



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



August 15, 2008

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Rogue River Plan Amendment
DLCD File Number 003-08

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. 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: August 27, 2008

This amendment was submitted to DLCD for review 45 days prior to adoption. 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 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.**

Cc: Doug White, DLCD Community Services Specialist
John Renz, DLCD Regional Representative
Carol Weir, City of Rogue River

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DLCD

Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
 PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

☐ In person ☐ electronic ☐ mailed

DATE
STAMP

DEPT OF

AUG 08 2008

LAND CONSERVATION
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: Rogue River Local file number: ORDINANCE 08-355-0
 Date of Adoption: 7-25-2008 Date Mailed: 8-06-2008
 Date original Notice of Proposed Amendment was mailed to DLCD: _____

- | | |
|---|---|
| ☐ 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".

Amending ord # 373 Regulating the use of Land and Structures
in the City of Rogue River and establishing zones for that purpose

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME".
 If you did not give Notice for the Proposed Amendment, write "N/A".

Plan Map Changed from: _____ to: _____
 Zone Map Changed from: _____ to: _____
 Location: City W. DE Acres Involved: _____
 Specify Density: Previous: 2, 9, 10, 14 New: _____
 Applicable Statewide Planning Goals: _____

Was an Exception Adopted? ☐ YES ☒ NO

DLCD File No.: 002-08 (16747)
003-08 (16748)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (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

Affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: CAROL WEIR

Phone: (541) 582-4401 Extension: 104

Address: PO Box 1137

City: Rogue River

Zip Code + 4: 95737

Email Address: Cweir@ci.Rogue-River,or.us
or

mreagle@ci.Rogue-River,or.us

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**

per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

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

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

AUG 08 2008

LAND CONSERVATION
AND DEVELOPMENT

Council Bill
No. 08-2136

ORDINANCE NO. 08-355-O

AN ORDINANCE AMENDING ORDINANCE NO. 373 REGULATING THE USE OF LAND AND STRUCTURES IN THE CITY OF ROGUE RIVER, OREGON, AND ESTABLISHING ZONES FOR THAT PURPOSE.

THE COMMON COUNCIL OF THE CITY OF ROGUE RIVER, OREGON, ORDAINS AS FOLLOWS:

SECTION 1. amends:

SECTION 2.010. COMPLIANCE WITH ORDINANCE PROVISIONS to read:

All structures or parts thereof which are erected, moved, reconstructed, extended, enlarged, or altered, must conform with the provisions of this ordinance.

SECTION 2. amends:

SECTION 2.030. ZONE - LOCATION to read: The boundaries for each zone listed in this ordinance are the boundaries indicated for the zone by the City of Rogue River's current zoning map which is hereby adopted by reference. The boundaries shall be modified in accordance with zoning map amendments, which amend this section, and subsequently are adopted by this reference.

SECTION 3. amends:

SECTION 2.040. ZONING MAPS to read: The zoning maps or zoning map amendments of this ordinance or an amendment to this section shall be prepared by authority of the City Planning Commission and approved by the City Council. A certified print of the adopted maps or the adopted maps as amended, with date of approval, shall be maintained in the office of the City Recorder.

SECTION 4. amends:

SECTION 2.050. ZONE BOUNDARIES to read: Unless otherwise specified, zone boundaries shall be a lot line, the center line of a street or the extension of such lines. If a zone boundary divides a lot into two zones, the entire lot shall be placed in the zone that accounts for the greater area of the lot.

SECTION 5. amends:

SECTION 2.060. ZONING OF ANNEXED AREA to read: Zoning regulations in effect in an area prior to annexation to the City which are not compatible with existing Comprehensive Plan zoning for the area shall be rezoned concurrently with the annexation proceedings to be compatible with existing Comprehensive Plan zoning for the abutting areas, in conformity with the comprehensive zoning map of the City.

SECTION 6. amends:

SECTION 2.070. PROCEDURES to read:

(1) **Purpose.** The purpose of this subsection is to establish decision-making

procedures that will enable the City, the applicant and the public to review applications and participate in the local land use decision-making process in a timely and effective way.

(2) Applicability of Review Procedures. All land use and development permit applications and approvals, except building permits, shall be decided by using the procedures contained in this chapter. The procedure "type" assigned to each application governs the decision-making process for that permit or approval. There are four types of permit/approval procedures: Type I, II, III, and IV. These procedures are briefly described here, and detailed in subsections (3) through (7) of this section. Table A lists all of the City's land use approvals and their required review procedure(s).

a. Type I Procedure (Administrative). Type I decisions are made by the staff without public notice and without a public hearing. The Type I procedure is used when there are clear and objective approval criteria and applying City standards and criteria requires no use of discretion;

b. Type II Procedure (Administrative). Type II decisions involve limited discretion and are made by the staff with public notice and an opportunity for a public hearing if appealed. The appeal of a Type II decision is heard by the Planning Commission, who makes the City's final decision.

c. Type III Procedure (Quasi-Judicial). Type III decisions are made by the Planning Commission after a public hearing with appeals reviewed by the City Council. Type III decisions generally use discretionary approval criteria.

d. Type IV Procedure (Legislative). Type IV procedures apply to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations, zone changes, and Comprehensive Plan amendments that apply to entire zones, rather than just one property). Type IV matters are considered initially by the Planning Commission with final decisions made by the City Council.

TABLE A

Application	Review Procedure	RRZO Article/Section	RRSO Article/Section
Annexation	IV ¹		
Code Amendment	IV	17	
Code Interpretation	II, III	4.150	
Comprehensive Plan Amendment			
▸ Quasi-judicial	IV	19	
▸ Legislative	IV	19	
Comprehensive Plan Text Amendment	IV		

¹Ordinance No. 99-287-O regulates annexations, providing for Planning Commission and City Council action twice a year, and referral to the City of Rogue River electors in a May or November election.

