



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

12/26/2008

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Florence Plan Amendment
DLCD File Number 004-08

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: Wednesday, January 07, 2009

This amendment was submitted to DLCD for review 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Melissa Anderson, City of Florence
Gloria Gardiner, DLCD Urban Planning Specialist
Dave Perry, DLCD Regional Representative

<paa> YA

PROP 2

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

DEPT OF

DEC 18 2008

**LAND CONSERVATION
AND DEVELOPMENT**

For DLCD Use Only

Jurisdiction: **City of Florence**

Local file number: **PC 08 33 TA 02**

Date of Adoption: **12/15/2008**

Date Mailed: **12/17/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 10/21/2008

☐ 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 to the Florence City Code (FCC) Title 2, Chapter 10, Quasi-Judicial Hearings, as well as amendments to FCC Title 10 to address public noticing requirements, applications, effective dates, expirations and renewals of permits, appeals and housekeeping changes. These amendments are proposed to ensure consistency with State Law, consistency within the City Code, and to remove duplication where applicable.

Does the Adoption differ from proposal? Yes, Please explain below:

Mailed notices for land use hearings were changed back to the original code requirements, gender specific pronouns were removed, and changes were made to provide clarification.

Plan Map Changed from: **n/a**

to: **n/a**

Zone Map Changed from: **n/a**

to: **n/a**

Location: **n/a**

Acres Involved: **n/a**

Specify Density: Previous: **n/a**

New: **n/a**

Applicable statewide planning goals:

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19
☒ ☒ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐

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

DLCD # 004-08 (17211)

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: **Melissa Anderson**

Phone: **(541) 997-8237** Extension:

Address: **250 Hwy. 101 N.**

Fax Number: **541-997-4109**

City: **Florence**

Zip: **97439-**

E-mail Address:

melissa.anderson@ci.florence.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 Complete Copies** (documents and maps) 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. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
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 now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax

Ordinance No. 26, Series 2008

IN THE MATTER OF AMENDING THE FLORENCE CITY CODE (FCC) TITLE 2 CHAPTER 10, AND TITLE 10 TO ADDRESS QUASI-JUDICIAL HEARING PROCEDURES, PUBLIC NOTICES, APPLICATION REQUIREMENTS, EFFECTIVE DATES, EXPIRATIONS AND RENEWALS, AND HOUSEKEEPING AMENDMENTS.

WHEREAS, the Planning Commission began working on updating the City zoning code in 2006 to implement the Realization 2020 Comprehensive Plan and to address problems of the current code;

WHEREAS, the Planning Commission met on October 1st of 2008, in a work session to review and discuss changes to the City code relating to administrative processing of land use applications, and initiated the proposed amendments by passing Resolution 08 33 TA 02 on October 14, 2008;

WHEREAS, the Planning Commission and City Council held a joint public hearing on December 8, 2008, and a public notice was published in the Siuslaw News prior to this hearing on November 15, 19, and December 3, 2008;

WHEREAS, the City sent notice of the proposed code amendments to the Department of Land, Conservation and Development on October 21, 2008, not less than 45 days prior to the first evidentiary hearing as required by state law and the Florence City Code;

WHEREAS, the Planning Commission deliberated to a decision and made a recommendation to the City Council to approve Resolution PC 08 33 TA 02-2 as presented, along with the changes included in the addendum distributed at the public hearing on December 8, 2008;

WHEREAS, the City Council adjourned after the public hearing and deliberated to a decision on December 15, 2008;

WHEREAS, the proposed text amendments to Title 2 Chapter 10 and Title 10 to make the Florence City Code consistent with state law, clarify quasi-judicial hearing procedures and noticing requirements, make expiration and renewal timelines consistent between condition use, variance and design review permits, clarify application information requirements, and address housekeeping issues where necessary;

WHEREAS, the City Council finds the proposed text amendments are consistent with applicable criteria in Florence Realization 2020 Comprehensive Plan, Florence City Code and Oregon Revised Statutes;

THE CITY OF FLORENCE ORDAINS AS FOLLOWS:

- Section 1. Amend FCC, Title 2 Chapter 2 Quasi-Judicial Hearings (Exhibit A);
- Section 2. Amend FCC, Title 10 Chapter 1 Zoning Administration (Exhibit B);
- Section 3. Amend FCC, Title 10 Chapter 4, 5, 6 and 10-16, 18, 20, 27, 28, 30 and 32 (Exhibit C);
- Section 4. Adopt the Findings of Fact (Exhibit D); and
- Section 5. This ordinance becomes effective 30 days after adoption.

Passed by the Florence City Council this 15th day of December, 2008.

AYES	<u>5</u>	Mayor Phil Brubaker, Councilors Suzanne Roberts,
		Nola Xavier, Paul Holman, and Alan Burns
NAYS	<u>0</u>	
ABSTAIN	<u>0</u>	
ABSENT	<u>0</u>	

APPROVED BY THE MAYOR, this 15th day of December, 2008.



Phil Brubaker, MAYOR

ATTEST:



Barbara Miller, CITY RECORDER

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NAYS _____

ABSTAIN _____

ABSENT _____

APPROVED BY THE MAYOR, this ____ day of December, 2008.

Phil Brubaker, MAYOR

ATTEST:

Barbara Miller, CITY RECORDER

TITLE 2
CHAPTER 10
QUASI JUDICIAL HEARINGS

SECTION:

- 2-10-1: ~~Definitions~~Procedures
- 2-10-2: ~~Procedures~~Notice
- 2-10-3: Conduct
- 2-10-4: Challenges ~~to~~ Impartiality
- 2-10-5: Presiding Officer
- 2-10-6: Burden of Proof
- 2-10-7: Order of Procedure
- 2-10-8: Rules of Procedure
- 2-10-~~98~~: Closure and Deliberations
- 2-10-~~109~~: Official Notice
- 2-10-1~~0~~: Record of Proceedings
- 2-10-1~~24~~: Amendment and Suspension of Rules

2-10-1: DEFINITIONS~~PROCEDURES~~:

~~A. As used in this chapter, unless the context requires otherwise, the following words and phrases mean:~~

~~CITY MANAGER: The City Manager or his or her designee.~~

HEARINGS BODY: The City Council, Planning Commission, Site Design Review Board or Hearings Official, as the context requires.

PARTY: The applicant or any person who has timely submitted written or oral evidence or testimony for consideration in a quasi-judicial evidentiary hearing.

2-10-2: PROCEDURES:

~~B. The regulations provided in this chapter govern the conduct of original quasi-judicial evidentiary hearings before a hearings body when any of the following matters are in issue:~~

- ~~1. A proposed grant or denial of an application for a Planned Unit Development or Conditional Use Permit or major modification thereof;~~
- ~~2. A proposed grant or denial of a variance or other discretionary decision;~~
- ~~3. A proposed change in zone classification of property;~~
- ~~4. A proposed annexation of property;~~

- ~~5. A proposed designation, demolition or moving of an historic landmark;~~
- ~~6. A proposed quasi-judicial amendment of the Florence Comprehensive Plan;~~
- ~~7. Or any other matter in which a decision requires a quasi-judicial hearing under this Code or State law.~~

~~C. The quasi-judicial procedures set forth herein Title 2 Chapter 10 supersede any rules of procedure (Roberts Rules of Order), resolution bylaw, ordinance, or section of this Code in conflict~~ing rules and procedures, therewith. These procedures supplement the particular land use decisional processes set forth in other parts of this Code to the extent that those processes are consistent herewith. Where these procedures conflict with requirements of State law, State law shall prevail.

~~D. The procedures for conducting hearings other than original, quasi-judicial evidentiary hearings on land use matters, including but not limited to legislative hearings and appeal hearings, set forth in those parts of this Code relating to particular matters.~~

2-10-2: NOTICE:

~~A. Unless a provision of this Code specifies a greater distance, written notice of a hearing shall be mailed to the applicant and owners or record and to occupants of any property located within 100 feet of the Property that is the subject of the notice. The identity of the owners of record shall be determined from the most recent property tax assessment roll.~~

~~B. The notice shall:~~

- ~~1. Explain the nature of the application and the proposed use or uses which would be authorized if the application were approved;~~
- ~~2. Identify 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. Identify the hearings body;~~
- ~~6. State that a copy of the application, all documents and evidence relied on by the applicant, and the full text of applicable criteria are available for immediate inspection and that a copy of the staff report will be available for inspection at least seven days before the hearing, such inspection to be at no cost. The notice shall further state that copies of these materials will be provided upon payment of the charge set by Council Resolution;~~
- ~~7. Identify a staff representative available to discuss the application and the telephone number where additional information may be obtained.~~

- ~~8. Include a general explanation of the requirements for submission of oral or written testimony, and the procedure for the conduct of the hearing; and~~
- ~~9. State that failure to raise an issue in the hearing, in person or in writing, or failure to provide enough specificity to give the decision maker an opportunity to respond to the issue, prevents appeal of the decision on that issue to a higher City hearings body or the Land Use Board of Appeals.~~

~~C. The notice shall be mailed at least 20 days before the hearing.~~

2-10-3: CONDUCT:

- A. No person may be disorderly, abusive, or disruptive of the conduct of the hearing.
- B. No person may present evidence, argument or comment without first being recognized by the presiding officer.
- C. All witnesses shall identify themselves, ~~and their~~ physical address~~place of residence and mailing address.~~
- D. Any employee, agent, or officer of the City shall disclose his or her relationship to the City when commencing to testify.
- E. Formal rules of evidence as used in course of law shall not apply. ~~Evidence that is not reliable, probative and useful may be excluded at the discretion of the presiding officer.~~
- F. ~~_-~~ All documents or other written materials relied on by the applicant shall be submitted to the City and, along with the applications, be made available to the public at the time that notice of the public hearing is provided, ~~-and in the manner described under section 2-10-2 of this Code.~~ Any staff notes or reports to be made part of the record shall be available to the public at least seven days prior to the hearing.
- G. ~~_-~~ Audience demonstrations such as applause, cheering, display of signs, and other conduct disruptive of the hearing, shall not be permitted. Any such conduct may be cause of immediate suspension of the hearing at the sole discretion of the presiding officer.

