



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

01/23/2012

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

FROM: Plan Amendment Program Specialist

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

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: Friday, February 03, 2012

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

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

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

Cc: Peggy Gray, City of John Day
Angela Lazarean, DLCD Urban Planner
Grant Young, DLCD Regional Representative

<paa> YA



FORM **2**

DLCD

Notice of Adoption

In person electronic mailed

DATE
STAMP

DEPT OF

JAN 17 2012

**LAND CONSERVATION
AND DEVELOPMENT**

For Office Use Only

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

Jurisdiction: **City of John Day**

Local file number:

Date of Adoption: **1/10/2012**

Date Mailed: **1/12/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 11/23/2011

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

The City of JohnDay amended their Development Code November 2010; the city finds it necessary to do some housekeeping items addressing the number of animals that can be allowed within the city limits; provide standards and procedures for rebuilding single family dwellings in the Downtown/General Commercial Districts; waive the notification and meeting procedures in certain cases for Neighborhood Meetings requirements. Attached is adopted Ordinance No. 12-151-01.

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

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

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

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

DLCD File No. 001-11 (19070) [16901]

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: **Peggy Gray**

Phone: **(541) 575-0028** Extension: **222**

Address: **450 East Main Street**

Fax Number: **541-575-3668**

City: **John Day**

Zip: **97845-**

E-mail Address: **grayp@grantcounty-or.gov**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)

per ORS 197.615 and OAR Chapter 660, Division 18

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

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

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

ORDINANCE NUMBER 12-151-01

AN ORDINANCE IN THE MATTER OF ADOPTING TEXT AMENDMENTS TO
THE CITY OF JOHN DAY LAND USE AND DEVELOPMENT CODE
("DEVELOPMENT CODE").

WHEREAS, City of John Day updated and amended the John Day Development Code in November 2010 based on the public input solicited through a Citizen's Advisory Committee meeting on August 5, 2010 and a joint Planning Commission/City Council workshop on August 24, 2010;

WHEREAS, the John Day Planning Commission at their October 3, 2011 Planning Commission meeting was informed that the amended John Day Development Code did not reflect the number of animals that can be kept within the city limits of John Day, Oregon;

WHEREAS, the John Day Planning Commission stated it was not the Planning Commission's intention to eliminate the number of animals that can be kept within the city limits of John Day and recommended to the John Day City Council to amend the John Day Development Code as per the recommendation of the Citizens Advisory Committee which states the number of animals that can be allowed as per Table 5-2.2.020;

WHEREAS, it is necessary to provide for the housing needs of the citizens of John Day, Oregon; and the John Day City Council determines that a time limit should be placed on nonconforming development (Single Family Dwelling in Downtown and General Commercial District);

WHEREAS, the John Day City Council deems it necessary to allow the Planning Official to waive the notification and meeting procedures in certain cases for Neighborhood Meetings requirements where the applicant submits written consents from all owners of property within 100 feet of the site declining the meeting invitation. The applicant must make a good faith effort to meet with the neighbors;

WHEREAS, notice to the public was advertised at least 20 days in advance of the Planning Commission/City Council public hearing listed below;

WHEREAS, a joint Planning Commission/City Council public hearing was held on January 10, 2012 to solicit public testimony;

WHEREAS, the City Council deliberated and made a decision to amend the Development Code,

WHEREAS, the City Council found that the Development Code amendments conform to the John Day Comprehensive Plan and applicable State Planning Goals, and it is in the public interest to adopt them; and


WHEREAS, the State Department of Land Conservation and Development was duly notified of the proposed Development Code amendments no less than 45 days prior to the first hearing and did not object to the changes;

NOW THEREFORE, THE CITY OF JOHN DAY, OREGON, ORDAINS AS FOLLOWS:

Development Code Amendment:

1. The City of John Day Development Code (adopted November 9, 2010) Table 5-2.2.020 – Land Uses Allowed in Residential District (RL, RG, RC); Other Categories - Animals, keeping of per John Day Municipal is hereby repealed and the amended Table 5-2.2.020 – Land Uses Allowed in Residential District (RL, RG, RC); Other Categories – Agriculture – Animals is hereby adopted as attached Exhibit A;
2. The City of John Day Development Code (adopted November 9, 2010) Table 5-2.3.020 – Land Uses Allowed in Commercial Districts (D, GC); Residential Categories, Household living is hereby repealed and the amended Table 5-2.3.020 – Land Uses Allowed in Commercial Districts (D, GC); Residential Categories, Household living is hereby adopted as attached Exhibit B;
3. The City of John Day Development Code (adopted November 9, 2010) Chapter 5-4.1.080 Neighborhood Meetings is hereby repealed and the amended Chapter 5-4.1.080 is hereby adopted as attached Exhibit C.

This Ordinance was PASSED by the City Council by a vote of 7 for and 0 against and APPROVED by the Mayor on this 10th day of January 10, 2012.


Robert W. Quinton, Mayor

ATTEST:


Peggy Gray, City Manager



Phone (541) 575-0028
Fax (541) 575-3668

450 East Main Street
John Day, Oregon 97845

Staff Report

To: Members of the City Council and Planning Commission, City of John Day

From: Peggy Gray, City Manager

CC: Grant Young, DLCD

Date: December 28, 2011

Re: City of John Day Development Code Update – Joint Planning Commission City Council Hearing, January 10, 2012

Project Purpose and Background

The John Day Development Code was updated November 2010; after the updated code was adopted it was discovered that the recommended language regarding the Agriculture – Animals section was accidentally deleted. The John Day Planning Commission met on October 3, 2011 and it was their consensus that the City's ordinance should define the number of animals that can be kept within the city limits. The Planning Commission recommended that the City Council reinstate the Citizen's Advisory Committee's recommended language. See Exhibit A of Ordinance No. 12-151-01.