Application	Review Procedure	RRZO Article/Section	RRSO Article/Section
Conditional Use Permit	III	6	
Consolidation of Property	II		10
Conversion Plan	IV	9	
Erosion Control ▶ Level 1 ▶ Level 2 ▶ Level 3	II II II	15 15 15	
Home Occupation	II, III	4.140	
Manufactured Dwelling	II	4.145	
Manufactured Dwelling Park	III	11	
Master Planned Development	III, IV		6
Medical Hardship Dwelling	III	18.010	
Modification to Approval ▶ Minor ▶ Major	II, III, IV II, III, IV	2.140 2.140	
Non-conforming Use Confirmation/Alteration	III	4.010	
Partition ▶ Tentative Plat ▶ Final Plat	II, III II		8
Planned Unit Development - Tentative Plat - Final Plat	III III		7
Pre-application Conference - Division Application - Zoning Application	II II		2.300
Property Line Adjustment	II		9
Recreational Vehicle Park	IV	12	
Site Plan Review ▶ Administrative ▶ Planning Commission	II III	10 10	

Application	Review Procedure	RRZO Article/Section	RRSO Article/Section
Steep Slope Development	II	15	
Street Vacation			
Subdivision			
▶ Tentative Plat	III		3
▶ Final Plat	II		3.300
Variance			
▶ Subdivision			11
▶ Zoning Ordinance	III	7	
Zoning Map Amendment	IV	19	

- (3) All applications:
- a. Shall be made on forms provided by City Hall;
 - b. Shall include all the information requested on the application form and attachments;
 - c. Shall address the criteria in sufficient detail for review and action; and
 - d. Shall be filed with the required fee.
- (4) Type I Procedure (Administrative).
- a. Administrative Decision Requirements. The City Planner's decision shall address all of the approval criteria. Based on the criteria and the facts contained within the record, the City Planner shall approve or deny the requested permit or action. A written record of the decision shall be provided to the applicant and kept on file at City Hall.
 - b. Final Decision. A Type I decision is the final decision of the City and may not be appealed further.
 - c. Effective Date. A Type I decision is final on the date it is made.

	Type I Administrative	Type II Administrative
Pre-application Conference		Optional
Receive Application	Day 1: Starting Day	Day 1: Starting Day
Completeness Review	Up to 30 calendar days (2.090(3))	Up to 30 calendar days (2.090(3))
Notice of Pending Administrative Decision		To all owners w/in 250 ft of property & public agencies, 12 calendar days prior to Decision (2.070(5)b3)

	Type I Administrative	Type II Administrative
Staff Report	Written record kept on file & is the final action of the City. (2.070(4)a)	Staff Report completed within 45 calendar days of receiving complete application. (2.070(5)c)
Notice of Decision		Notice of Decision mailed to applicant/ property owner & all who responded to the Notice of Pending Administrative Decision. (2.070(5)d.1(a))
Appeal	No appeal. (2.070(4)b)	Within 12 calendar days of mailed Notice of Decision, appeal to Planning Commission. (2.070(5)f.1(b))
Notice of Planning Commission Appeal Hearing		20 calendar days prior to hearing, to all owners w/in 250 ft of property & public agencies. (2.070(6)b.1(a))
Newspaper Notice		10 calendar days prior to Planning Commission public hearing. (2.070(6)b.1(c))
Planning Commission Appeal Hearing		Public Hearing to receive testimony from applicants and appellants. (2.070(5)f.1)
Planning Commission Appeal Decision		Adopt Planning Commission written Final Order. (2.070(5)f.5)
Effective Date	Date decision is made. (2.070(4)c)	Planning Commission Appeal Hearing

(5) Type II Procedure (Administrative).

- a. A pre-application conference is optional for Type II reviews.
- b. Notice of Application for Type II Administrative Decision.
 1. Before making a Type II Administrative Decision, the City Planner shall mail notice to:
 - (a) All owners of record of real property within a minimum of two hundred and fifty (250) feet of the subject site;
 - (b) All City-recognized neighborhood groups or associations

whose boundaries include the site;

(c) Any person who submits a written request to receive a notice; and,

(d) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies. The City shall notify the county or ODOT, and the rail authority, when there is a proposed development abutting or within two hundred and fifty (250) feet of an affected transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application.

2. The purpose of the notice is to give nearby property owners and other interested people the opportunity to submit written comments about the application before the Type II decision is made. The goal of this notice is to invite affected persons to participate early in the decision-making process.

3. Notice of a pending Type II Administrative Decision shall:

(a) Provide twelve (12) calendar days for written comments before an Administrative Decision is made;

(b) List the relevant approval criteria by name and number of code sections;

(c) State the place, date and time the comments are due;

(d) Include the name and telephone number of a contact person regarding the Administrative Decision;

(e) Describe the proposal and identify the specific permits or approvals requested;

(f) Describe the street address or other easily understandable reference to the location of the site;

(g) State that, if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the State Land Use Board of Appeals or Circuit Court on that issue and that only comments on relevant approval criteria are considered relevant evidence;

(h) State that all evidence relied upon by the City Planner to make this decision is in the public record and is available for public review. Copies of this evidence may be obtained at a reasonable cost from the City;

(i) State that, after the comment period closes, the City Planner shall issue a Type II Administrative Decision and that the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;

(j) Contain the following statement: "Notice to mortgagee, lien holder, vendor, or seller: The City of Rogue River Zoning & Subdivision Ordinances require that if you receive this notice it shall be promptly forwarded to the purchaser."

c. Administrative Decision Requirements. The City Planner shall make a Type II Administrative Decision addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within

the record, within forty-five (45) calendar days of receipt of a complete application the City Planner shall approve, approve with conditions, or deny the requested permit or action. In some circumstances, a Type II application may be referred to a Type III procedure. When such a referral is made, the application shall be processed as a Type III application, including the requirements for a hearing and Notice of Decision.

d. Notice of Decision.

