



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

06/24/2014

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Phoenix Plan Amendment
DLCD File Number 001-14

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, July 09, 2014

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 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: Steffen Roennfeldt, City of Phoenix
Gordon Howard, DLCD Urban Planning Specialist
Josh LeBombard, DLCD Regional Representative

<paa> YA

DLCD FORM 2



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE	001-14
File No.:	(20235)
Received:	[17910]
	6/18/2014

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption**. (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Phoenix

Local file no.: **LDC 14-01, 02, 03, 04, 05**

Date of adoption: June 2, 2014

Date sent: 6/17/2014

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 02/28/2014

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No
If yes, describe how the adoption differs from the proposal:

Local contact (name and title): Matt Brinkley, Director of Planning

Phone: 541-535-2050

E-mail: matt.brinkley@phoenixoregon.gov

Street address: 112 W. 2nd Street

City: Phoenix

Zip: 97535-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

None

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from	to	acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

Chapter 1. (Definitions); Chapter 2.2.3 (Residential-Building Setbacks); 2.3.10 (City Center-Special Districts); 2.4.3 (Commercial Highway--Development Standards); Chapter 3.2.2 (Vehicle Access and Circulation); Chapter 3.4.3 (Vehicle Parking Standards); Chapter 3.6.3 (Signs); Chapter 3.10 (Wireless Community Facilities); Chapter 4.9.1 (Temporary Uses);

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: City of Phoenix

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Staff reports and city council resolutions for all amendments;

**CITY OF PHOENIX
PHOENIX, OREGON**

ORDINANCE NO. 949

AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE, CHAPTER 1.3 (DEFINITIONS), CHAPTER 2.2.9 (RESIDENTIAL DISTRICTS, SPECIAL STANDARDS FOR CERTAIN USES) AND CHAPTER 4.9 (HOME OCCUPATION PERMITS)

WHEREAS, the Comprehensive Plan has an adopted policy to encourage Home Occupations (Economic Element, Goal 5); and

WHEREAS, the Land Development Code has an adopted procedure (Chapter 4.7) to amend the Land Development Code; and

WHEREAS, the City has provided notification to the Department of Land Conservation and Development as required by ORS 197 and the Phoenix Land Development Code; and

WHEREAS, the Planning Commission held a public hearing on April 14, 2014 and took any public testimony regarding the proposed changes; and

WHEREAS, the Planning Commission voted unanimously to recommend approval of the attached amendments to the City Council based upon the findings contained in the Staff Report number LDC 14-01; and

WHEREAS, the Public Hearing on June 2, 2014, was duly noticed and the public was given the opportunity to testify on the proposed changes.

WHEREAS, the Council, after considering the presentation by the Staff, the recommendations of the Planning Commission and the public testimony received at the hearing, elected to grant approval of the amendments.

NOW THEREFORE, The City Council of the City of Phoenix ORDAINS as follows:

Section 1. The Findings for this amendment are included in the attached Staff Report for LDC:14-01, Exhibit A.

Section 2: The Land Development Code chapters 1.3, 2.2.9 and 4.9 are amended as proposed in Exhibit B.

Section 3. Effective Date: This ordinance shall become effective 30 days after its date of adoption.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof
on this ____ day of _____, 20__.

_, Mayor

ATTEST:

_, City Manager/ Recorder



PO Box 330 • Phoenix, OR 97535

PLANNING DEPARTMENT

(541) 535-2050 • FAX (541) 535-5769

**TITLE: AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE
REGARDING HOME OCCUPATIONS AND AMENDING CHAPTER 2**

FILE NUMBER: LDC:14-01

APPLICANT: City of Phoenix

STAFF REPORT: Available May 19, 2014 at the City of Phoenix, 112 W 2nd Street (M-F, 8:00 am to 5:00 pm) or on the website (www.phoenixoregon.net). For more information, call City of Phoenix, Planning Office, (541)535-2050.

DATE OF PLANNING COMMISSION HEARING: April 14, 2014

DATE OF COUNCIL HEARING: June 2, 2014

I. PROJECT INFORMATION: In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to 1.) relocate the process and requirements for Home Occupations to the Residential Use chapter; and 2.) refine the requirements to encourage the creation of home occupations and protect the adjoining property owners.

It is clear in the Comprehensive Plans that the City should do it all it can to encourage Home Occupations development. The proposal moves the requirements and process for the creation of a Home Occupation to a location in the Code that is more intuitive. It also proposes a two tiered use that would allow the Council to reduce the costs for Home Occupations that will be “invisible” to the adjoining properties.

II. PROPOSED AMENDMENTS: The proposed amendments are:

Chapter 1.3 Definitions

Home occupation, home-occupation site: “home occupation” is a gainful occupation or profession conducted by persons residing on the premises and conducted entirely within the dwelling or its accessory buildings. The use must be incidental and secondary to the principal residential use of the dwelling unit and must not change the residential character of the dwelling unit. See Chapter ~~4.9.2~~ *–2.2.9.M.* Home Occupation ~~Permits.~~

Chapter 2.2 Residential Districts

(Note: Table 2.2.2 will be changed to reflect the change below)

2.2.9 – Special Standards for Certain Uses

M. Home Occupations. The purpose of this Section is to encourage those who are engaged in small commercial ventures that are appropriate in scale and impact to be operated within a residence. Home occupations are encouraged for their contribution in reducing the number of vehicle trips often generated by conventional businesses.

1. Use and development standards:

a. Appearance of Residence

i. The home occupation shall be restricted to lawfully built enclosed structures and be conducted in such a manner as not to give an outward appearance of a business.

ii. The home occupation shall not result in any structural alterations or additions to a structure that will change its primary use or building code occupancy classification.

iii. The home occupation shall not violate any conditions of development approval (i.e., prior development permit approval).

iv. No products and/or equipment produced or used by the home occupation may be displayed to be visible from outside any structure.

b. Storage

i. Outside storage, visible from the public right-of-way or adjacent properties, is prohibited.

ii. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond those normally incidental to residential use is prohibited.

iii. Storage of inventory or products and all other equipment, fixtures, and activities associated with the home occupation shall be allowed in any structure.

c. Employees

i. Other than family members residing within the dwelling located on the home occupation site, there shall be no more than one full time equivalent employee at the home occupation site at any given time. As used in this Chapter, the term "home occupation site" means the lot on which the home occupation is conducted.

ii. Additional individuals may be employed by or associated with the home occupation, as long as they do not report to work or pick up/deliver at the home.

iii. The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.

d. Advertising and Signs. Signs are not permitted at a home occupation site.

e. Vehicles, Parking, and Traffic

i. One commercially licensed vehicle associated with the home occupation is allowed at the home occupation site. It shall be of a size that would not overhang into the public right-of-way when parked in the driveway or other location on the home occupation site.

ii. There shall be no more than three commercial vehicle deliveries to or from the home occupation site daily. There shall be no commercial vehicle deliveries during the hours of 8 p.m. to 7 a.m.

iii. There shall be no more than eight vehicles visits per day at the home occupation site.

f. Business Hours. There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from 7 a.m. to 8 p.m. only, subject to Sections a and e, above.

g. Prohibited Home Occupation Uses

i. Any activity that produces radio or TV interference, noise, glare, vibration, smoke or odor beyond allowable levels as determined by local, state or federal standards, or that can be detected beyond the property line is prohibited.

ii. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from art instructors, computer software from computer consultants, and similar incidental items for sale by home business are allowed subject to items a-f, above.

iii. Any uses described in this Section or uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke, or vibration, such as:

a. Ambulance service;

b. Animal hospital, veterinary services, kennels, or animal boarding;

c. Auto and other vehicle repair, including auto painting or tow trucks;

d. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes, or large equipment on-site.

e. Mobile food vendors.

h. Low Impact Home Occupation. A Home Occupation which meets the following criteria is considered a Low Impact Home Occupation and will be subject to reduced fees.

i. All employees are members of the family.

ii. Business traffic will be limited to vehicle deliveries which will not exceed two per day.

iii. No noise is heard on a regular basis on the adjoining property. Examples of noise are power saws or sanders.

i. Enforcement. The Planning Director, or his designee, may visit and inspect the site of home occupations in accordance with this Code periodically to insure

compliance with all applicable regulations, during normal business hours, and with reasonable notice. The Planning Commission may revoke the Home Occupation Permit if the site is found to be in violation of this Code. Code violations shall be processed in accordance with Chapter 1.4 – Enforcement.

III. COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS: Amendments to the Phoenix Land Development Code must comply with Section 4.7.2 of the Phoenix Land Development Code, which states that legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to Section 4.7.2.B and 4.7.6, as applicable.

Section 4.7.2 – Demonstration of compliance with section 4.7.2.

FINDING: This proposed amendment was reviewed by the Planning Commission at a noticed public hearing on April 14, 2014. Their recommendation will be presented to the Phoenix City Council at a noticed public hearing. The hearing by the Planning Commission was noticed by posting the information on the City of Phoenix website beginning March 25, 2014. The hearing by the Council was noticed by posting information beginning May 14, 2014.

FINDING: The Department of Land Conservation and Development was notified with an application mailed February 24, 2014 and a Staff report email sent on March 25, 2014.

FINDING: A copy of all notifications is available at the City Planning Office.

Section 4.7.3.B .1 – Demonstration of compliance with all applicable Comprehensive Plan policies and map designations. Where this criterion cannot be met, a Comprehensive Plan amendment shall be a prerequisite to approval.

FINDING: The changes proposed are in compliance with Comprehensive Plan polices. Specifically, Economic Element, Goal 5, Policy 5.1: “Require businesses licenses for home occupations but waive the associated fee.” The proposed change creates a Low Impact Home Occupation which may have a reduced or no fee annual licenses.

FINDING: The changes proposed are in compliance with Comprehensive Plan polices. Specifically, Economic Element, Goal 5, “To encourage the development of new local business and start ups. Double the incidence of people working at home from 5.7 percent in 1990 to 11.4 percent by 2015.” This relocation of the conditions should make the permitting process easier to find for the planner and the applicant and, therefore, easier to accomplish.

Section 4.7.3.B.2 – Demonstration of compliance with all applicable standards and criteria of this code and other applicable implementing ordinances.

FINDING: The proposed changes do not conflict with other standards or criteria of the Land Development Code.

Section 4.7.3.B.3 – Evidence of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or Land Use Map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 – Transportation Planning Rule compliance, applicable.

FINDING: The proposed change is not based on a mistake in the Comprehensive Plan or the Land Use Map. The proposed change does not impact transportation needs in the City.

Section 4.7.6 – Transportation Planning Rule, Subsection B, requires that amendments to land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.

FINDING: The relocation of the requirements for Home Occupations and the additional requirements do not significantly impact the City transportation facility.

FINDING: The proposed amendments comply with Sections 4.7.3 and 4.7.6 of the Phoenix Development Code.

IV. RECOMMENDATION: The Planning Commission recommends the approval of the amendments to the sections of the Phoenix Development Code and Phoenix Municipal Code regarding Home Occupations.

Exhibit B LDC 14-01

CHAPTER 4.9.2 OF THE CITY OF PHOENIX LAND DEVELOPMENT CODE (PLCD) “HOME OCCUPATION PERMITS” IS HERBY REPEALED IN ITS ENTIRETY. CHAPTERS 1 AND 2 OF THE CITY OF PHOENIX LAND DEVELOPMENT CODE (PLCD), AS AMENDED BY ORDINANCE 949 ON JUNE 16, 2014, SHALL READ AS FOLLOWS:

Chapter 1.3 Definitions

Home occupation, home-occupation site: “home occupation” is a gainful occupation or profession conducted by persons residing on the premises and conducted entirely within the dwelling or its accessory buildings. The use must be incidental and secondary to the principal residential use of the dwelling unit and must not change the residential character of the dwelling unit. See Chapter 2.2.9.M. Home Occupation Permits.

Chapter 2.2 Residential Districts

2.2.9 – Special Standards for Certain Uses

M. Home Occupations. The purpose of this Section is to encourage those who are engaged in small commercial ventures that are appropriate in scale and impact to be operated within a residence. Home occupations are encouraged for their contribution in reducing the number of vehicle trips often generated by conventional businesses.

1. Use and development standards:

a. Appearance of Residence

i. The home occupation shall be restricted to lawfully built enclosed structures and be conducted in such a manner as not to give an outward appearance of a business.

ii. The home occupation shall not result in any structural alterations or additions to a structure that will change its primary use or building code occupancy classification.

iii. The home occupation shall not violate any conditions of development approval (i.e., prior development permit approval).

iv. No products and/or equipment produced or used by the home occupation may be displayed to be visible from outside any structure.

b. Storage

i. Outside storage, visible from the public right-of-way or adjacent properties, is prohibited.

ii. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond those normally incidental to residential use is prohibited.

iii. Storage of inventory or products and all other equipment, fixtures, and activities associated with the home occupation shall be allowed in any structure.

c. Employees

- i. Other than family members residing within the dwelling located on the home occupation site, there shall be no more than one full time equivalent employee at the home occupation site at any given time. As used in this Chapter, the term “home occupation site” means the lot on which the home occupation is conducted.
 - ii. Additional individuals may be employed by or associated with the home occupation, as long as they do not report to work or pick up/deliver at the home.
 - iii. The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.
 - d. Advertising and Signs. Signs are not permitted at a home occupation site.
 - e. Vehicles, Parking, and Traffic
 - i. One commercially licensed vehicle associated with the home occupation is allowed at the home occupation site. It shall be of a size that would not overhang into the public right-of-way when parked in the driveway or other location on the home occupation site.
 - ii. There shall be no more than three commercial vehicle deliveries to or from the home occupation site daily. There shall be no commercial vehicle deliveries during the hours of 8 p.m. to 7 a.m.
 - iii. There shall be no more than eight vehicles per day at the home occupation site.
 - f. Business Hours. There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from 7 a.m. to 8 p.m. only, subject to Sections a and e, above.
 - g. Prohibited Home Occupation Uses
 - i. Any activity that produces radio or TV interference, noise, glare, vibration, smoke or odor beyond allowable levels as determined by local, state or federal standards, or that can be detected beyond the property line is prohibited.
 - ii. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from art instructors, computer software from computer consultants, and similar incidental items for sale by home business are allowed subject to items a-f, above.
 - iii. Any uses described in this Section or uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke, or vibration, such as:
 - a. Ambulance service;
 - b. Animal hospital, veterinary services, kennels, or animal boarding;
 - c. Auto and other vehicle repair, including auto painting or tow trucks;
 - d. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes, or large equipment on-site.
 - e. Mobile food vendors.

h. Low Impact Home Occupation. A Home Occupation, which meets the following criteria, is considered a Low Impact Home Occupation and will be subject to reduced fees.

ii. All employees are members of the family.

iii. Business traffic will be limited to vehicle deliveries which will not exceed one per day.

iv. No noise is heard on a regular basis on the adjoining property. Examples of noise are power saws or sanders.

i. Enforcement. The Planning Director may visit and inspect the site of home occupations in accordance with this Code periodically to insure compliance with all applicable regulations, during normal business hours, and with reasonable notice. The Planning Commission may revoke the Home Occupation Permit if the site is found to be in violation of this Code. Code violations shall be processed in accordance with Chapter 1.4 – Enforcement.