The second amendment responds to a question the City Planning Official received from an appraiser. The appraiser asked if there is a time limit for rebuilding a house destroyed by fire, where the subject property is zoned General Commercial or Downtown and is located adjacent to Main Street. In the November 2010 code update, the code was amended to allow a residential use existing in the Downtown and adjacent to Main Street, where the use lawfully existed as of November 24, 2005. A house may be rebuilt within the same building envelope in the event of involuntary damage or destruction due to fire or other event beyond owner's control, provided the dwelling lawfully existed in its current location and the rebuilt structure complies with current building and development code requirements. As the code was silent regarding a time limit on rebuilding, it is recommended that the code be amended with a time frame of three (3) years for rebuilding after the property being vacated. See Exhibit B of Ordinance No. 12-151-01.

The third and final amendment pertains to a Site Design Review application for a new Respite Care Facility; during the course of the land use application, the City Council deemed it necessary to allow the Planning Official to waive the notification and meeting procedures in certain cases

for Neighborhood Meetings requirements where the applicant submits written consents from all owners of property within 100 feet of the site declining the meeting invitation. The applicant must make a good faith effort to meet with the neighbors. Whereas the City must follow all the criteria within the John Day Development Code and the Council desires to waive the notification as stated above, the John Day Development Code must be amended. See Exhibit C of Ordinance No. 12-151-01.

Applicable Criteria for Adopting the Development Code Amendments

Adopting development code amendments is a local legislative matter that requires three overall findings by the City Council:

1. The proposal is consistent with Statewide Planning Goals and City of John Day Comprehensive Plan;
2. The Council must find that changes have occurred in the community warranting the amendments; and
3. The proposed ordinance is in the public interest.

As demonstrated on the following page, the proposed amendments are consistent with the State planning goals. We can also find that the community has changed in ways that necessitate code revisions. Many “urban homesteaders” are looking to their own backyards to provide as much food as possible for their own families. In doing so, households are making productive use of their private property to provide a safer, healthier alternative to the conventional food supply, as well as becoming more self-sufficient and more resilient to emergencies and food shortages. The proposed amendment to Agriculture-Animals is designed to enable community citizens to make use of their own property in a way that will enhance the quality and safety of their family food sources, reduce their environmental impact, and help create a more sustainable, food-secure community for all.

The proposed time limit on the rebuilding of residential structures adjacent to Main Street, where the property is zoned General Commercial or Downtown, will ensure that, should a fire occur, the property owner will rebuild in a timely manner. With the current movement by the Grant County Economic Council to improve John Day’s downtown and the City’s Transportation Enhancement Project for new street lights and sidewalks, I believe this amendment is in the public’s best interest.

The third and final proposed amendment to waive notification and meeting procedures in certain cases for Neighborhood Meetings requirements is to help streamline the Site Design Review process. The proposed amendment gives the Planning Official the flexibility to determine on a case-by-case basis if it is in the public’s best interest to waive this requirement. An example of this was in the Regional Acute Care Facility Site Design Review application, it appeared to the City Council requiring the applicant to hold a Neighborhood Meeting before the Planning Commission’s public hearing, in cases where the neighbors are in complete agreement with the application, could cause a delay in the scheduling of the Planning Commission’s public hearing. The Acute Care Facility project is projected to create new jobs within the community, and the

Council felt that the waiver option could be important for this application and for future land use applications as well.

Through the public hearing process with the Planning Commission and the City Council, the City will ensure that the new proposed amendments meets the City’s needs while complying with State requirements. Please refer to the proposed ordinance adopting amendments to the City of John Day Development Code (Ordinance No. 12-151-01).

<i>John Day Development Code – Consistency with Statewide Planning Goals</i>		
<i>State Goal</i>	<i>Relevant Codes</i>	<i>Findings of Consistency</i>
Goal 1 – Citizen Involvement	Chapter 5-4.1.080 Neighborhood Meetings	Public Notification and hearings procedures under City and state law provide reasonable opportunity for meaningful public participation, consistent with Goal 1.
Goal 2 – Land Use Planning	All proposed Amendments	No changes in permitted land use, density or public facility policy are being proposed that would necessitate amending city’s comprehensive plan. Goal 2 is met.
Goal 9 – Economy Goal 10 – Housing	Chapter 5-2.3.020 And Chapter 5-5.2	<p>Goal 9 requires the City plan for local employment by designating sufficient land area for commercial and industrial uses. The Downtown (D) and General Commercial (GC) districts are intended to meet the community’s needs for retail and commercial service uses. Housing is allowed in those zones but the code prioritizes ground floor space adjacent to Main Street for commercial uses.</p> <p>Goal 10 requires the City plan for meeting its housing needs through appropriate zoning densities, housing types, lot sizes, etc. The city has three residential zones: RL, RG and RC. The GC and D zones contain some housing; though, as describe above, the zones emphasize commercial uses. New residential uses may locate in upper stories of commercial buildings or on parcels setback from Main Street.</p> <p>The proposed amendment clarifying a 3-year timeline for rebuilding pre-existing dwellings in the GC and D zones, in the event of a fire or other involuntary damage, balances the economic development and housing needs of community. Both Goal 9 and Goal 10 are met.</p>

Exhibit A

Table 5-2.2.020 – Land Uses Allowed in Residential Districts (RL, RG, RC)