1. Once signed by the City Planner, a Notice of Decision shall be sent by mail to:

- (a) The applicant and all owners or contract purchasers of record of the site that is the subject of the application;
- (b) Any person who submitted a written request to receive notice, or provides comments during the application review period;
- (c) Any City-recognized neighborhood group or association whose boundaries include the site; and
- (d) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies that were notified or provided comments during the application review period.

2. The City Planner shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law.

3. The Type II Notice of Decision shall contain:

- (a) A description of the applicant's proposal and the City's decision on the proposal (i.e., may be a summary);
- (b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area, where applicable;
- (c) A statement of where the City's decision may be obtained;
- (d) The date the decision shall become final, unless appealed;
- (e) A statement that all persons entitled to notice may appeal the decision; and
- (f) A statement briefly explaining how to file an appeal, the deadline for filing an appeal, and where to obtain further information concerning the appeal process.

e. Final Decision and Effective Date. A Type II Administrative Decision is final for purposes of appeal when it is mailed by the City. A Type II Administrative Decision is effective on the day after the appeal period expires. If an appeal is filed, the decision is effective when the appeal is decided.

f. Appeal. A Type II Administrative Decision may be appealed to the Planning Commission as follows:

1. Who May Appeal. The following people have legal standing to appeal a Type II Administrative Decision:

- (a) The applicant or owner of the subject property;
- (b) Any person who was entitled to written notice of the

Type II Administrative Decision;

(c) Any other person who participated in the proceeding by submitting written comments.

2. Appeal Filing Procedure.

(a) Notice of Appeal. Any person with standing to appeal, as provided in subsection f.1 of this section, may appeal a Type II Administrative Decision by filing a Notice of Appeal according to the following procedures;

(b) Time for Filing. A Notice of Appeal shall be filed with the City Planner within twelve (12) calendar days of the date the Notice of Decision was mailed;

(c) Content of Notice of Appeal. The Notice of Appeal shall contain:

i. An identification of the decision being appealed, including the date of the decision;

ii. A statement demonstrating the person filing the Notice of Appeal has standing to appeal;

iii. A statement explaining the specific issues being raised on appeal;

iv. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period; and

v. The applicable filing fee.

3. Scope of Appeal. The appeal of a Type II Administrative Decision by a person with standing shall be a hearing before the Planning Commission. The appeal shall be limited to the application materials, evidence and other documentation, and specific issues raised in the Type II Administrative Decision.

4. Appeal Procedures. Type III notice, hearing procedures and decision process shall also be used for all Type II administrative appeals, as provided in Subsection 2.070(6)b through d;

5. Final Decision. The decision of the Planning Commission regarding an appeal of a Type II Administrative Decision is the final decision of the City. Further appeal of a Type II Administrative Appeal Decision must be filed within twenty-one (21) calendar days of the Planning Commission's written decision with the State Land Use Board of Appeals.

(6) Type III Procedure (Quasi-judicial).

a. A pre-application conference is required for all Type III applications. The requirements and procedures for a pre-application conference are described in Section 2.080.

b. Notice of Hearing.

1. Mailed Notice. The City shall mail the notice of the Type III action. The records of the Jackson County assessor's office shall be the official records for determining ownership. Notice of a Type III application hearing or Type II appeal hearing shall be given by the City Planner in the following manner:

(a) At least twenty (20) calendar days before the hearing date, notice shall be mailed to:

i. The applicant and all owners or contract purchasers of record of the property that is the subject of the application;

ii. All property owners of record within two-hundred and fifty (250') feet of the site;

iii. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies. The City shall notify the road authority, and rail authority and owner when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application.

iv. Owners of airports in the vicinity shall be notified of a proposed zone change in accordance with ORS 227.175;

v. Any neighborhood or community organization recognized by the City Council and whose boundaries include the property proposed for development;

vi. Any person who submits a written request to receive notice;

vii. For appeals, the appellant and all persons who provided testimony in the original decision; and

viii. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.

(b) The City Planner shall prepare an affidavit of notice and the affidavit shall be made a part of the file. The affidavit shall state the date that the notice was mailed to the persons who were sent notice.

(c) At least ten (10) calendar days before the hearing, notice of the hearing shall be printed in a newspaper of general circulation in the City as well as on the City's website. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.

2. Content of Notice. Notice of Appeal of a Type II Administrative Decision or notice of a Type III hearing to be mailed and published per subsection 1. of this section shall contain the following information:

(a) The nature of the application and the proposed land use or uses that could be authorized for the property;

(b) The applicable criteria and standards from the City's Land Use Ordinances that apply to the application;

(c) The street address or other easily understood geographical reference to the subject property;

(d) The date, time, and location of the public hearing;

(e) A statement that the failure to raise an issue in person, or in writing at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue

cannot be raised at the State Land Use Board of Appeals;

(f) The name of a City representative to contact and the telephone number where additional information on the application may be obtained;

(g) A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at City of Rogue River City Hall at no cost and that copies shall be provided at a reasonable cost;

(h) A statement that a copy of the City's Staff Report and recommendation to the hearings body shall be available for review at no cost at least seven (7) calendar days before the hearing, and that a copy shall be provided on request at a reasonable cost;

(i) A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and

(j) The following notice: "Notice to mortgagee, lien holder, vendor, or seller: The City of Rogue River Subdivision/Zoning Ordinance requires that if you receive this notice, it shall be promptly forwarded to the purchaser."

c. Conduct of the Public Hearing.

