amendments to the Jefferson Development Code (JDC) are a legislative action, not a quasi-judicial action. Section 12.72.060, F, 2 (Type of Procedure by Application) calls for amendments to the JDC to be processed as a Type C action (Planning Commission hearing and recommendation to the City Council with a hearing and decision by the City Council).

4. Section 12.08.080 (Procedures For Amending the Development Code, Comprehensive Land Use Plan, and Urban Growth Boundary) calls for a legislative action to be processed in accordance with Sections 12.08.100 to 12.08.140.

5. Section 12.08.090, B, requires amendments to the JDC to be accompanied by findings of compliance with the relevant objectives and policies of the Comprehensive Plan. The objectives and policies of the Comprehensive Plan were reviewed and none were found to apply to the proposed procedural amendments.

6. Section 12.08.090 of the Jefferson Development Code (JDC) states:

12.08.090 Comprehensive Plan and Development Code amendment criteria.

- A. Amendments to the Comprehensive Plan shall be accompanied by findings of compliance with the statewide planning goals.
- B. Amendments to the Development Code shall be accompanied by findings of compliance with the relevant objectives and policies of the Comprehensive Plan.

C. Planning Commission and City Council deliberations on amendments to the Comprehensive Plan or to the Development Code may include consideration of the following:

1. Citizen review and comment;
2. Input from other affected government agencies;
3. Short- and long-term impacts;
4. Public benefit;
5. Reasonable alternative proposals;
6. Any other factors deemed relevant by Planning Commission or City Council.

6A. Criterion 12.08.090, A.

FINDING: This criterion is not applicable because this is not an amendment to the comprehensive plan.

6B. Criterion 12.08.090, B.

FINDING: This criterion is not applicable because the policies and objectives of the Comprehensive Plan were reviewed and none were found to be applicable to the proposed procedural changes to the JDC.

6C. Criterion 12.08.090, C.

FINDING: For the Planning Commission public hearing there were no parties that testified orally or in writing, therefore, this criterion is not applicable.

For the City Council public hearing there were parties that testified orally at the public hearing and none that testified in writing. The City Council considered the oral citizen comments. The Planning Commission and City Council considered the short and long term impacts and the public benefits. There were no alternative proposals presented to the Planning Commission or the City Council.

FINDING: The proposed JDC procedural amendments will have a positive short and long term impact because the JDC's procedures will be improved, clearer and more complete.

FINDING: The proposed JDC procedural amendments will have a positive public benefit because the JDC's procedures will be improved, clearer and more complete.

FINDING: The proposed JDC procedural amendments may have alternatives identified during the public review process and may be incorporated into the adopted amendments.

7. Statewide Planning Goals.

Goal 1, Citizen Involvement: The Planning Commission held work sessions on the proposed amendments on May 6, 2010, November 4, 2010, January 6, 2011 and February 3, 2011. Public comment was invited at the work sessions. A public hearing on the proposed amendments was held before the Planning Commission on March 3, 2011 and a second hearing was held by the City Council on April 28, 2011. The public hearings were consistent with the City procedures. Goal 1 is met.

Goal 2, Land Use Planning: The proposal does not involve exceptions to the Statewide Goals. The Statewide Planning Goals were reviewed and Goal 2, Land Use Planning, was found to apply. Goal 2 states, in part:

The plans shall be the basis for specific implementation measures. These measures shall be consistent with and adequate to carry out the plans. Each plan and related implementation measure shall be coordinated with the plans of affected governmental units. All land-use plans and implementation ordinances shall be adopted by the governing body after public hearing and shall be reviewed and, as needed, revised on a periodic cycle to take into account changing public policies and circumstances, in accord with a schedule set forth in the plan. Opportunities shall be provided for review and comment by citizens and affected governmental units during preparation, review and revision of plans and implementation ordinances.

Conclusion: The proposed amendments will ensure the procedural elements of the Jefferson Development Code are consistent with and are adequate to implement the comprehensive plan. The proposed amendments will ensure the implementation measures are coordinated with the comprehensive plan. Some of the current Jefferson Development Code language is not consistent with ORS 197 (Comprehensive Land Use Planning and Coordination) and 227 (City Planning and Zoning). The proposed amendments will bring the Jefferson Development Code into conformance with ORS 197 and 227. Goal 2 generally supports clear and thorough local procedures. The proposed amendments will greatly improve the clarity and thoroughness of the Jefferson Development Code procedures. Goal 2 is met.

Goal 3, Agricultural Lands: Goal 4, Forest lands: Goals 3 and 4 are not applicable. The proposal does not involve or affect farm or forest lands.

Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources. Goal 5 is not applicable. The proposal does not address Goal 5 resources.

Goal 6, Air, Water and Land Resource Quality: Goal 6 is not applicable. The proposal does not address Goal 6 resources.

Goal 7, Natural Hazards: Goal 7 is not applicable. The proposal does not address Goal 7 resources.

Goal 8, Recreational Needs: Goal 8 is not applicable. The proposal does not address Goal 8 resources.

Goal 9, Economic Development: Goal 9 is not applicable. The proposal does not address Goal 9 issues.

Goal 10, Housing: Goal 10 is not applicable. The proposal does not address Goal 10 issues.

Goal 11, Public Facilities and Services: Goal 11 is not applicable. The proposal does not address Goal 11 issues.

Goal 12, Transportation: Goal 12 is not applicable. The proposal does not address Goal 12 issues.

Goal 13, Energy Conservation: Goal 13 is not applicable. The proposal does not address Goal 13 resources.

Goal 14, Urbanization: Goal 14 is not applicable. The proposal does not address Goal 14 issues.

The City Council finds the proposed amendments to the Jefferson Development Code are either consistent with the Statewide Goals, or, the Goals are not applicable.

8. Planning Commission Public Hearing.

On March 3, 2011 the Planning Commission held a public hearing on the proposed amendments. The staff report was presented. No one from the audience testified. Upon close of the hearing the Planning Commission discussed and deliberated on the issues and passed a motion recommending the City Council grant the proposed amendments.

9. City Council Public Hearing.

On April 28, 2011 the City Council held a public hearing on the proposed amendments. The staff report was presented. Testimony was received. None of the testifiers from the audience recommended changes to the proposed amendments. Upon close of the hearing the City Council discussed and deliberated on the issues and passed a motion directing staff to prepare an ordinance approving the proposed amendments and amending the Jefferson Development Code.

FINDINGS -- CONCLUSION

The City Council concludes the comprehensive plan policies were reviewed and found to not apply and the proposed amendments to the Jefferson Development Code are consistent with Statewide Land Use Planning Goals 1 and 2, and the remaining Goals are not applicable.