Uses	Status of Use in District			
	Residential Limited (RL)	Residential General (RG)	Residential Commercial (RC)	[Reserve]
Use Categories <i>(Examples of uses are in Chapter 5-1.3; definitions are in Chapter 5-6.1)</i>				
Animals, keeping of <u>Agriculture – Animals</u> - <u>Livestock, limited to 1 head of cattle, horse, sheep, or similar size animal per ½ acre undeveloped pasture. Swine: 1 per ½ acre</u> <u>Small Animals (e.g., chickens, chukar, rabbits), excluding roosters and swine; limited to 5 of each type of animal per ½ acre, or fraction thereof</u> - (Amended by Ord. . ., [date])	P	P	N	
Agriculture – Nurseries and similar horticulture (indoor or outdoor)	N	N	CU	
Mining	N	N	N	
Radio Frequency Transmission Facilities	CU	CU	CU	
Utility Corridors, Regional Regional utility corridors extending through the City and existing prior to November 24, 2005 are permitted. All other regional utility corridors require a conditional use permit.	CU	CU	CU	
Temporary Uses (limited to “P” and “CU” uses), per Section 5-4.9.010.	P/CU	P/CU	P/CU	
Transportation Facilities (operation, maintenance, preservation, and construction in accordance with the City’s Transportation System Plan)	P	P	P	

Key:

P = Permitted, subject to site/development review

S = Permitted with standards (Section 5-2.2.100)

CU = Conditional Use permit required (Chapter 5-4.4)

N = Not permitted

5-2.3.020 Commercial Districts – Allowed Land Uses

Table 5-2.3.020 identifies the land uses that are allowed in the Commercial Districts. The specific land use categories are described and uses are defined in Chapter 5-1.3 and 5-1.4.

Table 5-2.3.020 – Land Uses Allowed in Commercial Districts (D, GC)			
Uses	Status of Use in District		
Use Categories <i>(Examples of uses are in Chapter 5-1.4; definitions are in Chapter 5-6.1.)</i>	Downtown (D)	General Commercial (GC)	[Reserve]
Residential Categories			
Household Living			
<p>All Residential Uses and Structures (Household Living and Group Living) allowed, if:</p> <ul style="list-style-type: none"> - lawfully existing as of November 24, 2005* - a dwelling that does not occupy ground floor space fronting Main Street* <p><i>*In the event of involuntary damage or destruction due to fire or other event beyond the owner's control, a residential use lawfully existing in the Downtown as of November 24, 2005 may be rebuilt and reestablished pursuant with Section 5-5.2.020 through 5-5.2.030 within the same building envelope (setbacks and height) in the event of involuntary damage or destruction due to fire or other event beyond owner's control, provided the dwelling lawfully existed in its current location and the rebuilt structure complies with current building and development code requirements. (Amended by Ord. # . [date])</i></p> <p>Group Living Uses shall conform to the provisions in Section 5-2.2.100.</p>	P P	P P	
Commercial Categories			

Key:

- P = Permitted, subject to site/development review
- S = Permitted with standards (Section 5-2.2.100)
- CU = Conditional Use permit required (Chapter 5-4.4)
- N = Not permitted

Chapter 5-5.2 - Non-Conforming Uses and Developments

Sections:

5-5.2.010 Non-Conforming Uses and Developments - Purpose

5-5.2.020 Non-conforming Uses

5-5.2.030 Non-conforming Development

5-5.2.010 Non-Conforming Uses and Developments Purpose

This Chapter provides standards and procedures for non-conforming situations (i.e., existing uses or development that do not comply with the Code). The standards for non-conforming uses and development are intended to provide some relief from code requirements for uses and developments that were established prior to the effective date of this Code and do not comply with current standards.

5-5.2.020 Nonconforming Uses

Where at the time of adoption of this Code a use of land exists which would not be permitted by the regulations imposed by this Code and was lawful at the time it was established, the use may be continued as long as it remains otherwise lawful, provided:

- A. **Expansion Prohibited.** No such nonconforming use is enlarged, increased or extended to occupy a greater area of land or space than was occupied at the effective date of adoption or amendment of this Code. No additional structure, building or sign shall be constructed on the lot in connection with such nonconforming use of land;
- B. **Location.** No such nonconforming use shall be moved in whole or in part to any portion of the lot other than that occupied by such use at the effective date of adoption or amendment of this Code;
- C. **Discontinuation or Abandonment.** The nonconforming use of land is not discontinued for any reason for a period of more than twelve (12) months. For purposes of calculating the twelve (12) month period, a use is discontinued or abandoned upon the occurrence of the first of any of the following events:
 1. On the date when the use of land is physically vacated, except that a residential use lawfully existing in the Downtown and General Commercial zones as of November 24, 2005 that is vacated in the event of involuntary damage or destruction due to fire or other event beyond the owner's control may be reestablished pursuant with Section 5.2.030(B);
 2. On the date the use ceases to be actively involved in the sale of merchandise or the provision of services;

3. On the date of termination of any lease or contract under which the nonconforming use has occupied the land; or
4. On the date a request for final reading of water and power meters is made to the applicable utility districts.

(Amended by Ordinance # _____, [date])

D. Application of Code Criteria and Standards. If the use is discontinued or abandoned for any reason for a period of more than 12 months, any subsequent use of land shall conform to the applicable standards and criteria specified by this Code for the land use district in which such land is located.