2-10-4: CHALLENGES TO IMPARTIALITY:

- A. Challenges: Any proponent, ~~or~~ opponent, ~~of,~~ or person interested in, a matter to be heard, and any member of the hearings body may challenge the qualification of any other member of that hearing body to participate in the hearing and decision regarding the matter. The challenge shall state

by affidavit the fact relied upon by the challenger as the basis for the challenge.

- 1.- ~~Any member of the public may raise conflict of interest issues prior to the hearing. Except for the good cause shown, the challenge shall be delivered by personal service to the City Recorder and the person whose qualification is challenged, not less than 48 hours preceding the time set for the hearing.~~
2. The challenge shall be made a part of the record of the hearing.

B. **Conflict of Interest:** No member of the hearings body may discuss or vote on a matter when:

1. Any of the following has a direct or substantial pecuniary interest in the matter: the member or his or her spouse, brother, sister, child, parent, father-in-law, or mother-in-law; or business in which the member is then serving as an officer or director or employee or has so served within the previous two years; or any business with which the member is negotiating for or has an arrangement or understanding concerning a prospective partnership, employment or other business affiliation.
2. The member owns all or a portion of the property that is the subject of the matter before the hearings body or owns abutting or adjacent property.
3. The member has a direct personal interest in the matter or for any other reason cannot participate in the hearing and decision impartially.

C. **Abstentions:** Because of the importance of preserving public confidence in decisions made by the hearings body a member of that hearing body may elect to abstain from a particular hearing when in fact the member is not disqualified under Subsection B of this Section but simply desires to avoid the mere appearance of partiality. Abstention in such an instance shall be solely a matter of the member's own judgement. A member who feels that abstention may be necessary or desirable under this section shall seek the advice of the hearing body and then state the member's decision and the reasons for the abstention~~therefor~~.

~~DD. No other officer or employee of the City who has a financial or other private interest in a matter before the body may participate in discussion of the matter with, or give an official opinion on the matter to the body without first declaring for the record the nature and extent of that interest.~~

E. **Ex Parte Contacts:** At the commencement of the hearing on a matter, members of the hearings body shall reveal all ex-parte contacts they have had about the matter in the manner provided in Section 2-10-7-B. If the contacts have not impaired the member's impartiality, the member shall so

state that fact and participate or abstain in accordance with subsection C of this section. Ex parte contacts are communications directly or indirectly with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing. Ex parte contacts also include any communication, report, or other materials outside the record in connection with the particular case, unless all participants are given the opportunity to respond to the materials.

- E. No other officer or employee of the City who has a financial or other private interest in a matter before the hearing body may participate in discussion of the matter, or give an official opinion on the matter to the hearing body without first declaring for the record the nature and extent of that interest.
- F. Notwithstanding any other rule, an abstaining or disqualified member shall constitute part of a quorum and may represent the member's interest at a hearing, provided the member joins the audience, makes full disclosure of the member's status and position when addressing the hearing body and abstains from discussion and from voting on the matter as a member of the hearing body.
- G. Disqualification for reasons set forth in subsection B of this section may be ordered by a majority of the members of the hearings body present at the hearing. The member who is the subject of the motion for disqualification may not vote on the motion.
- H. If all members of the hearing body abstain or are disqualified and consequently cannot reach a decision while so abstaining or disqualified, all members present, after stating their reasons for abstention or disqualification, shall by so doing be re-qualified and proceed to resolve the issues, unless such participation violates State or Federal law or the City Charter.
- I. A member absent during the presentation of any evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless ~~he or she~~ the member has reviewed the evidence received.

2-10-5: PRESIDING OFFICER:

- A. The presiding officer shall:
 - 1. Regulate the course and decorum of the hearing.
 - 2. Dispose of~~Attend to~~ procedural requests or similar matters.
 - 3. ~~Rule on offers of proof and relevancy, reliability or usefulness of evidence and testimony.~~

- ~~3.4.~~ Impose reasonable limitations on the number of witnesses to be heard and set reasonable time lines for oral presentation, questioning of witnesses, and rebuttal testimony.
- ~~4.5.~~ Take other action authorized by the hearing body for conduct appropriate for the hearing.

B. Any ruling by the presiding officer may be put to a vote by the hearing body upon a motion duly made, seconded and discussed. The decision on the motion shall be final for the purpose of the proceeding.

2-10-6: BURDEN OF PROOF: The burden of proof is upon the proponent, applicant, ~~or moving party~~. A decision to resolve the issues presented shall be based upon reliable, probative and substantial evidence in the whole record.

2-10-7: ORDER OF PROCEDURE: The presiding officer in the conduct of the hearing shall:

A. ~~Commence~~Open the ~~H~~hearing, ~~by A~~announcing the nature ~~and~~ purpose and time of the hearing and summarize the rules for its conduct. ~~The presiding officer, or other person at the presiding officer's direction, shall make a statement to those in attendance that:~~

~~1. Lists the applicable substantive criteria;~~

~~1.2.~~ States that testimony and evidence must be directed toward the specified criteria or to other criteria in the plan or land use regulation which the person believes to apply to the decision; and

~~2.3.~~ States that failure to raise an issue with sufficient specificity to afford the decision and the parties an opportunity to respond to the issue precludes an appeal on that issue to a higher City hearing body or to the Land Use Board of Appeals.

3. State that the failure of the applicant to raise a constitutional or other issue relating to the proposed conditions of approval with sufficient specificity to allow the local government or its designee to respond to the issue precludes an action for damages in circuit court.

B. Call for ~~S~~statements of ~~c~~Conflicts of ~~i~~Interest, ~~E~~ex Parte ~~C~~ontacts, and ~~B~~biases, abstentions, or challenges to impartiality:

1. ~~The presiding officer shall call for statements of ex parte contacts, potential and actual conflicts of interest, and biases. If any member of the hearing body has visited the property which is the subject of the land use application as part of the preparation for the hearing, any observations from the site view that are relevant to the decision shall be disclosed.~~

2. Any member of the hearings body who has been subject to significant ex parte contacts regarding the matter shall place on the record the substance of the communication. If the contact has not impaired the member's impartiality, the members shall so state and may then participate in the hearing and decision. If the member believes that his or her impartiality has been affected by the contacts, the members shall not participate in the hearing and decision. If the member is uncertain or wishes to avoid the appearance of partiality, ~~he or she~~ the member shall seek the hearing body's advice and announce a decision regarding participation in the hearing and decision, and give the reasons for the action.
3. If the member making the disclosure of ex parte contacts decides to participate in the hearing, the presiding officer shall announce that any person, during their testimony, has the right to rebut the substance of the communication. Communication between City Staff and the hearings body shall not be considered an ex parte contact.
4. Any member of the hearings body who has a potential conflict of interest regarding the matter shall disclose the nature of the potential conflict, on the record. Following disclosure, the member may proceed in the same manner as described in subparagraph 2 of this subsection.
5. Any member of the hearings body who has an interest in the matter as described in subsection 2-10-4-B may not discuss or vote on the matter. Following disclosure of the ~~reason for abstention~~ conflict of interest, the member shall leave the table during hearing, deliberation, discussion, and voting on the matter.
6. Any member considering abstention for reasons other than those described above shall state the reasons for the abstention, seek the advice of the hearing body, and announce a decision and the reasons therefore.
7. Any member whose participation has been challenged by allegation of bias, prejudgment, personal interest, or partiality, may make a statement in response or in explanation thereof for the record, and state ~~his or her~~ a decision of whether or not to regarding ~~participate~~ ion in the hearing. The statement shall be subject to cross examination only upon consent of that member, but shall be subject to rebuttal by the proponent, opponent, or other interested party.
8. The presiding officer shall provide opportunity for additional statements or discussions and proceedings in connection with the impartiality of members of the hearing.
9. Any member who abstains ~~or has been disqualified~~ shall not participate in discussion of the matter or vote upon any procedural or substantive issue concerning it.