1. At the commencement of the hearing, the hearings body shall state to those in attendance:

(a) The applicable approval criteria and standards that apply to the application or appeal;

(b) A statement that testimony and evidence shall be directed at the approval criteria described in the staff report, or other criteria in the Comprehensive Plan or land use regulations that the person testifying believes to apply to the decision;

(c) A statement that failure to raise an issue with sufficient detail to give the hearings body and the parties an opportunity to respond to the issue means that no appeal may be made to the State Land Use Board of Appeals on that issue;

(d) Before the conclusion of the initial evidentiary hearing, any participant may ask the Planning Commission for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a "continuance") per subsection c.2 of this section, or by leaving the record open for additional written evidence or testimony per subsection c.3 of this section.

2. If the Planning Commission grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven (7) calendar days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven (7) calendar days, so that they can submit additional

written evidence or testimony in response to the new written evidence;

3. If the Planning Commission leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven (7) calendar days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period that the record was left open. If such a request is filed, the Planning Commission shall reopen the record to allow rebuttal evidence.

(a) If the Planning Commission reopens the record to admit new evidence or testimony, any person may raise new issues that relate to that new evidence or testimony;

(b) An extension of the hearing or record granted pursuant to subsection c.1(d) of this section is subject to the limitations of ORS 227.178 ("one-hundred-twenty-day rule"), unless the continuance or extension is requested or agreed to by the applicant;

(c) If requested by the applicant, the City shall allow the applicant at least seven (7) calendar days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant's final submittal shall be part of the record but shall not include any new evidence;

(d) The record shall contain all testimony and evidence that is submitted to the City and that the hearings body has not rejected;

(e) In making its decision, the hearings body may take official notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous City decisions; case law; staff reports). The review authority must announce its intention to take notice of such facts in its deliberations, and allow persons who previously participated in the hearing to request the hearing record be reopened, if necessary, to present evidence concerning the noticed facts;

(f) The City shall retain custody of the record until the City issues a final decision and all appeal deadlines have passed.

4. Participants in an appeal of a Type II Administrative Decision or participants in a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing ex parte contacts (see subsection c.5 of this section) as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:

(a) At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing ex parte contacts (as defined in subsection c.5 of this section) concerning the application or appeal. He or she shall also state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly. Hearing participants shall be entitled to question hearing body members as to ex parte contacts and to object to their participation as provided in subsection c.5(b) of this section;

(b) A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or

substantial financial interest: their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;

(c) Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;

(d) If all members of the Planning Commission abstain or are disqualified, the City Council shall be the hearing body. If all members of the City Council abstain or are disqualified, a quorum of those members present who declare their reasons for abstention or disqualification shall be requalified to make a decision;

(e) Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this section.

5. Ex Parte Communications.

(a) Members of the hearings body shall not:

i. Communicate directly or indirectly with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing without giving notice per subsection b of this section;

ii. Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials.

(b) No decision or action of the hearings body shall be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:

i. Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and

ii. Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.

(c) A communication between City staff and the hearings body is not considered an ex parte contact.

6. Presenting and Receiving Evidence.

(a) The hearings body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;

(b) No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided in subsection c.3 of this section;

(c) Members of the hearings body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence under subsection c.5(b) of this section.

d. The Decision Process.

1. Basis for Decision. Approval or denial of a Type II Administrative Appeal or of a Type III Quasi-judicial Application shall be based on standards and criteria in the City's Land Use Ordinances. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the Comprehensive Plan for the area in which the development would occur and to the Land Use Ordinances and Comprehensive Plan for the City as a whole;

2. Findings and Conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;

3. Form of Decision. The Planning Commission shall issue a Final Order containing the findings and conclusions stated in subsection d.2 of this section, which either approves, denies, or approves with specific conditions. The Planning Commission may also issue appropriate intermediate rulings when more than one permit or decision is required. If the application is for a quasi-judicial zone change, the Planning Commission shall issue a denial as a written Final Order.

4. Notice of Decision. Once signed, written notice of a Type II Administrative Appeal Decision or a Type III Quasi-judicial Decision (Final Order) shall be mailed to the applicant and to all participants of record. Failure of any person to receive mailed notice shall not invalidate the decision; provided, that a good faith attempt was made to mail the notice.

5. Final Decision and Effective Date.

(a) Type II Administrative Appeal Decision. The decision of the Planning Commission on any Type II Administrative Appeal is the final decision of the City. Further appeal of a Type II Administrative Appeal Decision must be made to the State Land Use Board of Appeals, and must be filed within twenty-one (21) calendar days of the date the Planning Commission's written decision is mailed.

(b) Type III Quasi-judicial Decision (Final Order). A Type III Quasi-judicial Decision is effective on the eleventh day after the Final Order is mailed, unless the decision is appealed. If an appeal of a Type III Final Order is filed, the decision becomes effective on the day after the appeal is decided by the City Council. The City

Council's Final Order can be appealed to the State Land Use Board of Appeals within twenty-one (21) calendar days of the date the City Council's written decision is mailed.

e. Appeal. A Type III decision may be appealed to the City Council as follows:

1. Who May Appeal. The following people have legal standing to appeal a Type III decision:

- (a) The applicant or owner of the subject property;
- (b) Any person who was entitled to written notice of the Type III decision;
- (c) Any other person who participated in the proceeding by submitting written comments or testifying at the public hearing(s).

2. Appeal Filing Procedure.

(a) Notice of Appeal. Any person with standing to appeal, as provided in subsection e.1 of this section, may appeal a Type III decision by filing a Notice of Appeal according to the following procedures;

(b) Time for Filing. A Notice of Appeal of the Planning Commission's Final Order shall be filed with the City Planner within ten (10) calendar days of the date the Notice of Decision was mailed;

(c) Content of Notice of Appeal. The Notice of Appeal shall contain:

- i. An identification of the decision being appealed, including the date of the decision;
- ii. A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
- iii. A statement explaining the specific issues being raised on appeal;
- iv. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period; and
- v. The applicable filing fee.