5-5.2.030 Non-conforming Development

Where a development exists at the effective date of adoption or amendment of this Code that could not be built under the terms of this Code by reason of restrictions on lot area, lot coverage, height, yard, equipment, access, parking, landscaping, its location on the lot or other requirements concerning the development; and the development was lawful when constructed, the development may remain on the site so long as it remains otherwise lawful, subject to the following provisions:

- A. **Alterations.** No such nonconforming development may be enlarged or altered in a way that increases its nonconformity, but any development or portion thereof may be enlarged or altered in a way that satisfies the current requirements of this Code or will decrease its nonconformity;
- B. **Destruction.** Except as expressly allowed by Section 5-2.3.020 (Single Family Dwelling in Downtown District), should such nonconforming development or nonconforming portion of development be destroyed by any means to an extent more than fifty (50) percent of its current value as assessed by the Grant County Assessor, it shall be reconstructed only in conformity with this Code. A residential use lawfully existing in the Downtown and General Commercial zones as of November 24, 2005 may be rebuilt within the same building envelope (setbacks and height) in the event of involuntary damage or destruction due to fire or other event beyond owner's control, provided the new structure is completed within three (3) years of the property being vacated and it complies with current building and development code requirements;
- C. **Roadway Access.** The owner of a non-conforming access connection (i.e., street or highway access) may be required to bring the non-conforming access into conformance with this Code and other applicable standards as a condition of the City or other roadway authority approving a new access connection permit, or a change in land use.
- D. **Relocation or Removal.** Should such development be moved for any reason and by any distance, it shall thereafter conform to the regulations of this Code.

5-4.1.080 Neighborhood Meetings

- A. **Purpose and Applicability** Applicants for ~~master planned development, subdivision, or site design review on projects involving parcels or lots larger than one (1) acre~~ project proposals requiring a public hearing are required to contact neighboring property owners and offer to a hold meeting with them prior to submitting an land use application. This is to ensure that affected property owners are given an opportunity to preview a proposal and offer input to the applicant before a plan is formally submitted to the City, thereby raising any concerns about the project and the project's compatibility with surrounding uses early in the design process when changes can be made relatively inexpensively.
- B. **Notice.** ~~Notice~~ Except as waived by the City Planning Official, notice of the meeting must be given in writing and delivered in person or by certified mail, return receipt requested, to all of the property owners whose property is located within 100 feet of the site, at their addresses of record at the Grant County Assessor's office, at least 14 days before the meeting and at least 21 days before submitting the application to the City. The notice must state the time, place and purpose of the meeting, including a description of the proposed development. The Planning Official may waive the notification and meeting procedures where the applicant submits written consents from all owners of property within 100 feet of the site declining the meeting invitation. The applicant must make a good faith effort to meet with the neighbors.
- C. **Meeting place, date and time.** ~~The~~ Where a meeting with neighbors is required it must be held within the City limits at a location obtained or provided by the applicant with sufficient room for the expected attendance. ~~The meeting place must be accessible to~~ Reasonable accommodations must be made for persons with disabilities. ~~The meeting must be scheduled at a date and time reasonably calculated to allow maximum participation by interested property owners.~~
- D. **Conduct of meeting.** At the meeting, the applicant, or the applicant's agent, must present sufficient information about the proposed development to inform the property owners in attendance of the nature of the proposal and impacts it may have on neighboring properties, including transportation impacts. Persons attending must be allowed to ask questions and make comments. The applicant, or the applicant's agent, must make a sound, video or digital recording or keep written minutes of the meeting that give a true reflection of the matters discussed at the meeting and the views of the participants. The applicant must also make a list of names of persons attending the meeting.
- E. **Filing requirements.** Proof of having held the meeting, even if no affected property owners attend, is required and must be submitted to the City with a land use application for the application to be deemed complete. Copies of the following information must accompany the land use application: a copy of the notice mailed, certified mail return receipts and all addresses for which notice was mailed (e.g., copy

of mailing labels), a certificate of personal service as to those persons who were provided notice by personal service (including the date of service and the name of the person who provided service), a record or minutes of the meeting with a list of attendees, and copies of the meeting notice and all other written materials provided prior to or distributed at the meeting.

(Amended by Ord. . [date])

**CITY OF JOHN DAY
CITY COUNCIL MINUTES
JOHN DAY, OREGON**

January 10, 2012

Adjourned Meeting

COUNCILORS PRESENT:

COUNCILORS ABSENT:

Bob Quinton, Mayor
Steve Schuette, Council President
Gene Officer, Councilor
Don Caldwell, Councilor
Donn Willey, Councilor
Chris Labhart, Councilor
Doug Gochnour, Councilor

STAFF PRESENT:

Peggy Gray, City Manager
David Holland, Public Works Director

GUESTS PRESENT:

Anna Bass, Oster Professional Group, John Day
Amy Walker, Oster Professional Group, John Day
Paul Smith, John Day

Agenda Item No. 1 – Open and Note Attendance

The John Day City Council meeting opened at 7:00 p.m. Mayor Bob Quinton noted that all Councilors were present.

Agenda Item No. 2 – Approval of City Council Minutes of December 13, 2011

The minutes of the December 13, 2011 adjourned meeting were included in the agenda packets and presented for the Council's approval. Councilor Chris Labhart moved that the minutes of December 13, 2011 be approved as presented. Councilor Don Caldwell seconded the motion, the motion passed unanimously.

Agenda Item No. 3 - Appearance of Interested Citizens

Mayor Quinton thanked those in attendance and asked everyone to please sign in. He asked if there were any additional items that anyone would like to add to the agenda. There were none presented.

Agenda Item No. 4 – Joint Planning Commission/City Council Public Hearing on the Matter of Adopting Text Amendments to the City of John Day Land Use and Development Code (“Development Code”)

Mayor Quinton introduced Planning Commission Chair Ken Boethin; Chair Boethin opened the public hearing at 7:01 p.m. Members of the Planning Commission present were Commission Chair Ken Boethin; Commissioners Dean Nodine, Tim Unterwegner and Angie Johnson, constituting a quorum of the Planning Commission.