C. Receive Call for the Staff Notes and Report~~Applicable Substantive Criteria and Staff Reports of Site Views.~~ Staff notes and reports, that have been delivered to members along with the application or proposal and supporting materials prior to the hearing shall be made a part of the record. The presiding officer shall then request that City staff– list the applicable substantive criteria. summarize the nature of the proposal, explain any graphic or pictorial displays which are part of the record, summarize the findings and decisions of whatever hearing body has previously considered the matter, and provide whatever other information is requested by the hearings body. ~~If any member of the hearings body has visited the property which is the subject of the land use application as part of the preparation for the hearing, any observations from the site view that are relevant to the decision shall be disclosed.~~

D. Call for testimony in the following order:

1. The applicant or representative (as provided in subsection B of Section 2-10-8).
2. Proponents
3. Opponents.
4. Neutral Parties.
5. Applicant rebuttal (as provided in subsection D of Section 2-10-8).

E. Call for staff response and recommendations.

F. Announce whether:

1. The record is closed (as provided under Section 2-10-9);
2. The record will be held open (as provided in subsection F of Section 2-10-8); or
3. The hearing will be continued (as provided in subsection G of Section 2-10-8).

2-10-8: RULES OF PROCEDURE

AD. Coordination of Testimony. To the degree necessary to an orderly process within available time, the presiding officer may consolidate submissions by participants or establish reasonable time limits for presentation of testimony. One or more spokespersons for any group may be designated by the presiding officer.

BE. Proponent's Case. The applicant or ~~his or her~~their representative shall ~~first~~ be heard, and other persons or groups in favor of the applicant's proposal shall next be heard. If the applicant or any person representing the applicant provides documentary or oral evidence in support of the application at the hearing, which were not previously submitted under subsection 2-10-3-F, other than staff notes or reports or excerpts thereof, any party shall be entitled to request that the record be held open

~~continuance of the hearing~~ as provided in subparagraph ~~FM~~ of this subsection.

~~F. Interested Persons. The presiding officer shall next allow those persons who neither favor nor oppose the application and other interested persons to be heard.~~

~~G. Opponent's Case. Finally, the presiding officer shall allow persons or groups who oppose the application to be heard.~~

~~H. City Staff Presentation and Recommendations. Appropriate City staff members may then present the staff's own analysis, findings, and pertinent recommendations.~~

CI. Questioning of Witnesses. The questioning of witnesses is a matter solely within the discretion of the hearings body acting through the presiding officer except as subsection B of Section 2-10-5 provides to the contrary. The presiding officer, as ~~he or she~~ deems it necessary or desirable, may permit the questioning of witnesses by members of the hearings body, staff and other interested persons at the conclusion of the witness's presentation. No questioning of witnesses shall be permitted after the proponent's rebuttal, except the questioning of rebuttal witnesses as to matters contained in rebuttal testimony. All questions to witnesses shall be submitted to the witness through the presiding officer unless the presiding officer expressly permits the submission of questions directly to a witness.

DJ. Rebuttal Evidence. The presiding officer ~~next~~ shall allow the applicant or his or her representative proponents to offer additional evidence and testimony, which shall be confined to rebutting the evidence and testimony offered by interested persons, opponents, and the City staff.

EK. Raising Issues. An issue which may be the basis for an appeal to a higher City hearings body or to the Land Use Board of Appeals shall be raised not later than the close of the record at or following the final evidentiary hearing on the application. Such issues shall be raised with sufficient specificity so as to afford the hearings body and participants in the hearing an adequate opportunity to respond to each issue.

EL. Holding the Record Open. Unless the hearing is continued, if a party so requests prior to the close of the initial evidentiary hearing, the record shall remain open for seven days or a longer period of time specified by the presiding officer. During this time any person may submit documents or written testimony to clarify, supplement, or rebut evidence already in the record. For a period thereafter of ~~seven~~ three days or a longer time specified by the presiding officer, the applicant may rebut the evidence and written testimony submitted during the open record period. The record

shall then be closed. The hearings body shall disregard any new evidence or other evidence that is not within the limitations of this subparagraph.

GM. Continuance of Hearing. The presiding officer may continue the hearing for any reason deemed appropriate to a specified time, date and location. ~~Upon request of a party, the presiding officer shall continue the hearing to a specified date, time, and location if the applicant or any person representing the applicant provides documentary or oral evidence in support of the application at the public hearing or at any time after notice of the hearing is provided, other than staff notes or reports or excerpts thereof. The continuance shall be requested in writing prior to the hearing, or orally or in writing at the hearing prior to the close of the party's testimony. Whether continuance is requested prior to or at the hearing, the hearings body, in its discretion, may proceed with the hearing as scheduled. If the hearing proceeds as scheduled, the presiding officer has discretion to limit the subject of the continued public hearing to facts and issues raised by the additional material provided by the applicant or the person supporting the application.~~

2-10-~~98~~: CLOSURE AND DELIBERATIONS: Subsequent to staff response and recommendations, ~~rebuttal by the proponents,~~ the presiding officer shall close the hearing unless the hearing is to be continued. If the hearing is closed and the record is to be held open, then the presiding officer shall set a time, and date and place for the record to closedeliberation. After the hearing and the record have been closed, the hearings body shall deliberate on the matter heard. During the deliberation the hearing body may consult with the City staff and pose questions for review, analysis, and response by the staff. The consultation and questioning shall not constitute re-opening of the hearing. If the presiding officer concludes, however, that new evidence has been presented during the consultation or questioning, ~~he or she~~ the officer shall, upon designation of the new evidence permit the applicant and parties to respond briefly, present evidence, and raise issues with respect to the designated material. The hearing body shall then continue its deliberation to a subsequent meeting at a specified time and place, state its findings of fact and conclusions, or state its decision generally and request that staff prepare proposed findings of fact and conclusions. The staff may request proposed findings of fact and conclusions from any party. ~~Except as above provided, no other person may submit findings of fact and conclusions without request by the body. If staff requests proposed findings of fact and conclusions from a party, the hearings body, before taking action, shall circulate the proposed decision to the parties for written comment.~~ All actions taken by the hearing body pursuant to this section shall be made a part of the record.

2-10-~~109~~: OFFICIAL NOTICE:

- A. The hearings body may take official notice of the following:
1. All facts which are judicially noticeable.

2. All public records of the City.
3. The Charter, ordinances, resolutions, rules, regulations, and officially promulgated policies of the City.

B. Matters officially noticed need not be established by evidence and may be considered by the hearings body in the determination of the proposal.

2-10-110: RECORD OF PROCEEDINGS:

A. An adequate record of the hearing shall be prepared in accordance with Section 17 of the Florence City Charter and State law as applicable. To assist in the preparation of the record, the proceedings may be stenographically or electronically recorded, but the record need not set forth evidence verbatim.

B. Where practicable, the presiding officer shall cause all presented physical and documentary evidence to be received and to be marked to show the identity of the person offering the evidence and to indicate whether it is presented on behalf of the proponent or an opponent. If evidence is not capable of being incorporated in the record, it shall not be included. ~~All exhibits received into evidence shall be retained by the hearing body for one year, at which time they may be released upon written demand to the person identified thereon as having offered it unless a need for further retention is shown. The presiding officer may in his or her discretion, subject only to a majority vote of the members of the hearing body participating, refuse any evidence which, in his or her judgement, is incompetent or irrelevant.~~

C. Any member of the public shall have access to the record of the proceedings at reasonable times and places. Members of the public shall be entitled to ~~receive~~make copies of the record at their own expense.

2-10-124: AMENDMENT AND SUSPENSION OF RULES: Any rule of procedure not required by Federal or State law or the City Charter may be amended or suspended at any hearing by majority vote of those members of the hearings body present and voting.

TITLE 10
CHAPTER 1

ZONING ADMINISTRATION

SECTION:

10-1-1:	Administrative Regulations
10-1-1-1:	Short Title
10-1-1-2:	Scope
10-1-1-3:	Purpose
10-1-1-4:	Application
10-1-1-5:	Land Use Hearings
10-1-1-6:	Administrative Review
10-1-1-7:	Appeals
10-1-1-8:	Enforcement
10-1-2:	Use Districts and Boundaries
10-1-2-1:	Districts Established
10-1-2-2:	Change of Boundaries on Zoning Map
10-1-2-3:	Zoning of Annexed Areas
10-1-3:	Amendments and Changes
10-1-4:	Definitions

10-1-1: ADMINISTRATIVE REGULATIONS:

10-1-1-1: SHORT TITLE: This Title shall be known as the "Zoning Ordinance of the City of Florence", and the map herein referred to shall be known as the "Zoning Map of the City of Florence". Said Map and all explanatory matter thereon are hereby adopted and made a part of this Title.