3. Scope of Appeal. The appeal of a Type III decision shall be limited to the application materials, evidence and other documentation. The appeal of a Type II decision shall be limited to the specific issues raised in the Type II Administrative Decision.

4. Appeal Procedures. Type III notice, hearing procedure and decision process shall also be used for all Type III appeals, as provided in subsections b through d of this section;

5. Final Decision. The decision of the City Council regarding an appeal of a Type III decision is the final decision of the City.

	Type III Quasi-Judicial	Type IV Legislative
Pre-application Conference	Required	Required

	Type III Quasi-Judicial	Type IV Legislative
Receive Application	Day 1: Starting day	Day 1: Starting day
Completeness Review	Up to 30 calendar days (2.090.(3))	Up to 30 calendar days (2.090.(3))
Department of Land Conservation & Development (DLCD) Notice		(DLCD) shall be notified in writing at least forty-five (45) calendar days before the first public hearing at which public testimony or new evidence will be received. (2.070(7)b.2(d))
Notice of Planning Commission Hearing	20 calendar days prior to Planning Commission public hearing, to all owners w/in 250 ft of property & public agencies. (2.070(6)b.1.(a))	20 to 40 calendar days prior to Planning Commission public hearing, to affected public agencies, manufactured home owners, airport owners & property owners w/in 250 ft of property. (2.070(7)b.2(a))
Newspaper Notice	10 calendar days prior to Planning Commission public hearing. (2.070(6)b.1.(c))	10 calendar days prior to Planning Commission public hearing. (2.070(7)b.2(b))
Staff Report	Available at least 7 calendar days prior to the hearing. (2.070(6)b.2.(h))	Available at least 7 calendar days prior to the hearing. (2.070(7)b.3(d))
Planning Commission Decision	Written Final Order mailed to the applicant and to all participants of record. (2.070(6)d.4)	Recommendation to City Council. (2.070(7)f.1.2.3)
Appeal	Within 10 calendar days of mailed Final Order, appeal to City Council. (2.070(6)e.2(b))	
Notice of City Council Hearing	20 calendar days prior to City Council appeal hearing, to all owners w/in 250 ft of property & public agencies. (2.070(6)b.1(a))	20 calendar days prior to City Council hearing, to affected public agencies, manufactured home owners, airport owners & property owners w/in 250 ft of property. (2.070(7)b.2(a))
Newspaper Notice	10 calendar days prior to City Council appeal public hearing. (2.070(6)b.1.(c))	14 calendar days prior to City Council appeal public hearing. (2.070(7)b.2(b))

	Type III Quasi-Judicial	Type IV Legislative
City Council Decision	Written Final Order mailed to the applicant and to all participants of record. (2.070(6)d.4)	Ordinance mailed to applicant, all participants of record & DLCD. (2.070(7)h)
Effective Date	22 nd calendar day after the mailing of the Final Order, unless appealed to LUBA. (2.070(6)d.5(b))	30 calendar days after second reading of the Ordinance, unless appealed to LUBA. (2.070(7)i)

(7) Type IV Procedure (Legislative).

a. Pre-Application Conference. A pre-application conference is required for all Type IV applications initiated by a party other than the City of Rogue River. The requirements and procedures for a pre-application conference are described in Section 2.080.

b. Notice of Hearing.

1. Required Hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications.

2. Notification Requirements. Notice of public hearings for the request shall be given by the City Planner in the following manner:

(a) At least twenty (20) calendar days, but not more than forty (40) calendar days, before the date of the first hearing on an ordinance that proposes to amend the Comprehensive Plan or any element thereof, or to amend any section of the Zoning or Subdivision Ordinance, or to adopt an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.175 and mailed to:

i. Each owner whose property would be rezoned in order to implement the ordinance (including owners of property subject to a Comprehensive Plan amendment) shall be notified if a zone change would be required to implement the proposed Comprehensive Plan amendment;

ii. All owners of record of real property within a minimum of two hundred and fifty (250') feet of the subject site;

iii. Any affected governmental agency;

iv. Any person who requests notice in writing;

v. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175;

vi. Owners of airports shall be notified of a proposed zone change in accordance with ORS 227.175.

(b) At least ten (10) calendar days before the scheduled Planning Commission public hearing date, and fourteen (14) calendar days before the City Council hearing date, public notice shall be

published in a newspaper of general circulation in the City.

(c) The City Planner shall:

i. For each mailing of notice, file an affidavit of mailing in the record that is required in by Section 2.070(7)b.2(a) of this section; and

ii. For each published notice, file in the record the affidavit of publication in a newspaper that is required in Section 2.070(7)b.2(b) of this section.

(d) The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed Comprehensive Plan and City's Land Use Ordinance amendments at least forty-five (45) calendar days before the first public hearing at which public testimony or new evidence will be received. The notice to DLCD shall include a DLCD Certificate of Mailing.

(e) Notifications for annexation shall follow the provisions of this chapter.

3. Content of Notices. The mailed and published notices shall include the following information:

(a) The number and title of the file containing the application, and the address and telephone number of the City Planner's office where additional information about the application can be obtained;

(b) The proposed site location, if applicable;

(c) A description of the proposal in enough detail for people to determine what change is proposed, and the place where all relevant materials and information may be obtained or reviewed;

(d) The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; a statement that the staff report will be available seven (7) calendar days prior to the public hearing; and a statement that the hearing will be held under this title and rules of procedure adopted by the council and available at City Hall (see subsection c of this section); and

(e) Each mailed notice required by subsection 7.b of this section shall contain the following statement: "Notice to mortgagee, lien holder, vendor, or seller: The City of Rogue River Subdivision/Zoning Ordinance requires that if you receive this notice, it shall be promptly forwarded to the purchaser."

4. Failure To Receive Notice. The failure of any person to receive notice shall not invalidate the action, providing:

(a) Personal notice is deemed given where the notice is deposited with the United States Postal Service;

(b) Published notice is deemed given on the date it is published.

c. Hearing Process and Procedure.