**CITY OF PHOENIX
PHOENIX, OREGON**

ORDINANCE NO. 951

AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE, CHAPTER 2.3.10 (CITY CENTER - SPECIAL STANDARDS), CHAPTER 2.4.5 (COMMERCIAL HIGHWAY - SPECIAL STANDARDS), AND 3.10.1 (WIRELESS COMMUNICATION FACILITIES)

WHEREAS, the Comprehensive Plan has an adopted policy to “advocate the delivery of sophisticated digital communication service to every household, business, school and government building within the City” (Economic Element, Goal 6); and

WHEREAS, the Land Development Code has an adopted procedure (Chapter 4.7) to amend the Land Development Code; and

WHEREAS, the City has provided notification to the Department of Land Conservation and Development as required by ORS 197 and the Phoenix Land Development Code; and

WHEREAS, the Planning Commission has held a public hearing on April 14, 2014 and took any public testimony regarding the proposed changes; and

WHEREAS, the Planning Commission voted unanimously to recommend approval of the attached amendments to the City Council based upon the findings contained in the Staff Report number LDC 14-02; and

WHEREAS, the Public Hearing on June 2, 2014, was duly noticed and the public was given the opportunity to testify on the proposed changes.

WHEREAS, the Council, after considering the presentation by the Staff, the recommendations of the Planning Commission and the public testimony received at the hearing, elected to grant approval of the amendments.

NOW THEREFORE, The City Council of the City of Phoenix ORDAINS as follows:

Section 1. The Findings for this amendment are included in the attached Staff Report for LDC:14-02, Exhibit A.

Section 2: The Land Development Code chapters 2.3.10, 2.4.5, and 3.10.1 are amended as proposed in Exhibit B.

Section 3. Effective Date: This ordinance shall become effective 30 days after its date of adoption.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof
on this ____ day of _____, 20__.

_, Mayor

ATTEST:

_, City Manager/ Recorder



PO Box 330 • Phoenix, OR 97535

PLANNING DEPARTMENT

(541) 535-2050 • FAX (541) 535-5769

**TITLE: AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE
REGARDING WIRELESS COMMUNICATION FACILITIES AND
AMENDING CHAPTERS 2 AND 3**

FILE NUMBER: LDC: 14-02

APPLICANT: City of Phoenix

STAFF REPORT: Available May 19, 2014 at the City of Phoenix, 112 W 2nd Street (M-F, 8:00 am to 5:00 pm) or on the website (www.phoenixoregon.net). For more information, call City of Phoenix, Planning Office, (541)535-2050.

DATE OF PLANNING COMMISSION HEARING: April 14, 2014

DATE OF COUNCIL HEARING: June 2, 2014

I. PROJECT INFORMATION: In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to 1.) amend list of zones which allow the installation of wireless communication facilities and; 2.) clarify need to justify the need for freestanding facilities.

The Code was not clear about the locations for wireless communication facilities. The proposed amendments will clearly state that in residential and City Center districts, only attached equipment is allowed. This will protect the aesthetics of these two districts. The Commercial Highway and Industrials areas will include both Attached and Freestanding facilities. The freestanding facilities will be required to be stealth, to reduce the visual impact of the facilities or to be co-located with existing facilities.

II. PROPOSED AMENDMENTS: The proposed amendments are:

Chapter 2.3 - City Center District

Chapter 2.3.10 - Special Standards

G. Wireless communication equipment includes ration (i.e. cellular), television and similar types of transmission and receiving facilities. The requirements for wireless communication equipment are provided in Chapter 3.10.1 – Wireless Communication Facilities and Conditional Use Permit requirements. Wireless communication equipment shall also comply with required development setbacks, lot coverage and other applicable standards of the Commercial Highway District.

Chapter 2 - 4 Commercial Highway Zone

Chapter 2.4.5 - Special Standards for Certain Uses.

J. Wireless communication equipment includes ration (i.e. cellular), television and similar types of transmission and receiving facilities. The requirements for wireless communication equipment are provided in Chapter 3.10.1 – Wireless Communication Facilities and Conditional Use Permit requirements. Wireless communication equipment shall also comply with required development setbacks, lot coverage and other applicable standards of the Commercial Highway District.

Note: Tables 2.2.2, 2.3.2, and 2.4.2 will be changed to reflect the above changes.

Chapter 3.10 - Other Design Standards

Chapter 3.10.1 - Wireless Community Facilities

A. Purpose, Intent, and Available Locations. The purpose of this Section is to establish standards that regulate the placement, appearance, and impact of wireless communication facilities, while providing residents with the ability to access and adequately utilize the services that these facilities support. Because of the physical characteristics of wireless communication facilities, the impact imposed by these facilities affect not only the neighboring residents, but also the community as a whole. The standards are intended to ensure that the visual and aesthetic impacts of wireless communication facilities are mitigated to the greatest extent possible, especially near residential areas.

Residential Districts. Wireless Communication Facilities shall be permitted only as a conditional use and only in the R-3 district and only ~~in the residential districts~~ when co-located on existing structures, such as multi-story buildings or church steeples. Freestanding towers and monopoles shall be prohibited in ~~these~~ *this* district. *All Wireless Communication Facilities are prohibited in R-1 and R-2 districts.*

City Center District. Wireless Communication Facilities shall be permitted only as a conditional use in City Center District and only when located on existing structures, such as multi-story buildings or church steeples. Freestanding towers and monopoles shall be prohibited in this district.

Commercial Highway. Attached and freestanding Wireless Communication Facilities shall be permitted only as a conditional use in Commercial Highway District.

Industrial Districts. Attached and freestanding Wireless Communication Facilities shall be permitted only as a conditional use in Industrial Districts.

The requirements of this Chapter shall not apply to amateur radio facilities owned and operated by a federally licensed amateur radio operator or used exclusively as non-

commercial, receive only antennas. However, such facilities may not co-locate a Wireless Communication Facility.

B. In addition to the submittal for a *Type II or* Type III Site Design Review in Chapter 4.2

Chapter 3.10.C. - Design Standards

2. Preferred Designs

a. Where possible, co-location of new facilities on existing facilities shall be required. The applicant must submit a study showing that co-location is not feasible before using option “b”, below.

b. If “a” above is not feasible, Wireless Communication Facilities shall be attached to pre-existing structures when feasible. *The applicant must submit a study showing that attaching to a pre-existing structure is not feasible before using option “c” below.*

c. If “a” or “b” above are not feasible, alternative structures shall be used with design features that conceal, camouflage or mitigate the visual impacts created by the proposed Wireless Community Facility.

~~d. If “a”, “b”, “c” listed above are not feasible, a monopole design shall be used with the attached antennas positions in a vertical manner to lessen the visual impact compared to the antennas in a platform design. Platform design shall be used only if it is shown that the use of an alternate attached antenna design is not feasible.~~

~~e-d.~~ Lattice towers are prohibited as freestanding wireless communication support structures.

III. COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS: Amendments to the Phoenix Land Development Code must comply with Section 4.7.2 of the Phoenix Land Development Code, which states that legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to Section 4.7.2.B and 4.7.6, as applicable.