10-1-1-2: SCOPE: No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located, except as otherwise provided herein. No permit for the construction or alteration of any building shall be issued unless the plan, specifications and intended uses of such building conform in all respects with the provisions of this Title. The zoning regulations are not intended to abrogate, annul or impair easement, covenant or other agreements between parties, except that where the zoning regulations impose a greater restriction or higher standard than that required by such agreement, the zoning regulations shall control.

10-1-1-3: PURPOSE: The purpose of this Title is to establish for the City a Comprehensive Zoning Plan designed to protect and promote the public health, safety and welfare, and to provide the economic and social advantages which result from an orderly, planned use of land resources. Such regulations are designed to achieve the following objectives:

- A. To fulfill the goals of Florence's Comprehensive Plan.
- B. To advance the position of Florence as a regional center of commerce, industry, recreation and culture.
- C. To provide for desirable, appropriately located living areas in a variety of dwelling types and at a suitable range of population densities, with adequate provision for sunlight, fresh air and usable open space.
- D. Protect residential, commercial, industrial and civic areas from the intrusion of incompatible uses, and to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services.

- E. To insure preservation of adequate space for commercial, industrial and other activities necessary for a healthy economy.
- F. To promote safe, fast and efficient movement of people and goods without sacrifice to the quality of Florence's environment, and to provide adequate off-street parking.
- G. To achieve excellence and originality of design in future developments and to preserve the natural beauty of Florence's setting.
- H. To stabilize expectations regarding future development of Florence, thereby providing a basis for wise decisions with respect to such development.

10-1-1-4: APPLICATION:

- A. Applications and Petitions required by Title 10 and 11 of this Code shall be on forms prescribed by the City.
- B. Except when this Code provides to the contrary, ~~acceptance of~~ an application or petition regulated by Titles 10 and 11 of this Code:
 1. ~~Shall be reviewed by the Planning Director within thirty (30) days to determine if the application is complete, including required drawings, plans, forms, statements and fees paid. When an application or petition is incomplete, the Director shall mail written notice to the applicant and disclose exactly what information, forms or fees are lacking. The application shall be deemed complete by the Director upon receipt of all of the missing information, forms and fees, or upon receipt of a written notice from the applicant that no other information will be provided. The Director shall mail written notice to the applicant when the application is accepted. Completeness review and final action on an application shall be in accordance with ORS 227.178. May be received by the Planning Director at any time and shall not be considered as accepted solely because of having been received.~~
 2. ~~Shall identify the public facilities and access which may be needed to support the development, including but not limited to utilities and transportation infrastructure, and how they will be financed. Shall be reviewed by the Planning Director within fourteen (14) days to determine if the application is complete, including required drawings, plans, forms, statements and fees paid.~~
 3. ~~Shall identify off-site conditions including property lines, utility locations and sizes, existing and future streets, land uses, significant grade changes and natural features such as streams, wetlands and sand dunes for an area not less than 600 feet from the proposed application site that is one (1) acre or larger and within 100 feet from the proposed application site that is less than one (1) acre in size. Shall be determined to be complete and shall be accepted when the required information, forms and fees are included.~~
 4. ~~Shall not be accepted when the Director determines that an application is incomplete. When an application or petition is incomplete, the Director shall mail written notice to the applicant and disclose exactly what information, forms or fees are lacking. The application shall be deemed complete by the Director upon receipt of the missing information, forms or fees. If the applicant refuses to submit the missing information or forms, the application shall be deemed complete for review and action on the 31st day after the Director first received the application. The Director shall mail written notice to the applicant when the application is accepted.~~
- C. Evidence Submittal: Except when this Code expressly provides different time limitations, all documents and evidence relied upon by the applicant shall be submitted thirty (30) days prior to the hearing as provided in Subsection 10-1-1-5. (Amd. by Ord. No. 30 Series 1990)

10-1-1-5: LAND USE HEARINGS:

A. Hearings are required for quasi-judicial land use matters requiring Planning Commission review.

B. Notification of Hearing:

1. At least twenty (20) days prior to a quasi-judicial hearing, notice of hearing shall be posted on the subject property and shall be provided to the applicant and to all owners of record of property within 100 feet of the subject property, except in the case of hearings for Conditional Use Permits, Variance, Planned Unit Development and Zone Change, which notice shall be sent to all owners of record of property within 300 feet of the subject property.

a. Notice shall also be provided to the airport as required by ORS 227.175 and FCC 10-21-2-4.

b. For a zone change application with two or more evidentiary hearings, notice of hearing shall be mailed no less than ten (10) days prior to the date of the Planning Commission hearing and no less than ten (10) days prior to the date of the City Council hearing.

c. For an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.186 and ORS 227.175(8).

2. Prior to a quasi-judicial hearing, notice shall be published one (1) time in a newspaper of general circulation.

~~2. For a zone change application, notice of hearing shall be published three (3) times in a newspaper of general circulation, the last not more than ten (10) days prior to the date of the hearing.~~

~~3. For other land use applications, i.e. Variance, Conditional Use Permits, Planned Unit Development and quasi-judicial amendments to Title 10, notice of hearing shall be published two times in a newspaper of general circulation not more than ten (10) days prior to the date of the hearing.~~

C. Notice Mailed to Surrounding Property Owners - Information provided:

1. The notice shall:

a. Explain the nature of the application and the proposed use or uses which could be authorized;

b. List the applicable criteria from the ordinance and the plan that apply to the application at issue;

c. Set forth the street address or other easily understood geographical reference to the subject property;

d. State the date, time and location of the hearing;

e. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes further appeal based on that issue;

f. State that application and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;

- g. 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;
- h. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
- i. Include the name of a local government representative to contact and the telephone number where additional information may be obtained.

D. Hearing Procedure: All quasi-judicial hearings shall conform to the procedures of Florence City Code Title 2 Chapter 10.

- ~~1. At the commencement of any quasi-judicial hearing required by this Title, a statement shall be made to those in attendance that:

 - ~~a. Lists the applicable substantive criteria;~~
 - ~~b. States that testimony and evidence must be directed toward the criteria described in paragraph (a) of this subsection or other criteria in the plan or land use regulations which the person believes to apply to the decision; and~~
 - ~~c. States that failure to raise an issue with sufficient specificity to afford the decision-maker and the parties an opportunity to respond to the issue precludes further appeal based on that issue.~~~~
- ~~2. The record shall be closed upon conclusion of the evidentiary hearing unless there is a continuance. If a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open, at the discretion of the Planning Commission or Council, for at least 7 days after the hearing. Such an extension shall not be subject to the limitations of ORS 215.428 or 227.178.~~
- ~~3. When a quasi-judicial proceeding's record is reopened to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.~~
- ~~4. If additional documents or evidence is provided in support of the application, any party shall be entitled to a continuance of the hearing. Such a continuance shall not be subject to the limitation of ORS 215.428 or 227.178.~~
- ~~5. The failure of the property owner to receive notice as provided in this section shall not invalidate such proceedings if the Planning Director can demonstrate by affidavit that such notice was given. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.~~

E. Action by the Planning Commission:

- 1. At the public hearing, the Planning Commission shall receive all evidence deemed relevant to the issue. It shall then set forth in the record what it found to be the facts supported by reliable, probative and substantive evidence.
- 2. Conclusions drawn from the facts shall state whether the ordinance requirements were met, whether the Comprehensive Plan was complied with and whether the requirements of the State law were met.

3. In the case of a rezoning request, it shall additionally be shown that a public need exists; and that the need will be best served by changing the zoning of the parcel of land in question.
4. There is no duty upon the Planning Commission to elicit or require evidence. The burden to provide evidence to support the application is upon the applicant. If the Planning Commission determines there is not sufficient evidence supporting the major requirements, then the burden has not been met and approval shall be denied.

F. Notice of Decision by the Planning Commission: A notice of the action or decision of the Planning Commission, and right of appeal shall be given in writing to the applicant, ~~as well as a~~Any party who testified either in writing or verbally at the hearing must provide a mailing address in order to be noticed. The notice may be served personally, or sent by mail. The notice shall be deemed served at the time it is deposited in the United States mail.

G. Limitations on ~~the Renewal or~~ Refiling of Applications: Where an application has been denied, no new application for the same purpose shall be filed within six (6) months of the date the previous denial became final unless the Planning Commission can show good cause for granting permission to do so.

H. Consolidated Procedures: Whenever possible an application for development such as a Conditional Use, Variance, or other action requiring Planning Commission, Design Review or Sign Review Board approvals be consolidated to provide faster service to the applicant. (ORS 227.175(2)), (Amd. by Ord. No. 30, Series 1990)

10-1-1-6: ADMINISTRATIVE REVIEW

A. The Planning Director, or designated planning staff may make administrative decisions. The administrative procedure is used when there are clear and objective approval criteria and applying City standards require no use of discretion.