1. Unless otherwise provided in the rules of procedure adopted by the City Council:

(a) The presiding officer of the Planning Commission and of the City Council shall have the authority to:

- i. Regulate the course, sequence, and decorum of the hearing;
 - ii. Direct procedural requirements or similar matters;
 - iii. Impose reasonable time limits for oral presentations; and
 - iv. Waive the provisions of this chapter so long as they do no prejudice the substantial rights of any party.
- (b) No person shall address the commission or the council without:
 - i. Receiving recognition from the presiding officer; and,
 - ii. Stating his or her full name and address.
- (c) Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
2. Unless otherwise provided in the rules of procedures adopted by the council, the presiding officer of the commission and of the council shall conduct the hearing as follows:
 - (a) The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a preliminary decision, such as a recommendation to the City Council or the final decision of the City;
 - (b) The City Planner's report and other applicable staff reports shall be presented;
 - (c) The public shall be invited to testify;
 - (d) The public hearing may be continued to allow additional testimony or it may be closed; and
 - (e) The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.
- d. Continuation of the Public Hearing. The Planning Commission or the City Council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.
- e. Decision-Making Criteria. The recommendation by the Planning Commission and the decision by the City Council shall be based on the following factors:
 1. Whether the request is consistent with the applicable statewide planning goals;
 2. Whether the request is consistent with the Comprehensive Plan; and
 3. If the proposed legislative change is particular to a particular site, the property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.

f. Approval Process and Authority.

1. The Planning Commission shall after notice and a public hearing, vote on and prepare a recommendation to the City Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative.

2. Any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file a written statement of opposition with the City Planner before the council public hearing on the proposal. The City Planner shall send a copy to each council member and place a copy in the record;

3. If the Planning Commission does not adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal within sixty (60) calendar days of its first public hearing on the proposed change, the City Planner shall:

(a) Prepare a report to the City Council on the proposal, including noting the Planning Commission's actions on the matter, if any; and

(b) Provide notice and put the matter on the City Council's agenda for the City Council to hold a public hearing and make a decision. No further action shall be taken by the Planning Commission.

4. The City Council shall:

(a) Consider the recommendation of the Planning Commission; however, the City Council is not bound by the Commission's recommendation;

(b) Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application; and

(c) If the application for legislative change is approved, the council shall act by ordinance, which shall be signed by the mayor after the council's adoption of the ordinance.

g. Vote Required for a Legislative Change.

1. A vote by a majority of the qualified voting members of the Planning Commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.

2. A vote by a majority of the qualified members of the City Council present is required to decide any motion made on the proposal.

h. Notice of Decision. Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five (5) calendar days after the City Council decision. The City shall also provide notice to all persons as required by other applicable laws.

i. Final Decision and Effective Date. A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the Notice of Decision to the applicant.

j. Record of the Public Hearing.

1. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record;

2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;

3. The official record shall include:

(a) All materials considered and not rejected by the hearings body;

(b) All materials submitted by the City Planner to the hearings body regarding the application;

(c) The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;

(d) The final decision;

(e) All correspondence; and,

(f) A copy of the notices that were given as required by this chapter.

SECTION 7. amends:

SECTION 2.080. PRE-APPLICATION CONFERENCE to read: The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this ordinance, to provide for an exchange of information regarding applicable elements of the Comprehensive Plan, this ordinance, and other applicable elements of the City's Land Use Ordinances, and to otherwise identify policies and regulations that create opportunities for or impose significant constraints upon the proposed development.

(1) Participants. When a pre-application conference is required, the applicant shall meet with the City Planner and such other parties as the City Planner deems appropriate;

(2) Information Provided. At such conference, the City Planner shall:

a. Cite the Comprehensive Plan policies and map designations that appear to be applicable to the proposal;

b. Cite the ordinance provisions, including substantive and procedural requirements that appear to be applicable to the proposal;

c. Provide available technical data and assistance that will aid the applicant;

d. Identify other governmental policies and regulations that relate to the application; and

e. Reasonably identify other opportunities or constraints concerning the application.

(3) Disclaimer. Failure of the City Planner to provide any of the information required by this Section 2.080 shall not constitute a waiver of any of the standards, criteria or requirements for the application;

(4) Changes in the Law. Due to possible changes in federal, state, regional, and local law, the applicant is responsible for ensuring that the application complies with all applicable laws.

SECTION 8. amends:

SECTION 2.090. ACCEPTANCE AND REVIEW OF APPLICATIONS to read:

- (1) Initiation of Applications.
 - a. Applications for approval under this chapter may be initiated by:
 1. Order of City Council;
 2. Resolution of the Planning Commission;
 3. The City Planner;
 4. A record owner of property (person(s) whose name is on the most recently recorded deed), or contract purchaser with written permission from the record owner.
 - b. Any person authorized to submit an application for approval may be represented by an agent authorized in writing to make the application on their behalf.
- (2) Consolidation of Proceedings. When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same one or more parcels of land, the proceedings may, at the option of the applicant, be consolidated for review and decision.
 - a. If more than one approval authority would be required to decide on the applications if submitted separately, then the decision shall be made by the approval authority having original jurisdiction over one of the applications in the following order of preference: The City Council, the Planning Commission, or the City Planner.
 - b. When proceedings are consolidated:
 1. The notice shall identify each application to be decided;
 2. The decision on a plan map amendment shall precede the decision on a proposed land use zone change and other decisions on a proposed development. Similarly, the decision on a zone map amendment shall precede the decision on a proposed development and other actions; and
 3. Separate findings shall be made on each application.
- (3) Check for Acceptance and Completeness. In reviewing an application for completeness, the following procedure shall be used:
 - a. Acceptance. When an application is received by the City, the City Planner shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant:
 1. The required form;
 2. The required fee;
 3. The signature of the applicant on the required form and signed written authorization of the property owner of record if the applicant is not the owner.
 - b. Completeness.
 1. Review and Notification. After the application is accepted, the City Planner shall review the application for completeness. If the application is incomplete, the City Planner shall notify the applicant in writing of exactly what information is missing within thirty (30) calendar days of receipt of the application and allow the applicant one hundred and eighty (180) calendar days to submit the missing information.
 2. Application deemed complete for review. In accordance with the application submittal requirements of this chapter, the application shall be deemed complete upon the receipt by the City Planner of all required

information. The applicant shall have the option of withdrawing the application, or refusing to submit further information and requesting that the application be processed notwithstanding any identified incompleteness. For the refusal to be valid, the refusal shall be made in writing and received by the City Planner.