Section 4.7.2 – Demonstration of compliance with Section 4.7.2.

FINDING: This proposed amendment was reviewed by the Planning Commission at a noticed public hearing on April 14, 2014. Their recommendation will be presented to the Phoenix City Council at a noticed public hearing. The hearing by the Planning Commission was noticed by posting the information on the City of Phoenix website beginning March 25, 2014. The hearing by the Council was noticed by posting the information beginning May 14, 2014.

FINDING: The Department of Land Conservation and Development was notified with an application mailed February 24, 2014 and a Staff report email sent on March 25, 2014.

FINDING: A copy of all notifications is available at the City Planning Office.

Footnote: Italics indicate new language; strikeouts indicate deleted language

Section 4.7.3.B.1 – Demonstration of compliance with all applicable Comprehensive Plan policies and Map Designations. Where this criterion cannot be met, a Comprehensive Plan amendment shall be a prerequisite to approval.

FINDING: The proposed changes clarify the review processes and requirements for Wireless Communication Facilities and are in compliance with Comprehensive Plan policies. Specifically, Goal 3 of the Housing Element, “Promote the efficient use and aesthetic design of urban residential uses.” Wireless towers, attached or unattached, are not aesthetic. They should be located in more dense areas or commercial/industrial areas.

FINDING: The changes proposed are in compliance with Comprehensive Plan policies. Specially, Housing Element, Goal 3, Policy 3.2 “Residential site design standards should be developed for consideration by the City Council.” This recognition that there is no design standard that will create a wireless facility to fit in a residential neighborhood.

FINDING: The changes are in compliance with Economic Element, Goal 6, “Advocate the delivery of sophisticated digital communication service to every household, business, school and government building within the City.” This proposal does not limit access to these facilities. It works hand in hand with the goal by making the towers much more attractive and, therefore, making their installation a more position project for the community.

Section 4.7.3.B.2 – Demonstration of compliance with all applicable standards and criteria of this Code and other applicable implementing ordinances.

FINDING: The proposed changes do not impact other applicable standards.

Section 4.7.3.B.3 – Evidence of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or Land Use Map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 – Transportation Planning Rule Compliance, applicable.

FINDING: The proposed change is not based on a mistake in the Comprehensive Plan or the Land use Map. The proposed change does not impact Transportation needs in the City.

Section 4.7.6 – Transportation Planning Rule, Subsection B, requires that amendments to land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.

FINDING: The changes to the processes and requirements will have no impact to the City transportation facility.

FINDING: The proposed amendments comply with Sections 4.7.3 and 4.7.6 of the Phoenix Development Code.

IV. RECOMMENDATION: Planning Commission recommends the Council amend the sections of the Phoenix Land Development Code regarding Wireless Communication Facilities..

EXHIBIT B
CHAPTERS 2 AND 3 OF THE CITY OF PHOENIX LAND DEVELOPMENT CODE
(PLCD), AS AMENDED BY ORDINANCE 951 ON JUNE 16, 2014, SHALL READ AS
FOLLOWS:

Chapter 2.3 - City Center District

Chapter 2.3.10 - Special Standards

- G. Wireless communication equipment includes transmission (i.e. cellular), television and similar types of transmission and receiving facilities. The requirements for wireless communication equipment are provided in Chapter 3.10.1 – Wireless Communication Facilities and Conditional Use Permit requirements. Wireless communication equipment shall also comply with required development setbacks, lot coverage and other applicable standards of the Commercial Highway District.

Chapter 2.4 - Commercial Highway (C-H)

Chapter 2.4.5 - Special Standards for Certain Uses.

- J. Wireless communication equipment includes transmission (i.e. cellular), television and similar types of transmission and receiving facilities. The requirements for wireless communication equipment are provided in Chapter 3.10.1 – Wireless Communication Facilities and Conditional Use Permit requirements. Wireless communication equipment shall also comply with required development setbacks, lot coverage and other applicable standards of the Commercial Highway District.

Chapter 3.10 - Other Design Standards

Chapter 3.10.1 - Wireless Community Facilities

- A. Purpose, Intent, and Available Locations.** The purpose of this Section is to establish standards that regulate the placement, appearance, and impact of wireless communication facilities, while providing residents with the ability to access and adequately utilize the services that these facilities support. Because of the physical characteristics of wireless communication facilities, the impact imposed by these facilities affect not only the neighboring residents, but also the community as a whole. The standards are intended to ensure that the visual and aesthetic impacts of wireless communication facilities are mitigated to the greatest extent possible, especially near residential areas.

Residential Districts. Wireless Communication Facilities shall be permitted only as a conditional use and only in the R-3 district and only when co-located on existing structures, such as multi-story buildings or church steeples. Freestanding towers and monopoles shall be prohibited in this district. All Wireless Communication Facilities are prohibited in R-1 and R-2 districts.

City Center District. Wireless Communication Facilities shall be permitted only as a conditional use in City Center District and only when located on existing structures, such as multi-story buildings or church steeples. Freestanding towers and monopoles shall be prohibited in this district.

Commercial Highway. Attached and freestanding Wireless Communication Facilities shall be permitted only as a conditional use in Commercial Highway District.

Industrial Districts. Attached and freestanding Wireless Communication Facilities shall be permitted only as a conditional use in Industrial Districts.

The requirements of this Chapter shall not apply to amateur radio facilities owned and operated by a federally licensed amateur radio operator or used exclusively as non-commercial, receive only antennas. However, such facilities may not co-locate a Wireless Communication Facility.

B. Submittals. In addition to the submittal for a Type II or Type III Site Design Review in Chapter 4.2 – Development Review and Site Design Review the following items shall be provided as part of the application for a wireless communication facility.

1. A photo of each of the major components of a similar installation, including a photo layout of the overall facility as proposed.
2. Exterior elevations of the proposed wireless communication facility with a minimum scale of 1" = 10'.
3. A set of manufacturers specifications of the support structure, antennas, and accessory buildings with a listing of materials being proposed including colors of the exterior materials.
4. A site plan indicating all structures, land uses and zoning designation within 200 feet of the site boundaries or 500 feet if the height of the structure is greater than 80 feet.
5. A map showing existing wireless communication facility sites operated by the applicant within a eight-mile radius of the proposed site.
6. A copy of the lease agreement for the proposed site.
7. Documentation detailing the general capacity of the tower in terms of the number and type of antennas it is designed to accommodate.
8. Any additional documentation that the Planning Director requires that is relevant to comply with the applicable design standards.

Chapter 3.10.C. - Design Standards

1. General Provisions
2. Preferred Designs
 - a. Where possible, co-location of new facilities on existing facilities shall be required. The applicant must submit a study showing that co-location is not feasible before using option “b”, below.
 - b. If “a” above is not feasible, Wireless Communication Facilities shall be attached to pre-existing structures when feasible. The applicant must submit a study showing that attaching to a pre-existing structure is not feasible before using option “c” below.
 - c. If “a” or “b” above are not feasible, alternative structures shall be used with design features that conceal, camouflage or mitigate the visual impacts created by the proposed Wireless Community Facility.
 - d. Lattice towers are prohibited as freestanding wireless communication support structures.