B. Administrative Decisions are based upon clear compliance with specific standards. Such decisions include, but are not limited to the following:

1. Vegetation clearing permits.
2. Change of use from a less intensive use to a greater intensive use, which does not increase the building's square footage and does not require more than five additional parking spaces.
3. Modification to an approved Design Review of less than 1,500 square feet or less than 25% of the building square footage, whichever is less.
4. Modification to an approved landscaping plan.

C. The Director may, ~~at her/his discretion,~~ refer a request for administrative review to the Planning Commission/Design Review Board for decision. If such a referral is made, the request shall be scheduled on the next available Planning Commission agenda, providing that time allows and subject to proper notice requirements.

D. Notice - Information:

1. Administrative Decisions: The City will post a notice on the subject property and provide Notice of Application to owners of property within 100 feet of the entire contiguous site for which the application is made, ~~to the Planning Commission, and shall provide notice in the local newspaper.~~ The list of property owners will be compiled from the most recent property tax assessment roll.

a. Notice shall also be provided to the airport as required by ORS 227.175 and FCC 10-21-2-4.

2. Property Owner Notice shall:

- a. Provide a 14 day period of submission of written comments prior to the decision;
- b. List applicable criteria for the decision;
- c. Set forth the street address or other easily understood geographical reference to the subject property;
- d. State the place, date and time that comments are due;
- e. State that copies of all evidence relied upon by the applicant are available for review at no cost, and that copies can be obtained at a reasonable cost;
- f. Include the name and phone number of local government representative to contact and the telephone number where additional information may be obtained.

E. Request for referral by the Planning Commission Chair: The Chair of the Planning Commission may, within the 14 days notice period, request that staff refer any application to the Planning Commission for review and decision.

F. Administrative decision requirements: The Director's decision shall address all of the relevant approval criteria. Based on the criteria and the facts contained within the record, the Director shall approve with or without conditions or deny the request, permit or action.

G. Notice of Decision: A notice of the action or decision and right of appeal shall be given in writing to the applicant, ~~as well as a~~ Any party who submitted written testimony must provide a mailing address in order to be noticed. The notice may be served personally, or sent by mail. The notice shall be deemed served at the time it is deposited in the United States mail.

H. Appeal process: As set forth in 10-1-1-~~76~~ or appealed by the Planning Commission.

I. Fee: A fee shall be established to cover at least direct costs of the application. (Ord. No. 15, 2002)

10-1-1-7: APPEALS: Under this Title, any quasi-judicial decision of the Planning Commission or Design Review Board may be appealed to the City Council in accordance with the following procedure:

A. A notice of intent to appeal must be filed by an affected party, which includes persons mailed notice of the hearing and persons testifying orally or in written form at the hearing held on the matter.

B. Such appeal shall be initiated within ~~fifteen~~twelve (12) calendar days of the date of the mailing of the decision after the Planning Commission or Design Review Board has rendered the decision appealed from by filing written notice of intent to appeal with the City of Florence Community Development Department Recorder. —The person filing the notice of intent to appeal shall also certify the date that a copy of the notice was delivered or mailed by first class mail postage prepaid to all other affected parties. If a person filing the notice of intent to appeal fails to so certify in writing, the City Recorder shall not accept for filing the notice of intent to appeal. Except when extended as provided in paragraph C of this subsection, all affected parties shall have ten days from the date the notice of intent to appeal was delivered or mailed in which to file a written petition which complies with paragraph D of this subsection. If an notice of intent to appeal is not filed within the fifteen days specifiedreceived by the city no later than 5:00 pm of the 12th day after the notice of decision is mailed, or if the person filing the notice of intent fails to file a written petition within the fifteen days specifiedthe decision of the Commission or Board shall be final.

- ~~B. A notice of intent to appeal must be filed by an affected party, which includes persons mailed notice of the hearing and persons testifying orally or in written form at the hearing held on the matter.~~
- C. ~~If the applicant has signed an "Agreement of Acceptance" and there is no other party who could appeal the decision, the appeal period is waived.~~
~~In the event the minutes (approved or unapproved) of the proceedings before the Planning Commission or Design Review Board are not available to the affected parties within five days of the filing of the notice of intent to appeal or the request for review, the fifteen day time limit in paragraph A of this subsection shall be extended to allow the affected parties to have ten days from the date the minutes become available to file the written petitions required by this paragraph. When the minutes (approved or unapproved) are available, the Planning Director shall notify the City Recorder in writing of their availability and any extension required by this paragraph.~~
- D. The written petition on appeal shall include:
1. A statement of the interest of the petitioner to determine ~~his~~ standing as an affected party.
 2. The date of the decision of the initial action.
 3. The specific errors, if any, made in the decision of the initial action and the grounds therefore.
 4. The action requested of the Council and the grounds therefore.
 5. A certification of the date that a copy of the written petition on appeal was delivered or mailed by first class mail postage prepaid to all affected parties.
- E. Unless otherwise provided by the City Council, the review of the initial action shall be confined to the record of the proceeding below, which shall include:
1. All materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and received or considered by the Planning Commission or Design Review Board as evidence.
 2. All materials submitted by the City staff with respect to the application.
 3. The minutes of the hearing.
 4. The Findings and action of the Planning Commission or Design Review Board
 5. The notice of intent to appeal or the requests for review and the written petitions on appeal.
 6. Argument by the parties or their legal representatives before the Council.
- F. The City Council may affirm, reverse or amend the decision of the Planning Commission or Design Review Board and may reasonably grant approval subject to conditions necessary to carry out the Comprehensive Plan and ordinances. The Council may also refer the matter back to the Planning Commission for additional information. When rendering its decision the Council shall make findings based on the record before it and any testimony or other evidence received by it.
- G. Whenever two members of the City Council submit to the ~~City Recorder Community Development Department~~ a written request for review within ~~fifteen~~twelve (12) days of the date of the mailing of the Planning Commission or Design Review Board decision, the Council shall review the decision of the Planning Commission or Design Review Board. Each request for review shall identify the issues that the affected parties are to address. The ~~City Recorder Community Development Department~~ shall deliver or mail by first class mail a copy of the requests for review to all affected

parties and to the other members of the Council. Such requests for review shall be considered an appeal, with all affected parties allowed an opportunity to submit written petitions on appeal within the time specified in paragraph A of this subsection. Each person filing a written petition on appeal shall be heard by the Council. The Council shall review the record to determine whether there is sufficient evidence to support the findings, whether the finds are sufficient to support the Planning Commission or Design Review Board decision, and where appropriate, whether the decision of the Commission or Board is a proper interpretation of the applicable ordinances.

- H. Any action or decision by the City Council arising from an appeal, except a referral back to the Planning Commission or Design Review Board, shall be final and conclusive.
- I. The Council, by resolution shall establish a schedule of filing fees for all appeals from final decisions of the Planning Commission or Design Review Board. Council shall use the following criteria in establishing such a fee schedule; that the fee charged bear some relation to the City's cost in processing the appeal; and that the fee or fees charged be consistent in amount with fees charged by similar municipalities or agencies. (Amd. by Ord. No. 30, Series 1990).

10-1-1-8: ENFORCEMENT:

- A. **Enforcement Responsibility:** It shall be the duty of the City Manager and/or Building Official to see that this Title is enforced through the proper legal channels. There shall be no permit issued for the construction or alteration of any building, or part thereof, unless the plans, specifications and intended use of such building conforms in all respects to the provisions of this Title.
- B. **Abatement:** Any use which is established, operated, erected, moved, altered, enlarged or maintained contrary to the zoning regulations shall be, and is hereby declared to be unlawful and a public nuisance and may be abated as such. (Ord. 625, 6-30-80).
- C. **Final Action on Permits:** Final action on permit applications and zone changes shall take place within 120 days of filing a complete application, except where the applicant requests a longer time, in compliance with ORS 227.178. (Amd. by Ord. No. 30, Series 1990).

10-1-2: USE DISTRICTS AND BOUNDARIES:

10-1-2-1: DISTRICTS ESTABLISHED: For the purpose of this Title, the City is hereby divided into the following zoning districts, as established within this Title 10.:

~~Restricted Residential District (RR)
Single-Family Residential District (RS)
Mobile Home Residential District (RMH)
Multiple-Family Residential District (RM)
Neighborhood Commercial District (CN)
Commercial District (C)
Highway District (H)
Waterfront District (WF)
Marine District (M)
Natural Estuary District (NE)
Limited Industrial District (LI)
Airport Development District (AD)
Airport Noise Corridor Overlay District (AN)
Airport Approach Safety Overlay District (AS)
Airport Obstruction Overlay District (AO)
Open Space District (OS)
Estuary & Shoreland Overlay Districts
(Amd. by Ord. No. 30, Series 1990).~~

10-1-2-2: CHANGE OF BOUNDARIES ON ZONING MAP: The basic purpose of this Title is to indicate the zoning districts into which the City is divided and to set forth the uses permitted in each zone. The zoning districts are shown on the Zoning Map which is an integral part of

this Title. The map shall be prepared from base maps which clearly indicate property lines as well as lot, block and street lines. Once adopted, one copy of the Zoning Map shall be filed with the City Recorder and never destroyed or altered in any way. Amendments to the map (zone boundary changes) shall be indicated on subsequent maps, dated and filed with the map originally adopted. Each map shall bear the signature of the Planning Commission chairman who shall testify to their authenticity. (Amd. by Ord. 30, 1990).