3. If the applicant does not submit all of the missing information or provide written notice that no further information will be provided (whether some of the additional information has been provided or not) within one hundred eighty (180) calendar days of the date the initial submittal was accepted, the application is void.

4. Standards and Criteria That Apply to the Application. Approval or denial of the application shall be based upon the standards and criteria that were applicable at the time it was first accepted, unless the application is for a change to the plan or land use regulations.

5. Coordinated Review. The City shall also submit the application for review and comment to the City Engineer, public works, road authorities, and other applicable county, state, and federal review agencies.

(4) Changes or Additions to the Application During the Review Period. Once an application is deemed complete:

a. All documents and other evidence relied upon by the applicant shall be submitted to the City Planner at least seven (7) calendar days before the notice of action or hearing is mailed. Documents or other evidence submitted after that date shall be received by the City Planner and transmitted to the hearings body, but may be too late to include with the Staff Report and evaluation;

b. When documents or other evidence are submitted by the applicant during the review period but after the notice of action or hearing is mailed, the assigned review person or body shall determine whether or not the new documents or other evidence submitted by the applicant significantly change the application;

c. If the City Planner determines that the new documents or other evidence significantly change the application, the City Planner shall include a written determination to the hearings body that a significant change in the application has occurred as part of the decision. In the alternate, the City Planner may inform the applicant either in writing, or orally at a public hearing, that such changes may constitute a significant change and allow the applicant to withdraw the new materials submitted in order to avoid a determination of significant change;

d. If the applicant's new materials are determined to constitute a significant change in an application that was previously deemed complete, the City shall take one of the following actions, at the choice of the applicant:

1. Suspend the existing application and allow the applicant to submit a revised application with the proposed significant changes. Before the existing application can be suspended, the applicant must consent in writing to waive the one-hundred-twenty-day rule (subsection A of this section) on the existing application. If the applicant does not consent, the City shall not select this option;

2. Declare the application, based on the significant change, a new application and reprocess accordingly.

e. If a new application is submitted by the applicant, that applicant shall pay the applicable application fee and shall be subject to a separate check for

acceptance and completeness and will be subject to the standards and criteria in effect at the time the new application is accepted.

SECTION 9. amends:

SECTION 2.100. TRAFFIC IMPACT ANALYSIS (TIA) to add: The purpose of this section is to implement Oregon Administrative Rule (OAR) Section 660-012-0045(2)(e), the State Transportation Planning Rule, requiring Cities to adopt a development review process which minimizes transportation impacts and protects transportation facilities.

(1) Traffic Impact Analysis. The City shall require a Traffic Impact Analysis (TIA) as part of an application for development, a change in use, or a change in access in the following situations:

a. If the application includes residential development, a TIA shall be required when the land use application involves one or more of the following actions:

1. A change in zoning or a plan amendment;
2. An increase in site traffic volume generation by two hundred fifty average daily trips or more;
3. An increase in peak hour volume of a particular movement to and from the State highway by twenty percent or more; or
4. An increase in use of adjacent streets by vehicles exceeding the twenty thousand pounds gross vehicle weights by ten vehicles or more per day;

b. If the application does not include residential development, a TIA shall be required when a land use application involves one or more of the following actions:

1. A change in zoning or a plan amendment designation;
2. Any proposed development or land use action that a road authority, including the City, Jackson County or ODOT, states may have operational or safety concerns along its facility(ies);
3. An increase in site traffic volume generation by two hundred fifty average daily trips (ADT) or more;
4. An increase in peak hour volume of a particular movement to and from the State highway by twenty percent or more;
5. An increase in use of adjacent streets by vehicles exceeding twenty thousand pounds gross vehicle weight by ten vehicles or more per day;
6. The location of the access driveway does not meet minimum sight distance requirements, as determined by the City engineer, or is located where vehicles entering or leaving the property are restricted, or such vehicles queue or hesitate on the state highway, creating a safety hazard in the discretion of the City Planner; or
7. A change in internal traffic patterns that, in the discretion of the City Planner, may cause safety problems, such as back-up onto a street or greater potential for traffic accidents.

(2) Traffic Impact Analysis Preparation. A traffic impact analysis shall be prepared by a traffic engineer or civil engineer licensed to practice in the state of Oregon with special training and experience in traffic engineering. The TIA shall be prepared in accordance with the public works department's document entitled "Traffic Impact Analysis." If the road authority is the Oregon Department of Transportation (ODOT), consult ODOT's

regional development review planner and OAR 734-051-180.

SECTION 10. amends to add:

SECTION 2.110. ONE-HUNDRED-TWENTY-DAY RULE:

(1) The City shall take final action on Type I, II, and III permit applications, including resolution of all appeals, within one hundred twenty (120) calendar days from the date the application is deemed complete, unless the applicant requests an extension in writing; however, the total of all extensions may not exceed two hundred forty-five (245) calendar days. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (The one-hundred-twenty-day rule does not apply to Type IV legislative decisions – plan and code amendments – under ORS 227.178.)

(2) Time Computation. In computing any period of time prescribed or allowed by this chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday or legal holiday, including Sunday, in which event the period runs until the end of the next day which is not a Saturday or legal holiday.