Commission Chair Boethin stated the matters before Commission are three text amendments to the John Day City Development Code:

1. The number of animals that can be allowed within the city limits of John Day
2. Time limit on nonconforming development (Single Family Dwelling in Downtown and General Commercial District)
3. Allow the Planning Official to waive the notification and meeting procedures in certain cases for Neighborhood Meetings requirements

Commission Chair Boethin stated all three of these matters have been discussed among the City Planning Commission. At this time Commission Chair Boethin asked if there was anyone present who wished to speak in regards to the amendments; none appeared. Commission Chair Boethin closed the public hearing at 7:04 p.m. Commission Chair Boethin stated “on behalf of the City Planning Commission, I would recommend to the John Day City Council that they make the changes that he previously indicated to the John Day Development Code.”

Mayor Quinton opened the public hearing of the John Day City Council at 7:05 p.m. Mayor Quinton stated the purpose of the public hearing is to discuss the John Day Planning Commission’s recommendation for three text amendments to the John Day City Development Code:

1. The number of animals that can be allowed within the city limits of John Day
2. Time limit on nonconforming development (Single Family Dwelling in Downtown and General Commercial District)
3. Allow the Planning Official to waive the notification and meeting procedures in certain cases for Neighborhood Meetings requirements

Mayor Quinton asked if there was anyone present who wished to comment in regards to these amendments; none appeared; Mayor Quinton asked if any Councilors had any comments. Mayor Quinton explained the code amendments as follows:

1. The animals section was left out in the code update, specifically the number of chickens that can be kept portion.
2. Mayor Quinton explained whenever a resident use is vacated in the event of involuntary damage or destruction due to fire or other event beyond the owner’s control in the Downtown and General Commercial Zones, an appraiser would ask the City if the structure could be rebuilt and, if so, was there a timeframe. The John Day Development code is silent on the timeframe; this text amendment proposes a three (3) year timeframe for rebuilding.

3. Neighborhood Meetings text amendment will allow the Planning Official to waive the notification and meeting procedures where the applicant submits written consents from all owners of property within 100 feet of the site declining the meeting invitation. Mayor Quinton thought this text amendment in certain cases is prudent.

Mayor Quinton stated all of the text amendments are included in Ordinance No. 12-151-01 and amended in the John Day Development Code.

Councilor Schuette made a motion to close the public hearing, Councilor Caldwell seconded the motion. The public hearing was closed at 7:06 p.m. The motion passed unanimously.

Councilor Schuette moved to read Ordinance No. 12-151-01 by title only; Councilor Caldwell seconded the motion, the motion passed unanimously.

Mayor Quinton read Ordinance No. 12-151-01, an Ordinance in the Matter of Adopting Text Amendments to the City of John Day Land Use and Development Code (“Development Code”) by title only.

Councilor Donn Willey moved to adopt Ordinance No. 12-151-01, Councilor Officer seconded the motion. The motion passed unanimously.

Agenda Item No. 5 - Safe Communities Coalition Supplemental Budget Hearing – 7:30 p.m.

Mayor Quinton stated this public hearing was advertised to open at 7:30 p.m. Mayor Quinton stated the council will move onto the Item No. 6 on the agenda and come back to Agenda Item No. 5 at 7:30 p.m. to open the public hearing on the supplemental budget.

Agenda Item No. 6 – Discuss for Appointment Paul Smith and Reappointment of Tom Wilson to the John Day Planning Commission

Mayor Quinton introduced Paul Smith who has applied for a Planning Commission seat vacated by Chris Maynard. Mayor Quinton stated Tom Wilson has agreed to serve another four-year term on the John Day Planning Commission and Dean Nodine has agreed to serve a three-year term.

Councilor Chris Labhart made a motion to appoint Paul Smith to the John Day Planning Commission with a term to expire January 2016; to reappoint Tom Wilson to the Planning Commission with a term to expire January 2016 and to reappoint Dean Nodine for a three-year term to expire 2015; Councilor Officer seconded the motion. The motion passed unanimously.

Agenda Item No. 7 – Discuss Vacancies on the John Day Budget Committee

Mayor Quinton stated we have two members of the Budget Committee whose terms expire on the first council meeting in January 2012. Maurice Kimball has moved to Florence, OR and is no longer eligible to be a member of the Budget Committee and Joyce Nodine has served since 1991 and said she felt it was time for someone else to serve. Mayor Quinton stated he appreciated Joyce’s commitment to the Budget Committee and asked that a letter be sent to Joyce thanking her for dedication and for her years of service on the Budget Committee.

Councilor Officer stated the City is losing two good members of the Budget Committee. It was the consensus of the Council to allow staff to advertise for the positions.

Agenda Item No. 8 – Discuss Appointment of Representative from Cities of Grant County to the Board of Greater Eastern Oregon Development Corporation (GEODC)

Mayor Quinton stated Canyon City Manager Tammy Bremner has been the cities representative to the Greater Eastern Oregon Development Corporation (GEODC) Board of Directors for a very long time. Tammy feels it is now time for someone else to step up and represent the cities of Grant County.

Mayor Quinton stated we're not sure what the appointment entails because we have never received a report from Tammy. City Manager Gray stated she spoke with the Executive Director of GEODC, Melissa Drugge. Melissa stated there are 30 board member positions and GEODC represents seven counties. The board meets quarterly; an annual meeting in February or early March and then quarterly usually in July and October. All but the annual meeting can be attended by phone. Melissa explained GEODC has two sides 1.) The business development side and 2.) the community development side. The meetings are two hours long and GEODC receives an annual planning grant that can help cities with planning projects such as the fire station. The individual appointed must be either an elected official or employees of that city.