**CITY OF PHOENIX
PHOENIX, OREGON**

ORDINANCE NO. 948

**AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE,
CHAPTER 3.4.3 (VEHICLE PARKING STANDARDS) AND TABLE 3.4.3.A.**

WHEREAS, the Comprehensive Plan has an adopted policy to “promote development within the City Center” (Economic Element, Goal 2); and

WHEREAS, the Land Development Code has an adopted procedure (Chapter 4.7) to amend the Land Development Code; and

WHEREAS, the City has provided notification to the Department of Land Conservation and Development as required by ORS 197 and the Phoenix Land Development Code; and

WHEREAS, the Planning Commission has held a public hearing on April 14, 2014 and took any public testimony regarding the proposed changes; and

WHEREAS, the Planning Commission voted unanimously to recommend approval of the attached amendments to the City Council based upon the findings contained in the Staff Report number LDC 14-03; and

WHEREAS, the Public Hearing on June 2, 2014, was duly noticed and the public was given the opportunity to testify on the proposed changes.

WHEREAS, the Council, after considering the presentation by the Staff, the recommendations of the Planning Commission and the public testimony received at the hearing, elected to grant approval of the amendments.

NOW THEREFORE, The City Council of the City of Phoenix ORDAINS as follows:

Section 1. The Findings for this amendment are included in the attached Staff Report for LDC:14-03, Exhibit A.

Section 2: The Land Development Code Chapter 3.4.3 and Table 3.4.3.A are amended as proposed in Exhibit B.

Section 3. Effective Date: This ordinance shall become effective 30 days after its date of adoption.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof
on this ____ day of _____, 20__.

_, Mayor

ATTEST:

_, City Manager/ Recorder



PO Box 330 • Phoenix, OR 97535

PLANNING DEPARTMENT

(541) 535-2050 • FAX (541) 535-5769

**TITLE: AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE
REGARDING VEHICLE AND BICYCLE PARKING, AMENDING
CHAPTER 3.4**

FILE NUMBER: LDC: 14-03

APPLICANT: City of Phoenix

STAFF REPORT: Available May 19, 2014 at the City of Phoenix, 112 W 2nd Street (M-F, 8:00 am to 5:00 pm) or on the website (www.phoenixoregon.net). For more information, call City of Phoenix, Planning Office, (541)535-2050.

DATE OF PLANNING COMMISSION HEARING: April 14, 2014

DATE OF COUNCIL HEARING: June 2, 2014

I. PROJECT INFORMATION: In response to a request from the Council and Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to 1.) add parking allowance for Senior Retirement Facilities and; 2.) reduce parking requirements in City Center.

These changes are based on complaints received. One complaint was that there was not adequate parking in a senior facility to allow residents to invite friends to the facility. The second complaint was that the parking requirements in the City Center were onerous and discouraged development in the District. The proposed changes address both issues.

For the parking in the senior center, the proposal changes the requirement to allow seniors the same parking limitations as non-seniors. For parking in the City Center, the parking requirement can be reduced through a low cost individual review by the Director. This allows some discretion in the parking requirement. This is an area in transition and flexibility will be important to its redevelopment.

II. PROPOSED AMENDMENTS: The proposed amendments are:

Chapter 3.4 - Vehicle and Bicycle Parking

Chapter 3.4.3 Vehicle Parking Standards.

A. Number of Spaces required. The minimum number of off-street parking spaces required in the City Center District may be reduced by ~~one third~~ ***up to two thirds with the justification approved by the Planning Director***, however, the maximum parking

standard of this Chapter apply. *These reductions and justifications should be reported in writing to the Planning commission at their next meeting.*

Table 3.4.3.A.

Residential Uses

Multi-family and single family attached housing, *including senior housing*

- a. Studio units or 1-bedroom units less than 500 sq feet – 1 space/ unit
- b. 1 bedroom units 500 sq ft or larger – 1.5 spaces/unit
- c. 2 bedroom units – 1.75 spaces/unit
- d. 3 bedroom units – 2 spaces/unit

~~e. Retirement Complexes for seniors 55 years or greater – One space/unit~~

~~Senior housing. Same as for retirement complexes. *Care facilities-- .5 spaces/ unit*~~

III. COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS: Amendments to the Phoenix Land Development Code must comply with Section 4.7.2 of the Phoenix Land Development Code, which states that legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to Section 4.7.2.B and 4.7.6, as applicable.

Section 4.7.2 – Demonstration of compliance with Section 4.7.2.

FINDING: This proposed amendment was reviewed by the Planning Commission at a noticed public hearing on April 14, 2014. Their recommendation will be presented to the Phoenix City Council at a noticed public hearing on June 2, 2014. The hearing by the Planning Commission was noticed by posting the information on the City of Phoenix website beginning March 25, 2014. The hearing by the Council was noticed by posting the information beginning May 14, 2014.

FINDING: The Department of Land Conservation and Development was notified with an application mailed February 24, 2014 and a Staff report email sent on March 25, 2014.

FINDING: A copy of all notifications is available at the City Planning Office.

Section 4.7.3.B .1 – Demonstration of compliance with all applicable Comprehensive Plan policies and Map Designations. Where this criterion cannot be met, a Comprehensive Plan amendment shall be a prerequisite to approval.

FINDING: The changes to parking allotment for retirement senior facilities are in compliance with Comprehensive Plan policies. Specifically, “The City shall strive to provide safe, sanitary and affordable housing for all citizens of the City of Phoenix, regardless of.....age...” The proposed increase in the amount of parking allowed at a senior facility will make those facilities more attractive to seniors by allowing for the ownership of a vehicle and the opportunity to have friends and family visit.

FINDING: The changes proposed are in compliance with Comprehensive Plan policies. Specifically, Economic Element, Goal 2: “To promote development within the City Center.” The proposed reduction of required parking in City Center will make the creation of new businesses and expansion of existing businesses easier and less costly in the City Center.

Section 4.7.3.B.2 – Demonstration of compliance with all applicable standards and criteria of this Code and other applicable implementing ordinances.

FINDING: The proposed changes do not impact other applicable standards.

Section 4.7.3.B.3 – Evidence of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or Land Use Map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 – Planning Rule Compliance, applicable.

FINDING: The proposed change is not based on a mistake in the Comprehensive Plan or the Land Use Map. The proposed change does not impact Transportation needs in the City.

Section 4.7.6 – Transportation Planning Rule, Subsection B, requires that amendments to land use standards which significantly affect a Transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.

FINDING: The addition of a minimal number of parking spaces in senior facilities and the reduction of off street parking in City Center will have no significant transportation impact to the City Transportation Facility.

FINDING: The proposed amendments comply with Sections 4.7.3 and 4.7.6 of the Phoenix Development Code.

IV. RECOMMENDATION: Planning Commission recommends the Council approve amendments to Chapter 3.4, Vehicle and Bicycle Parking of the Phoenix Development Code and the Phoenix Municipal Code.

EXHIBIT B
CHAPTER 3.4 – VEHICLE AND BICYCLE PARKING OF THE CITY OF PHOENIX
LAND DEVELOPMENT CODE (PLCD), AS AMENDED BY ORDINANCE 948 ON
JUNE 16, 2014, SHALL READ AS FOLLOWS:

Chapter 3.4 - Vehicle and Bicycle Parking

Chapter 3.4.3 Vehicle Parking Standards.

A. Number of Spaces required. The minimum number of required off-street vehicle parking spaces (i.e. parking that is located in parking lots and garages and not in the street right of way) shall be determined based on the standards in Table 3.4.3.A.

The minimum number of off-street parking spaces required in the City Center District may be reduced by up to two-thirds with the justification approved by the Planning Director, however, the maximum parking standard of this Chapter apply. These reductions and justifications should be reported in writing to the Planning commission at their next meeting.