10-1-2-3: ZONING OF ANNEXED AREAS: The City Council may establish zoning and land use regulations that become effective on the date of annexation. This zoning ~~district designation~~ shall be consistent with the objectives of the Florence Comprehensive Plan and Zoning Code. When zoning is not established at the time of annexation, an interim zoning classification most nearly matching the existing County zoning classification shall be automatically applied until the City Council establishes zoning and land use regulations in accordance with the conditions and procedures of Chapter 1 of this Title. (Amd. by Ord. 30, Series 1990).

10-1-3: AMENDMENTS AND CHANGES:

A. Purpose: As the Comprehensive Plan for the City is periodically reviewed and revised, there will be a need for changes of the zoning district boundaries and the various regulations of this Title. Such changes or amendments shall be made in accordance with the procedures in this Section.

B. Quasi-Judicial Changes:

1. Initiation: A quasi-judicial zoning change and related Comprehensive Plan changes may be initiated by application of a property owner within the affected area, by a person having substantial ownership interest in the property, by resolution of the Planning Commission or motion of the City Council, and also by individual citizens or citizen groups during Plan update as provided in The Comprehensive Plan.
2. Application Fees: When proceedings are initiated by a property owner, filing fees shall be collected. The schedule of application fees shall be established by the City Council by resolution. The fee charged shall be no more than the average cost of providing service.
3. Notice and Public Hearing: Notice and public hearing for quasi-judicial changes to this Code and the Comprehensive Plan shall be in accordance with Code Section 10-1-1-5.
4. Planning Commission Review: The Planning Commission shall review the application for quasi-judicial changes and shall receive pertinent evidence and testimony as to why or how the proposed change is consistent or inconsistent with and promotes the objectives of the Florence Comprehensive Plan and Zoning Ordinance and is or is not contrary to the public interest. The applicant shall demonstrate that the requested change is consistent with the Comprehensive Plan and Zoning Ordinance and is not contrary to the public interest.

C. Legislative Changes:

1. Initiation: A legislative change in zoning district boundaries, in the text of this Title, ~~(Title 10)~~, Title 11, or in the Comprehensive Plan may be initiated by resolution of the Planning Commission or by a request of the Council to the Planning Commission that proposes changes be considered by the Commission and its recommendation returned to the Council, or by an application for an amendment by a citizen.
2. Notice and Public Hearing: Such notice and hearing as prescribed by state law and the Comprehensive Plan then in effect. (Amd. by Ord. 30, Series 1990).

Proposed Code Revisions for Consistency with Public Notices, Effective Dates, Expirations and Renewals and Housekeeping Amendments

FLORENCE CITY CODE (FCC) 10-4: CONDITIONAL USES

10-4-4: PUBLIC HEARING AND NOTICE: The Planning Commission shall hold at least one public hearing on each conditional use permit application. ~~The procedures for the public hearing and notice shall conform to the requirements as stated in Section 10-1-2-2 of this Title.~~

10-4-6: EFFECTIVE DATE: ~~No~~A conditional use permit shall become effective at the close of the appeal period. ~~until the fifteen-day appeals period, stipulated in Section 10-1-1-4 of this Title, has elapsed without an appeal being filed.~~

10-4-7: EXPIRATION OF CONDITIONAL USE PERMIT: Authorization of a conditional use permit shall be void one (1) year after the date of approval of a conditional use application, unless a building permit has been issued and substantial construction pursuant thereto has taken place. Substantial construction shall be considered to be completion of a building foundation. ~~When the activity permitted by a conditional use permit is commenced within six (6) months from the effective date and diligently advanced to completion, the permit shall become permanent for the duration of that activity. If no progress is made to commence the activity within six (6) months of the effective date, the conditional use permit shall expire.~~

The applicant may apply to the Planning Commission for a one-time extension of one (1) year maximum duration based on compliance with the following criteria:

- A. The request for an extension is made in writing prior to expiration of the original approval.
- B. There are special or unusual circumstances that exist which warrant an extension.
- C. No material changes of surrounding land uses or zoning has occurred.

The Planning Commission may deny the request for an extension of a conditional use if new land use regulations have been adopted that affect the applicant's proposal. However, within the allowed time period for commencement, the Planning Commission may, with a written request from the applicant and without further notice, extend the expiration date for periods of up to six (6) months, but not beyond the date which is eighteen (18) months from the original date that the conditional use permit became effective.

FCC 10-5: VARIANCES

10-5-5: PUBLIC HEARING: Upon receipt of a complete application ~~verified petition~~ for a variance, ~~the Planning Commission shall set a time and place for a public hearing will be scheduled~~ in accordance with the requirements of Section 10-1-~~12-52~~ of this Title.

10-5-6: EFFECTIVE DATE: ~~No~~A variance shall become effective at the close of the appeal period. ~~until the fifteen (15)-day appeals period, required in Section 10-1-1-4 of this Title, has elapsed.~~

10-5-7: EXPIRATION OF VARIANCE: Authorization of a variance shall be void one (1) year after the date of approval of a variance application, unless a building permit has been issued and substantial construction pursuant thereto has taken place. Substantial construction shall be considered to be completion of a building foundation. The applicant

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may apply to the Planning Commission for a one-time extension of one (1) year maximum duration based on compliance with the following criteria:

A. The request for an extension is made in writing prior to expiration of the original approval.

B. There are special or unusual circumstances that exist which warrant an extension.

C. No material changes of surrounding land uses or zoning has occurred.

~~The Planning Commission may deny the request for an extension of a variance if new land use regulations have been adopted that affect the applicant's proposal. When the development permitted by a variance is commenced within six (6) months from the effective date and diligently advanced to completion, it shall become a permanent variance so long as the practical difficulty and physical hardship continue to exist. If no progress is made on the development permitted by the variance within six (6) months of the effective date, the variance shall expire. However, within the allowed time period, the Planning Commission may, with a written request from the applicant and without further notice, extend the expiration date for periods of up to six (6) months, but not beyond the date which is eighteen (18) months from the original date the variance becomes effective.~~

FCC 10-6: DESIGN REVIEW

~~**10-6-8: ACTION OF DESIGN REVIEW BOARD:** Within thirty (30) days of the date the drawings are submitted, the Design Review Board shall approve, conditionally approve or disapprove the drawings, or shall request the applicant to revise the. (Ord. 625, 6-30-80)~~

~~**10-6-89: APPEALS:** See Code Section 10-1-1-74.~~

~~**10-6-940: LAPSE OF DESIGN REVIEW APPROVAL:** Authorization of a design review permit shall be void one (1) year after the date of approval of a design review application, unless a building permit has been issued and substantial construction pursuant thereto has taken place. Substantial construction shall be considered to be completion of a building foundation. The applicant may apply to the Planning Commission for a one-time extension of one (1) year maximum duration based on compliance with the following criteria:~~

~~A. The request for an extension is made in writing prior to expiration of the original approval.~~

~~B. There are special or unusual circumstances that exist which warrant an extension.~~

~~C. No material changes of surrounding land uses or zoning has occurred.~~

~~The Planning Commission may deny the request for an extension of a design review permit if new land use regulations have been adopted that affect the applicant's proposal. Design review approval shall lapse and shall be void one year following the date upon which the drawings were approved, unless prior to the expiration date of one year a building permit is issued and construction is commenced and diligently pursued toward completion.~~

FCC 10-10: RESTRICTED RESIDENTIAL

10-10-5: Site Development Provisions:

~~B. Fences: See Code Section 10-2-1-45 of this Title~~

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- C. Vision Clearance: Refer to Section 10-1-4 and 10-2-1~~56~~ of this Title for definition, and requirements.
- E. Signs: Signs shall be in accordance with Title 104, Chapter 264 of this Code, and amendments thereto. (Ord. 625, 6-30-80)

FCC 10-11: SINGLE FAMILY RESIDENTIAL

10-11-5: Site Development Provisions:

- B. Fences: See Code Section 10-2-1~~45~~.
- C. Vision Clearance: Refer to Section 10-1-4 and 10-2-1~~56~~ of this Title for definition, and requirements.
- E. Signs: Signs shall be in accordance with Title 104, Chapter 264 of this Title.

FCC 10-12: MOBILE HOME / MANUFACTURED HOME REGULATIONS

10-12-3-4: Development Plan Procedure:

- C. Appeal to the City Council: Any landowner or developer or any interested person may appeal a decision of the Planning Commission to the City Council in accordance with Section 10-1-1-7. ~~An appeal must be filed with the City Planning Director within thirty (30) days of mailing of the decision of the Planning Commission.~~

FCC 10-13: MULTI-FAMILY RESIDENTIAL DISTRICT

10-13-5: Site Development Provisions:

- C. Fences: See Chapter 10-2-1~~45~~ of this Title.
- D. Vision Clearance: Refer to Section 10-1-4 and 10-2-1~~56~~ of this Title for definition, and requirements.
- H. Signs: Signs shall be in accordance with Title 104, Chapter 264 of this Code, and amendments thereto.