Councilor Officer asked City Manager Gray if she was interested in being on the board. City Manager Gray stated she would put her name in if no one else wanted to; however, the representative has to be selected by all of the cities of Grant County. Mayor Quinton explained that GEODC is a "intermediary lender" and they will help if a lending institution, for an example, wants to do a loan for someone but doesn't feel comfortable doing the whole thing, then GEODC comes in behind as a gap funder. They also administer loan programs for other organizations; they have administered the SE Regional Alliance Revolving Loan Fund for years, Sondra Lino was very instrumental in that. GREAT is putting together a small revolving loan fund and GEODC is probably going to administrator that fund.

Mayor Quinton stated the time spent on the board each month would be minimal and felt it would be worth the City Manager's time to be on the board. Mayor Quinton stated if Peggy is appointed he would appreciate the minutes of the meeting being passed along to all the city councils. It was the consensus of the City Council to have City Manager Gray throw her name in the ring for the appointment of representative from Cities of Grant County to the board of GEODC.

Agenda Item No. 9 – Discuss and Appoint a Budget Officer

Mayor Quinton stated City Manager Gray was budget officer last year and stated the Budget Process Schedule is included in the Council packets. Councilor Doug Gochnour gave a gentle reminder that last year during the budget hearing process; we said we would share the comments and testimony of the budget hearing with the Budget Committee in order for them to read the public comments. City Manager Gray stated yes, the minutes of the Budget Public Hearing will be included in their budget packets. Manager Gray stated she would also like to put the minutes of the auditor's report in the budget packets in order for the Budget Committee to read the auditor's comments. Mayor Quinton suggested the minutes of both the public hearing and the auditor's report should be included for anyone who requests a copy of the budget.

Councilor Labhart stated last year we also talked about simplifying the budget so that a lay person could understand the budget easier. Anna Bass of Oster Professional stated the budget summary can be broke

down; to break down the budget itself would require more line items. Mayor Quinton thought it wouldn't need to be in the actual budget document; just in the summary page. Ms. Bass agreed and stated as long as we meet certain requirements in the summary page; we can break it down to as detailed as you want it to be; just be aware the more detail in the summary, the more space you take in the paper and the more expensive it is to advertise.

Mayor Quinton stated the budget process will be different this year and he wants the Budget Committee members to sit at the table with the City Council.

Councilor Labhart moved to appoint City Manager Peggy Gray as budget officer for fiscal year 2012-2013; Councilor Caldwell seconded the motion. The motion passed unanimously.

At this time Mayor Quinton stated we have five minutes before the 7:30 p.m. supplemental budget public hearing opens. As the next agenda item will take longer than five minutes; Mayor Quinton stated the Council will have a five minute recess and come back at 7:30 p.m. to open the supplemental budget public hearing.

Agenda Item No. 5 – Safe Communities Coalition Supplemental Budget Hearing

At 7:30 p.m. Mayor Quinton opened the public hearing for the Safe Communities Coalition Supplemental Budget Hearing. Mayor Quinton explained last August 2011, the City Council voted to act as the fiscal agent for Grant County Safe Communities Coalition for fiscal year 2012. As such, when the Council adopted the annual budget, the City did not know they would be taking over the administration duties of the Grant County Safe Communities Coalition and in order to be able to expend funds and provide the necessary administrative duties for the Safe Communities Coalition, the Council will need to adopt a supplemental budget as per Oregon Budget Law (ORS 294.480(1) (b).

Mayor Quinton stated for the record that this is not money that the City is giving to the Safe Communities Coalition; the City is only acting as their fiscal agent. Mayor Quinton wanted to clarify any misconceptions that the public has about this.

He asked if there was anyone in the audience that had any comments regarding the supplemental budget; none were presented. Mayor Quinton asked if any of the Councilors had any comments regarding this; there were none. Councilor Gochnour stated this was pretty perfunctory.

There being no further questions or comments, Councilor Schuette moved to close the public hearing; Councilor Gochnour seconded the motion. The motion passed unanimously the public hearing was closed at 7:32 p.m.

Councilor Schuette moved to adopted Resolution No. 12-677-01, a resolution to adopt supplemental budget for fiscal year 2011-2012; Councilor Caldwell seconded the motion. The motion passed unanimously.

Agenda Item No. 10 – Discuss Proposal from Oregon Telephone Corporation (OTC)

Mayor Quinton presented a red-lined proposal to the City Council that was included in their council packets. He asked City Manager Gray to inform the Council of her conversation with city attorney Jeremy Green. City Manager Gray stated Jeremy had the following comments related to the relined proposal:

1. Jeremy wanted to know what effective date the Council wanted to use. Councilor Schuette suggested to have the agreement effective upon date of signature; not to have it retro back to last year. Council agreed.
2. Jeremy concurred to adding the additional language from CenturyTel's agreement in Section 2.2 Relocation.
3. Section 4 Franchise Fees – City Manager Gray referred the Council to Ms. Kluser's December 28, 2011 letter proposing OTC will agree to a fee of the greater of one-thousand five-hundred dollars (\$1,500.00) or the seven percent (7%) of gross revenues derived from end users served on fiber placed in the City's Rights-of-Way. This would include fiber placed beginning August, 2010 and on into the future. However, on the red-lined version she sent, she accepted Jeremy's language. Jeremy is concerned that Ms. Kluser might be confused as she is saying end users in her Dec. 28th letter; but in the red-lined version she's accepting Jeremy's language that states gross revenue is any and all revenues that are generated from the rights-of-way. He thought we should clarify it now because in the future OTC could say that was not their intent and litigate. Jeremy felt the City would win with the language in the draft ordinance; however with litigation, comes more legal expenses. City Manager Gray explained a "Wholesale Customer" would not be an "end user" but they re-sell the communications services to third-parties within the city limits. If the "Wholesale Customer" clause is not included in the franchise agreement, it could cause problems in the future if OTC sells their service to a wholesale customer. It was the consensus of the Council to use the red-line version of the agreement and not pursue the "Wholesale Customer" language in the agreement. Councilor Schuette stated he was ok with the \$1,500 but would rather see the language of twenty-five cents per lineal foot. He was concerned that (let's say) next year they put in another 4,000' of cable with no users and then the next year they put in another 4,000' of cable with no users, the City doesn't get any more money; he thought it was something the Council should think about, the \$1,500 gives them a lot of leeway.
4. Section 6.1 Term of Franchise – Ms. Kluser would like to add the language "the City in good faith, will negotiate a new agreement upon the expiration of the initial term." Jeremy stated this language states the City will negotiate and renew the agreement, it binds the City. He felt it should be more precise with a termination date as written in the original draft. Mayor Quinton suggested it should say "both parties" and had concerns with one council binding a future council. Suggested maybe an asterisk that states that. Councilor Schuette stated the City has other 10-year franchise agreements and doesn't see that as a problem. After discussion it was the consensus of the City Council to suggest instead of the "City in good faith" it should say "Both parties in good faith; will negotiate a new agreement upon the expiration of the initial term."
5. Jeremy concurred with adding the "Force Majeure" clause back into the franchise agreement.