Table 3.4.3.A. – Vehicle Parking – Minimum Standards Option

The number of required off-street vehicle parking spaces shall be determined in accordance with the following standards. Off street parking spaces may include spaces in garages, carports, parking lots and/or driveways.
Residential Uses
Single family detached housing. 2 parking spaces shall be provided for each detached single family dwelling or manufactured home on an individual lot.
° Two- and three- family housing. 1.5 spaces per dwelling unit.
° Multi-family and single-family attached housing, including senior housing
a. Studio units or 1-bedroom units less than 500 sq ft. 1 space / unit.
b. 1-bedroom units 500 sq ft or larger. 1.5 spaces / unit
c. 2-bedroom units. 1.75 spaces / unit
d. 3-bedroom or greater units. 2.00 spaces / unit
e. Care facilities. 0.5 spaces/ unit
° Rooming and boarding houses, dormitories. Two spaces for each guest rooms, or one per three beds, whichever is more.
° Manufactured home parks. Same as for single-family detached housing.
° Accessory dwelling. 1 additional parking space.

**CITY OF PHOENIX
PHOENIX, OREGON**

ORDINANCE NO. 950

**AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE,
CHAPTER 4.9.1 (TEMPORARY USES)**

WHEREAS, the Comprehensive Plan has an adopted policy to “foster economic development through the retention, renewal, upgrading expansion and linkage of existing commercial and industrial business and recruitment of new ones” (Economic Element, Goal 1); and

WHEREAS, the Land Development Code has an adopted procedure (Chapter 4.7) to amend the Land Development Code; and

WHEREAS, the City has provided notification to the Department of Land Conservation and Development as required by ORS 197 and the Phoenix Land Development Code; and

WHEREAS, the Planning Commission has held a public hearing on April 14, 2014 and took any public testimony regarding the proposed changes; and

WHEREAS, the Planning Commission voted unanimously to recommend approval of the attached amendments to the City Council based upon the findings contained in the Staff Report number LDC 14-04; and

WHEREAS, the Public Hearing on June 2, 2014, was duly noticed and the public was given the opportunity to testify on the proposed changes.

WHEREAS, the Council, after considering the presentation by the Staff, the recommendations of the Planning Commission and the public testimony received at the hearing, elected to grant approval of the amendments.

NOW THEREFORE, The City Council of the City of Phoenix **ORDAINS** as follows:

Section 1. The Findings for this amendment are included in the attached Staff Report for LDC:14-04, Exhibits A.

Section 2: The Land Development Code Chapter 4.9.1 are amended as proposed in Exhibit B.

Section 3. Effective Date: This ordinance shall become effective 30 days after its date of adoption.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof
on this ____ day of _____, 20__.

_, Mayor

ATTEST:

_, City Manager/ Recorder



PO Box 330 • Phoenix, OR 97535

PLANNING DEPARTMENT

(541) 535-2050 • FAX (541) 535-5769

**TITLE: AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE
REGARDING TEMPORARY USES, AMENDING CHAPTER 4**

FILE NUMBER: LDC: 14-04

APPLICANT: City of Phoenix

STAFF REPORT: Available May 19, 2014 at the City of Phoenix, 112 W 2nd Street (M-F, 8:00 am to 5:00 pm) or on the website (www.phoenixoregon.net). For more information, call City of Phoenix, Planning Office, (541)535-2050.

DATE OF PLANNING COMMISSION HEARING: April 14, 2014

DATE OF THE COUNCIL HEARING: June 2, 2014

I. PROJECT INFORMATION: In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to 1.) create a new section for the development of temporary food vendors; and 2.) identify requirements for this type of development.

The current language in the Code has been frustrating for the Staff as well as the applicants. Currently, the section that addresses food vendors is the same as the section that address nearly all temporary buildings. Special circumstances apply to food vendors and the new language addresses these special issues.

The process is also recommended to be changed to allow for a more streamlined process and lower costs.

II. PROPOSED AMENDMENTS: The proposed amendments are:

Chapter 4.9 – Miscellaneous Permits

4.9.1 – Temporary Use Permits

Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to: construction trailers, leasing offices, temporary carnivals and fairs, parking lot sales, retail warehouse sales, *and temporary food vendors* and seasonal sales such as Christmas tree sales, fire works stands, and vegetable stands. ~~Three~~ *Four* types of temporary uses require permit approval. (See A, B ~~and~~ C, *and D*)

A. Seasonal and Special Events.

B. Temporary Sales Office or Model Home.

C. Temporary Building. Using a Type H I Procedure, as governed by Chapter 4.1.4 – Type H-I Procedure (~~Administrative~~ Ministerial), the City may approve, approve with conditions or deny an application for a temporary trailer or prefabricated building for use on any real commercial or industrial property within the City as a temporary commercial or industrial office or space associated with the primary use on the property, but for no other purpose, based on following criteria:

1. The temporary trailer or building shall be located within the boundaries of the parcel of land on which it is located;
2. The primary use on the property to be used for a temporary trailer is already approved and building permits have been obtained;
3. Ingress and egress are safe and adequate when combined with the other uses of the property; as required by Chapter 3.2.2 – Vehicular Access and Circulation;
4. There is adequate parking for the customers or users of the temporary use as required by Chapter 3.4 – Vehicle and Bicycle Parking;
5. The use will not result in vehicular congestion on streets;
6. The use will pose no hazard to pedestrians in the area of the use;
7. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use;
8. The building complies with applicable building codes;
9. The use can be adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits); and
10. The length of time that the temporary building will be used does not exceed 12 months. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit.

E. Temporary Food Vendor. These uses are provided from trailers or similar devices which are used for the purpose of preparing, processing or converting food for immediate consumption. Temporary means all equipment must be removed from the site at the end of the vendor's business day. Using a Type I Procedure, under Chapter 4.1.3 – Type I Procedure (Ministerial), the City may approve, approve with conditions or deny an application for a temporary trailer for use on any real commercial or industrial property within the City as a temporary food vendor associated with the primary use on the property, but for no other purpose, based on following findings that all of the following criteria are satisfied:

- 1. The temporary trailer shall be located within the boundaries of the parcel of land on which it is located;**
- 2. The primary use on the property to be used for a temporary trailer is already approved and building permits have been obtained;**
- 3. The area of the temporary trailer, including any slide outs, shall be no more than 170 square feet;**

4. Attached awnings are permitted as long as they are no larger than the temporary trailer and are used for weather protections for customers;
5. If the temporary trailer is located on or adjacent to a privately owned walkway, the remaining unobstructed walkway width shall be a minimum of five (5) feet wide;
6. All food must be in a ready to eat condition when sold;
7. No temporary trailer shall displace required parking spaces or access to required spaces per Chapter 3.4 – Vehicle and Bicycle Parking;
8. The temporary unit and all outdoor equipment shall be located on an improved surface (asphalt or concrete);
9. Temporary units must comply with the following permits:
 - a. Sign permits for any attached signs. New free standing signs are prohibited for temporary food vendors. Signs painted on the vehicle do not require a sign permit.
 - b. Current registration for the temporary unit.
 - c. Building permits where required for any utility connections or building condition.
 - d. Jackson County Department of Health and Human Services where required.
10. Ingress and egress will be safe and adequate when combined with the other uses of the property; as required by Chapter 3.2.2 – Vehicular Access and Circulation;
11. The use will not result in vehicular congestion on streets;
12. The use will not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use; and
13. The length of time that the temporary building will be used shall not exceed 12 months. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit.

III. COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS: Amendments to the Phoenix Land Development Code must comply with Section 4.7.2 of the Phoenix Land Development Code, which states that legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to Section 4.7.2.B and 4.7.6, as applicable.

Section 4.7.2 – Demonstration of compliance with section 4.7.2.

FINDING: This proposed amendment was reviewed by the Planning Commission at a noticed public hearing. Their recommendation will be presented to the Phoenix City Council at a noticed public hearing. The hearing by the Planning Commission was noticed by posting the information on the City of Phoenix website beginning March 25, 2014. The hearing by the Council was noticed by posting the information beginning May 14, 2014.

FINDING: The Department of Land Conservation and Development was notified with an application mailed February 24, 2014 and a Staff report email sent on March 25, 2014.

FINDING: A copy of all notifications is available at the City Planning Office.

Section 4.7.3.B.1 – Demonstration of compliance with all applicable Comprehensive Plan policies and Map Designations. Where this criterion cannot be met, a Comprehensive Plan amendment shall be a prerequisite to approval.

FINDING: The changes to add Temporary Food Vendors to Temporary Uses is in compliance with Comprehensive Plan policies. Specifically, Economic Element, Goal 1, “To foster economic development through the retention, renewal, upgrading expansion and linkage of existing commercial and industrial business and recruitment of new ones.” The proposed amendment will reduce financial and time barriers for food vendors who want to start a new business in the City of Phoenix.

FINDING: The changes proposed are in compliance with Comprehensive Plan policies. Specifically, Economic Element, Goal 5: “To encourage the development now local business and start-ups.” The proposed new section for Temporary Food Vendors will make the process clearer and more applicable for these vendors. The result should be an increase in the number of these small businesses. Ultimately, some of these food vendors will move into bricks and mortar restaurants.

Section 4.7.3.B.2 – Demonstration of compliance with all applicable standards and criteria of this Code and other applicable implementing ordinances.

FINDING: The proposed changes do not impact other applicable standards.

Section 4.7.3.B.3 – Evidence of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or Land Use Map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 – Transportation Planning Rule Compliance, applicable.

FINDING: The proposed change is not based on a mistake in the Comprehensive Plan or the Land Use Map. The proposed change does not impact Transportation needs in the City.

Section 4.7.6 – Transportation Planning Rule, Subsection B, requires that amendments to land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.

FINDING: The clarification of the process for Temporary Food Vendors and the addition of criteria that are directly applicable will not significantly impact the transportation system. The criteria for all temporary businesses included ones that dealt with not creating off-site impacts including vehicle traffic, etc.

FINDING: The proposed amendments comply with Sections 4.7.3 and 4.7.6 of the Phoenix Development Code.

IV. RECOMMENDATION: The Planning Commission recommends the adoption of the amendments to Chapter 4.9.1, Temporary Use Permits and the creation of a Section C. Temporary Food Vendor of the Phoenix Development Code and the Phoenix Municipal Code.

**Exhibit B CHAPTER 4.9.1 OF THE CITY OF PHOENIX LAND
DEVELOPMENT CODE, AS AMENDED BY ORDINANCE 950 ON JUNE 16, 2014,
SHALL READ AS FOLLOWS:**

4.9.1 – Temporary Use Permits

Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to: construction trailers, leasing offices, temporary carnivals and fairs, parking lot sales, retail warehouse sales, and temporary food vendors and seasonal sales such as Christmas tree sales, fire works stands, and vegetable stands. Four types of temporary uses require permit approval. (See A, B C, and D)

A. Seasonal and Special Events.

B. Temporary Sales Office or Model Home.

C. Temporary Building. Using a Type I Procedure, as governed by Chapter 4.1.4 – Type I Procedure (Ministerial), the City may approve, approve with conditions or deny an application for a temporary trailer or prefabricated building for use on any real commercial or industrial property within the City as a temporary commercial or industrial office or space associated with the primary use on the property, but for no other purpose, based on following criteria:

1. The temporary trailer or building shall be located within the boundaries of the parcel of land on which it is located;
2. The primary use on the property to be used for a temporary trailer is already approved and building permits have been obtained;
3. Ingress and egress are safe and adequate when combined with the other uses of the property; as required by Chapter 3.2.2 – Vehicular Access and Circulation;
4. There is adequate parking for the customers or users of the temporary use as required by Chapter 3.4 – Vehicle and Bicycle Parking;
5. The use will not result in vehicular congestion on streets;
6. The use will pose no hazard to pedestrians in the area of the use;
7. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use;
8. The building complies with applicable building codes;
9. The use can be adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits); and

10. The length of time that the temporary building will be used does not exceed 12 months. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit.

E. Temporary Food Vendor. These uses are provided from trailers or similar devices which are used for the purpose of preparing, processing or converting food for immediate consumption. Temporary means all equipment must be removed from the site at the end of the vendor's business day. Using a Type I Procedure, under Chapter 4.1.3 – Type I Procedure (Ministerial), the City may approve, approve with conditions or deny an application for a temporary trailer for use on any real commercial or industrial property within the City as a temporary food vendor associated with the primary use on the property, but for no other purpose, based on following findings that all of the following criteria are satisfied:

1. The temporary trailer shall be located within the boundaries of the parcel of land on which it is located;
2. The primary use on the property to be used for a temporary trailer is already approved and building permits have been obtained;
3. The area of the temporary trailer, including any slide outs, shall be no more than 170 square feet;
4. Attached awnings are permitted as long as they are no larger than the temporary trailer and are used for weather protections for customers;
5. If the temporary trailer is located on or adjacent to a privately owned walkway, the remaining unobstructed walkway width shall be a minimum of five (5) feet wide;
6. All food must be in a ready to eat condition when sold;
7. No temporary trailer shall displace required parking spaces or access to required spaces per Chapter 3.4 –Vehicle and Bicycle Parking;
8. The temporary unit and all outdoor equipment shall be located on an improved surface (asphalt or concrete);
9. Temporary units must comply with the following permits:
 - a. Sign permits for any attached signs. Free standing signs are prohibited for temporary food vendors. Signs painted on the vehicle do not require a sign permit.
 - b. Current registration for the temporary unit.
 - c. Building permits where required for any utility connections or building condition.
 - d. Jackson County Department of Health and Human Services where required.
10. Ingress and egress will be safe and adequate when combined with the other uses of the property; as required by Chapter 3.2.2 – Vehicular Access and Circulation;

11. The use will not result in vehicular congestion on streets;
12. The use will not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use; and
13. The length of time that the temporary building will be used shall not exceed 12 months. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit.

**CITY OF PHOENIX
PHOENIX, OREGON**

ORDINANCE NO. 952

AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE, CHAPTER 1.3 (DEFINITIONS), CHAPTER 2.2.3 (RESIDENTIAL DISTRICTS, BUILDING SETBACKS), CHAPTER 2.3.3 (CITY CENTER, BUILDING SETBACK), CHAPTER 2.4.3 (COMMERICAL HIGHWAY, DEVELOPMENT STANDARDS), CHAPTER 3.2.2 (VEHICLE ACCESS AND CIRCULATION) AND CHAPTER 3.6.3 (SIGNS)

WHEREAS, the Comprehensive Plan has an adopted policy to “promote the efficient use and esthetic design of urban residential use” (Housing Element, Goal 3); and

WHEREAS, the Land Development Code has an adopted procedure (Chapter 4.7) to amend the Land Development Code; and

WHEREAS, the City has provided notification to the Department of Land Conservation and Development as required by ORS 197 and the Phoenix Land Development Code; and

WHEREAS, the Planning Commission has held a public hearing on April 14, 2014 and took any public testimony regarding the proposed changes; and

WHEREAS, the Planning Commission voted unanimously to recommend approval of the attached amendments to the City Council based upon the findings contained in the Staff Report number LDC 14-05; and

WHEREAS, the Public Hearing on June 2, 2014, was duly noticed and the public was given the opportunity to testify on the proposed changes.