FCC 10-14: NEIGHBORHOOD COMMERCIAL DISTRICT

10-14-5: Site Development Provisions:

- C. Signs: Shall be in accordance with Title 104, Chapter 263 of this Code, and amendments thereto.
- D. Appeal: Shall be in accordance with Section 10-1-1-~~74~~ of this Title.
- F. Vision Clearance: Refer to Section 10-1-4 and 10-2-1~~56~~ of this Title for definitions, and requirements.

Proposed Code Revisions for Consistency with Public Notices, Effective Dates, Expirations and Renewals and Housekeeping Amendments

FCC 10-15: COMMERCIAL DISTRICT

10-15-5: Site and Development Provisions:

- | D. Vision Clearance: Refer to Section 10-1-4 and 10-2-1~~56~~ of this Title for definitions, and requirements.
- | E. Signs shall be in accordance with Title ~~104~~, Chapter ~~264~~ of this Code, and amendments thereto.

FCC 10-16: HIGHWAY DISTRICT

10-16-7: Design Specifications

- | F. Signs: Shall be in accordance with Title ~~104~~, Chapter ~~263~~ of this Code, and amendments thereto.
- | G. Appeal: Shall be in accordance with Section 10-1-1-~~74~~ of this Title.
- | L. Vision Clearance: Refer to Section 10-1-4 and 10-2-1~~56~~ of this Title for definitions, and requirements.

FCC 10-18: MARINE DISTRICT

10-18-5: Property Development Standards

- | H. Visual Clearance: Refer to Section 10-1-~~43~~ and 10-2-1~~56~~ of this Title for definition and requirements.
- | I. Signs: Signs shall be in accordance with Title ~~104~~, Chapter ~~263~~ of this Code, and amendments thereto.

FCC 10-20: LIMITED INDUSTRIAL DISTRICT

10-20-5: Site and Development Provisions

- | D. Vision Clearance: Refer to Section 10-1-4 and 10-2-1~~56~~ of this Chapter for definition and requirements.
- | E. Signs: Signs shall be in accordance with Title ~~104~~, Chapter ~~263~~ of this Code, and amendments thereto. (Ord. 625,6-30-80).

FCC 10-27: MAINSTREET DISTRICT

10-27-5 Site and Development Provisions

- | E. Vision Clearance. Refer to Section 10-1-4 and 10-2-1~~56~~ of this Title for definitions and requirements.

**Proposed Code Revisions for Consistency with Public Notices,
Effective Dates, Expirations and Renewals and Housekeeping Amendments**

FCC 10-28: PACIFIC VIEW BUSINESS PARK

10-28-5 Site and Development Provisions

- A. Vision clearance: The requirements of Sections 10-1-4 and 10-2-1~~56~~ of this Title must be met by all uses and development.

FCC 10-30: NORTH COMMERCIAL DISTRICT

10-30-5 Development Standards

- J. Vision Clearance: The requirements of Section 10-1-4 and 10-2-1~~56~~ of this Title must be met.

FCC 10-32: INDUSTRIAL PARK DISTRICT

10-32-5 Site and Development Provisions

- F. Vision Clearance: The requirements of Section 10-1-4 and 10-2-1~~56~~ of this Title must be met.

EXHIBIT "D"
CITY OF FLORENCE
PROPOSED FINDINGS OF FACT

Public Hearing Date: December 8, 2008
File: PC 08 33 TA 02

Planner Name: Melissa Anderson

I. PROPOSAL DESCRIPTION

The requested action proposes to amend the Florence City Code:

1. Title 2 Chapter 10 relating to the procedures for quasi-judicial hearings;
2. Title 10 Chapter 1 relating to public notice requirements, application requirements and processing deadlines, effective dates and appeals;
3. Title 10 Chapter 4, 5 and 6 relating to expirations and renewals of permits; and
4. Title 10, various chapters for housekeeping amendments.

II. NOTICE AND REFERRALS

1. Notice:

The notice of a public hearing was published in the Siuslaw News on November 15, 19 and December 3 of 2008, as required by state law and the Florence City Code.

2. Referrals:

Notice of the proposed City Code Amendments were sent to Department of Land, Conservation and Development (DLCD) on October 21, 2008, not less than 45 days prior to the proposed first evidentiary hearing of December 8, 2008, as required by State law and the Florence City Code.

Referrals were also sent to Lane County and the DLCD representative for Florence on November 5, 2008.

III. APPLICABLE CRITERIA

1. Florence City Code (FCC) Title 10: Zoning Regulations

- Chapter 1: Zoning Administration, Section 1-3 Amendments and Changes, Section C Legislative Changes

2. Florence Realization 2020 Comprehensive Plan

- Plan Adoption, Amendments, Review and Implementation
- Chapter 1: Citizen Involvement
- Chapter 2: Land Use

3. Oregon Revised Statutes

- ORS 197.195: Limited land use decision; procedures.
- ORS 197.610: Local government notice of proposed amendment or new regulation; exceptions; report to commission.
- ORS 197.763: Conduct of local quasi-judicial land use hearings; notice requirements; hearing procedures.
- ORS 197.796: Applicant for certain land use decisions may accept and appeal condition imposed on application; procedure; attorney fees.
- ORS 227.175: Application for permit or zone change; fees; consolidated procedure; hearing; approval criteria; decision without hearing.
- ORS 227.178: Final action on certain applications required within 120 days; procedure; exceptions; refund of fees.
- ORS 227.186: Notice to Property Owners of Hearing on Certain Zone Change; Form of Notice; Exceptions; Reimbursement of Cost.

IV. FINDINGS

Florence City Code (FCC)

Title 10 Zoning Regulations, Chapter 1 Zoning Administration

FCC 10-1-3 Amendments and Changes, Section C Legislative Changes

- 1. Initiation: A legislative change in zoning district boundaries, in the text of this Title, Title 11 or in the Comprehensive Plan may be initiated by resolution of the Planning Commission or by a request of the Council to the Planning Commission that proposes changes be considered by the Commission and its recommendation returned to the Council.**
- 2. Notice and Public Hearing: Such notice and hearing as prescribed by state law and the Comprehensive Plan then in effect.**

Finding: The proposal is consistent with these criteria because:

- The proposed text amendments are a legislative change that affects all land use applications and quasi-judicial hearings;
- The proposal was initiated by Planning Commission Resolution; and
- Notice of the proposed change was provided in accordance with state law and the Comprehensive Plan.

Realization 2020, Florence Comprehensive Plan

Plan Adoption, Amendments, Review and Implementation

Adoption of the Plan represents a commitment by the City to attempt the achievement of what the Plan proposes and is considered by other governmental units, the courts and the public to be a statement of policy. City ordinances covering development and land use must be consistent with the intent of the Plan. Federal, State, County and Special District land use actions must also be consistent with the Plan. (pp. 2-3)

Finding: The proposed amendments to the Florence City Code relate to administrative processing and public hearing procedures. The applicable Plan policies for the proposed amendments relate to citizen involvement, and these policies are addressed in the section that immediately follows. These findings are incorporated herein.

Chapter 1: Citizen Involvement

Citizen Involvement Goal: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Policies

- 4. Official City meeting shall be well publicized and held at regular times. Agendas will provide the opportunity for citizen comment. (pg. I-1)**

Finding: The proposal for these legislative code amendments is consistent with this policy because the notice of the joint public hearing was published in the Siuslaw News on November 15, 19 and December 3. Additionally, the agenda and proposed amendments were posted on the City's web site prior to the hearing.

- 5. Records of all meetings where official action is taken shall be kept at City Hall and made available on request to the public. (pg. I-1)**

Finding: The proposal for these actions is consistent with this policy because minutes of all meetings are kept at City Hall, posted on the City web site and made available on request to the public.

- 6. Planning documents and background data shall be available to interested citizens. (pg. I-1)**

Finding: The proposal for the these actions is consistent with this policy because the staff report is made available to the public prior to the public hearing as well as posted on the City web site.

Chapter 2: Land Use

Policy

7. The city shall determine the estimated additional usage and the impacts of proposed development upon maximum capability for sewer, water and stormwater systems. This information is to be included in subdivision and design review staff reports.

Finding: The proposed amendments have included permit application requirements to ensure adequate information is provided by the applicant in order to evaluate infrastructure capacity, as well as existing conditions surrounding a development proposal. Specifically, FCC 10-1-1-4-B has been amended to require the following information in an application:

- Public facilities and access which may be needed to support the development, including but not limited to utilities and transportation infrastructure, and how they will be financed; and
- Off-site conditions including property lines, utility locations and sizes, existing and future streets, land uses, significant grade changes and natural features such as streams, wetlands and sand dunes for an area not less than 600 feet from the proposed application site that is one (1) acre or larger and within 100 feet from the proposed application site that is less than one (1) acre in size.