The Council accepted the red-lined version proposed by Ms. Kluser with revision to Section 6.1 and directed City Manager Gray to communicate the revision to Ms. Kluser and work towards a final agreement.

Agenda Item No. 11 – Discuss Setting a Date for a Council Goal Setting Work Session

Mayor Quinton stated it has been one year since the City Council's last goal setting work session. It was the consensus of the City Council to hold a goal setting work session before the January 24, 2012 city council meeting at 6 p.m. City Manager Gray will advertise the work session.

Agenda Item No. 10 – Other Business and Upcoming Meetings

1. The December 2011 Statement of Revenue and Expenditure Budget to Actual Reports were given to the City Council for their review and information.
2. LOC Bulletins from December 16th and 23rd were included in the council packets.
3. December 21, 2011 Newsletter from State Representative Cliff Bentz was included in the council packets.
4. Mayor Quinton announced the LOC Small Cities Region 8 meeting on Thursday, January 12, 2012 being held at John Day Council Chambers. All City Councilors were invited to attend.
5. Mayor Quinton read a letter from the John Day Farmer's Market thanking the City of John Day for their support.
6. The December 13, 2011 Advisory Committee for the new fire station were presented to the City Council.
7. Councilor Gene Officer announced that he is changing the name of his real estate business from Coldwell Banker to Country Preferred Realtors effective February 1, 2012.
8. Mayor Quinton stated Valley View Assisted Living is under new ownership and they will be putting in a new memory care wing.
9. Councilor Labhart announced the John Day Planning Commission approved the Site Design Review for the new Regional Acute Care Facility on January 5, 2012. The facility will create 20 – 25 jobs and contribute approximately 1.1 million annual payroll dollars back into the community.

Adjourn

There being no further business before the Council, Councilor Donn Willey made a motion to adjourn the meeting. Councilor Don Caldwell seconded the motion and the motion passed unanimously. The meeting was adjourned at 9:00 p.m.

Respectfully Submitted:

Peggy Gray
City Manager

ACCEPTED BY THE CITY COUNCIL, JANUARY 24, 2012

Mayor Bob Quinton

REGISTERED
DEC 17 2011
CITY OF SEASIDE, CA

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR GRANT COUNTY

} AFFIDAVIT OF PUBLICATION

STATE OF OREGON
County of GRANT } ss

I, Trista Cox being duly sworn, depose and say that I am the principal clerk of the publisher of the Blue Mountain Eagle, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at John Day in the aforesaid county and state; that the

City of John Day - Public Notice

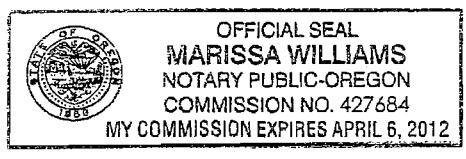
a printed copy of which is here to annexed; was published in the entire issue of said newspaper for 1 successive and consecutive issues in the following issues:

December 21, 2011

Subscribed and sworn to before me on this 21st day of December, 2011

Trista Cox
Marissa Williams

Notary Public of Oregon



PUBLIC NOTICE Dec 21, 11

PUBLIC NOTICE
John Day Development Code Update Joint Public
Hearing of the John Day City Council and Planning
Commission

The John Day City Council and Planning Commission will be holding a joint public hearing regarding the adoption of Ordinance No.12-151-01 an ordinance adopting text amendments to the City of John Day Land Use and Development Code on Tuesday, January 10, 2012 at 7 p.m., John Day City Council Chambers, 450 East Main Street, John Day, OR.

The purpose of the meeting is for the John Day Planning Commission to make a recommendation to the John Day City Council on the number of animals that can be kept within the city limits of John Day; determine that a time limit be placed on nonconforming development (Single Family Dwelling in Downtown and General Commercial District); and deem it necessary to allow the Planning Official to waive the notification and meeting procedures in certain cases for Neighborhood Meetings.