SECTION 11. amends to add:

SECTION 2.120. AMENDED DECISION PROCESS:

(1) The purpose of an amended decision process is to allow the City Planner to correct typographical errors, rectify inadvertent omissions and/or make other minor changes that do not materially alter the decision.

(2) The City Planner may issue an amended decision after the notice of final decision has been issued but before the appeal period has expired. If such a decision is amended, the decision shall be issued within fourteen (14) calendar days after the original decision would have become final, but in no event beyond the one-hundred-twenty-day period required by state law. A new ten (10) calendar day appeal period shall begin on the day the amended decision is issued.

(3) Notice of an amended decision shall be given using the same mailing and distribution list as for the original decision notice.

(4) Modifications or amendments to an approved plan, application or conditions of approval requested by the applicant shall follow the procedures in Section 2.140. All other changes to decisions that are not modifications or amendments under Section 2.140 follow the appeal process in Article 16.

(5) City Council Review. The City Council shall have the authority to call up any Type II or Type III application for review. The decision to call up an application may occur at any time after the application is filed until the decision is otherwise final. When the City Council calls up an application, the council shall, in its order of call up, determine the procedure to be followed, including the extent of preliminary processing and the rights of the parties. At a minimum, the council shall follow the procedures in Section 2.070(6)b.c&d, regarding appeals from Type III decisions.

SECTION 12. amends to add:

SECTION 2.130. RESUBMITTAL OF APPLICATION FOLLOWING DENIAL: An application or proposal that has been denied or that was denied, and on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission or the courts, may not be resubmitted as the same or a substantially similar proposal for the same land for a period of at least

twelve months from the date the final City action is made denying the same, unless there is substantial change in the facts or a change in City policy that would change the outcome, as determined by the City Planner.

SECTION 13. amends to add:

SECTION 2.140. MODIFICATION OR AMENDMENT TO AN APPROVED APPLICATION: An applicant, whose application has been approved, and who wishes to amend the application, or the conditions of approval, shall re-apply through the same application procedure required for the original application.

SECTION 14. amends:

SECTION 3.040. C-1 OR COMMERCIAL - GENERAL DISTRICT to read:

- (2) Permitted Uses. All uses are subject to Article 10, Site Plan Review.
f. Single residence in conjunction with a commercial use. *[Section 3.040(2)f amended by Ordinance No. 08-534-O, dated 05/22/08.]*

SECTION 15. amends:

SECTION 3.040. C-1 or COMMERCIAL - GENERAL DISTRICT to read:

- (2) Permitted Uses. All uses are subject to Article 10, Site Plan Review.
g. Maintenance, repair, improvement, expansion and renovation of existing residences. *[Section 3.040(2)g amended by Ordinance No. 08-534-O, dated 05/22/08.]*

SECTION 16. amends:

SECTION 3.040. C-1 or COMMERCIAL - GENERAL DISTRICT to read:

- (2) Permitted Uses. All uses are subject to Article 10, Site Plan Review.
h. New garage and storage building for existing residence.

SECTION 17. amends:

SECTION 4.145. MANUFACTURED DWELLINGS to read:

- (2) No more than one manufactured dwelling shall be placed on a lot in an R-1, R-2 or C-1 district.

SECTION 18. amends:

SECTION 4.145. MANUFACTURED DWELLINGS to read:

- (5) The manufactured dwelling shall be set up in compliance with the Oregon Manufactured Dwelling and Park Specialty Code, including a continuous skirting.

SECTION 19. amends:

SECTION 4.145. MANUFACTURED DWELLINGS to read:

- (8) No manufactured dwelling shall be occupied until it has received a certificate of occupancy from the City of Rogue River.

SECTION 20. amends to delete:

SECTION 4.145. MANUFACTURED DWELLINGS:

- (9) No manufactured dwelling shall be placed on a lot unless it has a water closet, lavatory, and bathtub or shower, and a kitchen area which contains a sink. *[Section*

4.145(1-9) amended by Ordinance No. 90-194-O, passed 6-29-90.]

(10) All manufactured dwellings, outside of a park setting, shall have a minimum of a one car attached or detached garage. *[Section 4.145(10) amended by Ordinance No. 99-284-O, passed 1-14-99.]*

(11) All manufactured dwellings, outside a park setting, shall have a fully paved asphalt or concrete driveway and/or private road from a City maintained paved street to the garage serving the dwelling unit. *[Section 4.145 amended by Ordinance No. 92-218-O, passed 6-25-92 and 99-284-O, passed 1-14-99.]*

ORDINANCE NO. 08-355-O

First Reading: June 26, 2008

The enactment of the above Ordinance was moved by **Bond**, seconded by **Mead**, roll call being had thereon, resulted as follows:

Bond; aye, Mead; aye, Collins; aye, Schaeffer; aye.

Second Reading: July 24, 2008

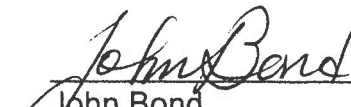
The enactment of the above Ordinance was moved by **Mead**, seconded by **Collins**, roll call being had thereon, resulted as follows:

Bond; aye, Mead; aye, Collins; aye, Schaeffer; aye.

Whereupon the Mayor declared the motions to be carried and the Ordinance adopted.

PASSED this 25th day of **July, 2008**, by the Common Council of the City of Rogue River, Oregon.

SIGNED this 25th day of **July, 2008**, by the Mayor of the City of Rogue River, Oregon.



John Bond
Mayor Pro-tem

ATTEST:



Carol J. Weir
Deputy Recorder



**CITY OF ROGUE RIVER
BOX 1137
ROGUE RIVER OR 95737**

ATTENTION: PLAN AMENDMENT SPECIALIST
DLCD
635 CAPITOL STREET NE SUITE 150
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