Oregon Revised Statutes (ORS)

The procedures for administrative decisions and quasi-judicial public hearings are set out in the Florence City Code, which has been acknowledged by DLCD and these local regulations effectively implement state law. The sections of State statute that relate to the proposed amendments to the City code are listed below (in bold) with findings to address consistency with these State laws (*sections relevant to the proposed amendments are underlined*).

ORS 197.195: Limited land use decision; procedures.

197.195(3)(b) For limited land use decisions, the local government shall provide written notice to owners of property within 100 feet of the entire contiguous site for which the application is made. The list shall be compiled from the most recent property tax assessment roll. For purposes of review, this requirement shall be deemed met when the local government can provide an affidavit or other certification that such notice was given. Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

Finding: The proposal is consistent with this statute because FCC 10-1-1-5-B-1 is proposed to be amended such that property owners within 100 feet of the entire contiguous site will continue to be notified. The requirement to publish a notice in the newspaper is proposed to be deleted because it is not required for lim-

ited land use decisions. Although the State law does not require a notice to be physically posted on a subject property, this change is proposed to be added to ensure the public is duly notified.

197.195(3)(c) The notice and procedures used by local government shall:

(H) Provide notice of the decision to the applicant and any person who submits comments under subparagraph (A) of this paragraph.

Finding: The proposal is consistent with this statute because FCC 10-1-1-5-F is proposed to be amended such that those who submit comment at a hearing are required to include their mailing address in order to receive notice of the land use decision.

ORS 197.610: Local Government Notice of Proposed Amendment or New Regulation; Exceptions; Report to Commission.

197.610(1) A proposal to amend a local government acknowledged comprehensive plan or land use regulation or to adopt a new land use regulation shall be forwarded to the Director of the Department of Land Conservation and Development at least 45 days before the first evidentiary hearing on adoption. The proposal forwarded shall contain the text and any supplemental information that the local government believes is necessary to inform the director as to the effect of the proposal. The notice shall include the date set for the first evidentiary hearing.

Finding: The proposal is consistent with this criterion because notice to DLCD was sent on October 21, 2008, at least 45 days prior to the December 8, 2008 (first) joint public hearing and the notice contained the information required in this statute.

ORS 197.763 Conduct of Local Quasi-Judicial Land Use Hearings; Notice Requirements; Hearing Procedures.

197.763(2)(a) Notice of the hearings governed by this section shall be provided to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located:

(A) Within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary;

197.763(3)(f) Be mailed at least:

(A) Twenty days before the evidentiary hearing; or

(B) If two or more evidentiary hearings are allowed, 10 days before the first evidentiary hearing;

Finding: The proposal is consistent with this statute because FCC 2-10-2 (Quasi Judicial Hearings Notice) is deleted to remove duplication and allow notification for quasi-judicial hearings to remain under FCC 10-1-1-5. Additionally, FCC 10-1-1-5-B (Notifica-

tion of Land Use Hearings) is proposed to be amended such that public hearing notices for zone changes, which require more than one public hearing are required to be mailed 10 days before the Planning Commission hearing and 10 days before the City Council hearing. Additionally, property owners within 100 feet of the entire contiguous site will continue to be notified, and property owners within 300 feet of a site for public hearings on conditional use permits, variances, planned unit developments and zone changes will continue to be notified.

197.763(6)(a) Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. The local hearings authority shall grant such request by continuing the public hearing pursuant to paragraph (b) of this subsection or leaving the record open for additional written evidence, arguments or testimony pursuant to paragraph (c) of this subsection.

197.763(6)(e) Unless waived by the applicant, the local government shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. This seven-day period shall not be subject to the limitations of ORS 215.427 or 227.178 and ORS 215.429 or 227.179.

Finding: The proposal is consistent with this statute because FCC 2-10-8-B (Quasi Judicial Hearings Rules of Procedure) is changed to allow any party to request that the record be held open; and FCC 2-10-8-F is changed to provide at least seven days for the applicant to rebut the evidence and testimony that was submitted during the open record period.

ORS 197.796: Applicant for certain land use decisions may accept and appeal condition imposed on application; procedure; attorney fees.

197.796(3)(b) In addition to the requirements of ORS 197.763(5), at the commencement of the initial public hearing, a statement shall be made to the applicant that the failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government or its designee to respond to the issue precludes an action for damages in circuit court.

Finding: The proposal is consistent with this statute because FCC 2-10-7-A-3 (Quasi Judicial Hearings Order of Procedure) is changed by adding the following provision, which reflects the State law: "*The presiding officer in the conduct of the hearing shall -- state that the failure of the applicant to raise a constitutional or other issue relating to the proposed conditions of approval with sufficient specificity to allow the local government or its designee to respond to the issue precludes an action for damages in circuit court.*"

ORS 227.175: Application for permit or zone change; fees; consolidated

procedure; hearing; approval criteria; decision without hearing.

227.175(6) Notice of a public hearing on a zone use application shall be provided to the owner of an airport, defined by the Oregon Department of Aviation as a “public use airport” if:

(a) The name and address of the airport owner has been provided by the Oregon Department of Aviation to the city planning authority; and

(b) The property subject to the zone use hearing is:

(A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon Department of Aviation to be a “visual airport”; or

(B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon Department of Aviation to be an “instrument airport.”

Finding: The proposal is consistent with this statute because FCC 10-1-1-5-B-1a is changed to require notification of a land use hearing be consistent with ORS 227.175, and FCC 10-1-1-6-D-1a is changed to require notification prior to an administrative decision. Additionally, Florence City Code Title 10 Chapter 21, Public Use Airport Zone has existing code requirements that address the notification requirements to owners of airports. Therefore, the proposed code amendments for quasi-judicial as well as limited land use decisions refer to both the State statute and the corresponding City code for these notification requirements. The proposed code states: *“Notice shall also be provided to the airport as required by ORS 227.175 and FCC 10-21-2-4.”*

227.175(8) If an application would change the zone of property that includes all or part of a mobile home or manufactured dwelling park as defined in ORS 446.003, the governing body shall give written notice by first class mail to each existing mailing address for tenants of the mobile home or manufactured dwelling park at least 20 days but not more than 40 days before the date of the first hearing on the application. The governing body may require an applicant for such a zone change to pay the costs of such notice.

Finding: The proposal is consistent with this statute because FCC 10-1-1-5-B-1c is changed to require notification of a land use hearing that proposes to change the zone of a property be consistent with ORS 227.175(8). The proposed code states: *“For an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.186 and ORS 227.175(8).”*

227.175(10)(C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall describe the nature of the decision. In addition, the notice shall state that any person who is adversely affected or aggrieved or who is entitled to written notice under paragraph (c) of this subsection may appeal the decision by filing a written appeal in the manner and within the time period provided in the city’s land use regulations. A city may not establish an appeal period that is less than 12 days from the date the written notice of decision required by this subsection was mailed.

Finding: The proposal is consistent with this statute because FCC 10-1-1-7-B is changed to require an appeal to be initiated within 12 days of the date of the mailing of the decision by filing written notice of appeal with the City of Florence Community Development Department. Additionally, FCC 10-1-1-7-C is amended to allow a waiver of the appeal period if the applicant has signed an "Agreement of Acceptance" and there is no other party who could appeal the decision. If there is no one that is "adversely affected or aggrieved," there would be no party, other than the applicant would have standing and could appeal the decision. Therefore, if the applicant signs an agreement of acceptance, no other party could appeal and the intent of the 12 day period has been met.

ORS 227.178: Final action on certain applications required within 120 days; procedure; exceptions; refund of fees.

227.178(2) If an application for a permit, limited land use decision or zone change is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information.

Finding: The proposal is consistent with this statute because FCC 10-1-1-4-B-1 is changed to require 1) the applicant be notified within 30 days of receipt of an application if the application is complete or if additional information is necessary to make the application complete, and 2) completeness review and final action on an application to be in accordance with ORS 227.178.

ORS 227.186: Notice to Property Owners of Hearing on Certain Zone Change; Form of Notice; Exceptions; Reimbursement of Cost.

227.186(4) At least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, a city shall cause a written individual notice of a land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

Finding: The proposal is consistent with this statute because FCC 10-1-1-5-B-1c is changed to require notification of a land use hearing that proposes to rezone property be consistent with ORS 227.186. The proposed code states: "*For an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.186 and ORS 227.175(8).*"

V. CONCLUSION

The amendments to the Florence City Code Title 2 Chapter 10 and Title 10 are consistent with the applicable criteria in the Florence Realization 2020 Comprehensive Plan, Florence City Code and Oregon Revised Statutes.

City of Florence
Community Development Department
250 Hwy 101
Florence, OR 97439



Attention: Plan Amendment Specialist
Dept. of Land Conservation & Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540