5-4.1.050 Type IV Procedure (Legislative)

- A. Pre-Application Conference.** A pre-application conference is required for all Type IV applications initiated by a party other than the City of John Day. The requirements and procedures for a pre-application conference are described in Section 5-4.1.060.C.
- B. Timing of Requests.** The City may establish a schedule for when it will accept legislative code amendment or plan amendment requests. The City Council may initiate its own legislative proposals at any time. Legislative requests are not subject to the 120-day review period under ORS 227.178.
- C. Application Requirements.**
1. Application forms. Type IV applications shall be made on forms provided by the City Planning Official.
 2. Submittal Information. The application shall contain:
 - a. The information requested on the application form;
 - b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
 - c. The required fee; and
 - d. One copy of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.
- D. Notice of Hearing.**
1. Required hearings. A minimum of two (2) hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications.
 2. Notification requirements. Notice of public hearings for the request shall be given by the City Planning Official in the following manner:
 - a. At least twenty (20) days, but not more than forty (40) days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance for any Land Use District Change, a notice shall be prepared in conformance with ORS 227.175 and mailed to:

- (1) Each owner whose property would be rezoned in order to implement the ordinance (including owners of property subject to a comprehensive plan amendment shall be notified if a zone change would be required to implement the proposed comprehensive plan amendment);
 - (2) Any affected governmental agency;
 - (3) Any person who requests notice in writing;
 - (4) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175;
 - (5) Owners of airports shall be notified of a proposed zone change in accordance with ORS 227.175.
- b. At least ten (10) days before the scheduled Planning Commission public hearing date, and fourteen (14) days before the City Council hearing date, public notice shall be published in a newspaper of general circulation in the City.
 - c. The City Planning Official shall:
 - (1) For each mailing of notice, file an affidavit of mailing in the record as provided by subsection a; and
 - (2) For each published notice, file in the record the affidavit of publication in a newspaper that is required in subsection b.
 - d. The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and development code amendments at least forty-five (45) days before the first public hearing at which public testimony or new evidence will be received. The notice to DLCD shall include a DLCD Certificate of Mailing.
 - e. Notifications for annexation shall follow the provisions of this Chapter.
3. Content of notices. The mailed and published notices shall include the following information:
- a. The number and title of the file containing the application, and the address and telephone number of the City Planning Official's office where additional information about the application can be obtained;
 - b. The proposed site location;

- c. A description of the proposed site and the proposal in enough detail for people to determine what change is proposed, and the place where all relevant materials and information may be obtained or reviewed;
 - d. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the Council and available at City Hall (See Section 5-4.1.050.E); and
 - e. Each mailed notice required by Section 5-4.1.050.D shall contain the following statement: "Notice to mortgagee, lien holder, vendor, or seller: The City of John Day Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."
4. Failure to receive notice. The failure of any person to receive notice shall not invalidate the action, providing:
- a. Personal notice is deemed given where the notice is deposited with the United States Postal Service;
 - b. Published notice is deemed given on the date it is published.

E. Hearing Process and Procedure.

1. Unless otherwise provided in the rules of procedure adopted by the City Council:
- a. The presiding officer of the Planning Commission and of the City Council shall have the authority to:
 - (1) Regulate the course, sequence, and decorum of the hearing;
 - (2) Direct procedural requirements or similar matters; and
 - (3) Impose reasonable time limits for oral presentations.
 - b. No person shall address the Commission or the Council without:
 - (1) Receiving recognition from the presiding officer; and
 - (2) Stating their full name and address.
 - c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.

2. Unless otherwise provided in the rules of procedures adopted by the Council, the presiding officer of the Commission and of the Council shall conduct the hearing as follows:

- a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the City Council or the final decision of the Council;
- b. The City Planning Official's report and other applicable staff reports shall be presented;
- c. The public shall be invited to testify;
- d. The public hearing may be continued to allow additional testimony or it may be closed; and
- e. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.

F. Continuation of the Public Hearing. The Planning Commission or the City Council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.

G. Decision-Making Criteria. The recommendation by the Planning Commission and the decision by the City Council shall be based on the following factors:

1. Approval of the request is consistent with the Statewide Planning Goals;
2. Approval of the request is consistent with the Comprehensive Plan; and
3. The property and affected area is presently provided with adequate public facilities and services, including transportation, sewer and water systems, to support the use, or such facilities and services are provided for in adopted City plans and can be provided concurrently with the development of the property.

H. Approval Process and Authority.

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

- b. Within fourteen (14) business days of determining a recommendation, the presiding officer shall sign the written recommendation, and it shall be filed with the City Planning Official.
2. Any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file a written statement of opposition with the City Planning Official before the Council public hearing on the proposal. The City Planning Official shall send a copy to each Council member and place a copy in the record;
3. If the Planning Commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal within sixty (60) days of its first public hearing on the proposed change, the City Planning Official shall:
 - a. Report the failure together with the proposed change to the City Council; and
 - b. Provide notice and put the matter on the City Council's agenda for the City Council to hold a public hearing make a decision. The Commission shall take no further action.
4. The City Council shall:
 - a. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application;
 - b. Consider the recommendation of the Planning Commission; however, the City Council is not bound by the Commission's recommendation; and
 - c. Act by ordinance, which shall be signed by the Mayor after the Council's adoption of the ordinance.

I. Vote Required for a Legislative Change.

1. A vote by a majority of the qualified voting members of the Planning Commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.
2. A vote by a majority of the qualified members of the City Council present is required to decide any motion made on the proposal.

- J. Notice of Decision.** Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five (5) business days after the City Council decision is filed with the City

Planning Official. The City shall also provide notice to all persons as required by other applicable laws.

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

L. Record of the Public Hearing.

1. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record verbatim, but the meeting minutes shall be filed in hardcopy form with the City Recorder. The minutes and other evidence presented as a part of the hearing shall be part of the record;
2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;
3. The official record shall include:
 - a. All materials considered by the hearings body;
 - b. All materials submitted by the City Planning Official to the hearings body regarding the application;
 - c. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;
 - d. The final ordinance;
 - e. All correspondence; and
 - f. A copy of the notices that were given as required by this Chapter.



DEPT OF

JAN 17 2012

LAND CONSERVATION
AND DEVELOPMENT



CITY OF JOHN DAY

*450 East Main Street
John Day, Oregon 97845*

**Attention: Plan Amendment Specialist
Depart. Of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540**