WHEREAS, the Council, after considering the presentation by the Staff, the recommendations of the Planning Commission and the public testimony received at the hearing, elected to grant approval of the amendments.

NOW THEREFORE, The City Council of the City of Phoenix **ORDAINS** as follows:

Section 1. The Findings for this amendment are included in the attached Staff Report for LDC:14-05, Exhibit A.

Section 2: The Land Development Code chapters 1.3, 2.2.3, 2.3.3, 2.4.3, 3.2.2 and 3.6.3 are amended as proposed in Exhibit B.

Section 3. Effective Date: This ordinance shall become effective 30 days after its date of adoption.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof
on this ___ day of _____, 20_.

_, Mayor

ATTEST:

_, City Manager/ Recorder

Exhibit A



PO Box 330 • Phoenix, OR 97535

PLANNING DEPARTMENT

(541) 535-2050 • FAX (541) 535-5769

**TITLE: AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE
REGARDING SETBACKS AND AMENDING CHAPTERS 1, 2 AND 3**

FILE NUMBER: LDC: 14-05

APPLICANT: City of Phoenix

STAFF REPORT: Available May 19, 2014 at the City of Phoenix, 112 W 2nd Street (M-F, 8:00 am to 5:00 pm) or on the website (www.phoenixoregon.net). For more information, call City of Phoenix, Planning Office, and (541)535-2050.

DATE OF PLANNING COMMISSION HEARING: April 14, 2014

DATE OF COUNCIL HEARING: June 2, 2014

I. PROJECT INFORMATION: In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to 1.) expand the definitions of setbacks, covered porches, unenclosed porches, side yards; 2.) clarify setbacks for porches; 3.) reference newly adopted Oregon 99 setback requirements; and 4.) revise setbacks at intersections or driveways for vision clearance.

The purpose of these amendments is to ensure the method to measure the setback is clear to the property owner. This also clarifies the status of a porch, open or enclosed, and covered or uncovered.

The amendment also addresses the setbacks for Highway 99, making this requirement easy to find. This Highway 99 special setback was established by Ordinance and is in the Land Development Code. However, this requirement is not referenced in sections of the Code that will be used by applicants and planners to determine conditions of development. This amendment will correct this problem. **Please note that the attached amendment includes placing the reference to Highway 99 special setback in the Commercial Highway zone. This was inadvertently left out of the Planning Commission documents.**

Finally, this brings the visual clearance required at intersections in line with that used by other communities. The old visual clearance setback of 75 feet was very difficult for residences and businesses to meet. The current vision clearance setback requires that some lots are prohibited from constructing any sort of building in over 5,500 square feet of their property.

II. PROPOSED AMENDMENTS: The proposed amendments are:

Chapter 1.3 Definitions

Footnote: Italics indicate new language; strikeouts indicate deleted language

Building line: The line running parallel to a lot line that is the same distance from the lot line as the closest portion of a building foundation on the site.

Building setbacks: The distance between a building and a property line, measured from the **closest point on the** foundation to the property line. Typically, minimum and maximum setbacks may be required for front, side, **exterior side**, and rear of the building. See Chapter 2.2.3 Building Setbacks **and Chapter 2.3.3 Building Setbacks.**

Porch: an exterior appendage to a building, forming an approach or vestibule to doorway that is generally covered. Enclosed means the porch contains wall(s) that are more than forty-two (42) inches in height measured from finished floor level, for fifty percent (50%) or more of the porch perimeter. “Unenclosed” means the porch contains no such walls, but it may be covered

Yard: An open space on a lot which is unobstructed, except for fences, from the ground upward, except as otherwise provided in this Code. The area defined by setbacks (i.e., between the setback line and respective property line).

Yard, Front. The yard extending the full width of the front of a lot between the front (street) right of way and the front building line.

Yard, Side, Exterior. The area extending the full length of the lot in the area between the side adjacent to right of way and the side building line.

Yard, Side. A yard extending the full length of the lot in the area between the side lot line and the side building line.

Yard, Rear. A yard extending the full width of the lot in the area between the rear lot line and the rear building line.

Chapter 2.2 Residential Districts

2.2.3 Building Setbacks

A.1.a. A minimum setback of 20 feet is required for single-family uses, except that an unenclosed (**covered or uncovered**), porch may be within 15 feet, as long as it does not encroach into a public utility easement.

B. Building setbacks are measured from the ~~foundation~~ **building line** to the respective property line.

D. **Unenclosed (covered or uncovered)** porches, decks or similar structures may encroach into the front setbacks by no more than five feet, subject to the front yard setback provisions of “A”.

Chapter 2.3 City Center District

2.3.3. Building Setbacks.

Building setbacks are measured from ~~foundation~~ building line to the respective property line.

E. Oregon 99 Setbacks. All buildings within the Oregon 99 Setback Overlay Zone shall be set back no less than 15 feet from the Oregon 99 right-of-way line (see 2.10.2-Setback Requirement).

Chapter 3.2 Access and Circulation

3.2.2. Vehicular Access and Circulation

3.2.2.M. Vision Clearance Area. *The vision clearance setback shall be measured from curb line or, where no curb exists, from edge of payment.*

3.2.2.M. Figure (Figure is attached)

Chapter 3.6 Signs

3.6.3. Definitions and Calculation Standards

3.6.3.E.1. Signs must comply with the sight visibility standards within the Development Code *(see Chapter 3.2.2.M.)*

III. COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS: Amendments to the Phoenix Land Development Code must comply with Section 4.7.2 of the Phoenix Land Development Code, which states that legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to Section 4.7.2.B and 4.7.6, as applicable.

Section 4.7.2 – Demonstration of compliance with Section 4.7.2.

FINDING: This proposed amendment was reviewed by the Planning Commission at a noticed public hearing. Their recommendation will be presented to the Phoenix City Council at a noticed public hearing. The hearing by the Planning Commission was noticed by posting the information on the City of Phoenix website beginning March 25, 2014. The hearing by the Council was noticed by posting information beginning May 14, 2014.

FINDING: The Department of Land Conservation and Development was notified with an application mailed February 24, 2014 and a Staff report email sent on March 25, 2014.

FINDING: A copy of all notifications is available at the City Planning Office.

Section 4.7.3.B.1 – Demonstration of compliance with all applicable Comprehensive Plan policies and map designations. Where this criterion cannot be met, a Comprehensive Plan amendment shall be a prerequisite to approval.

FINDING: The changes proposed are in compliance with Comprehensive Plan polices. Specifically, Housing Element, Goal 3: “Promote the efficient use and esthetic design of

urban residential uses”. The proposed language will make the addition of porches, particularly front porches, easier to achieve. These porches enhance the esthetic design of the home.

FINDING: The changes regarding the Highway 99 Zone corrects an inconsistency in the Code and is in compliance with Comprehensive Plan polices. The Zone was adopted following State Law but the corresponding requirement to comply with the Zone was not previously included in the Land Development Code.

FINDING: The changes proposed to the vision clearance standards are in compliance with Comprehensive Plan policies. Specifically, Housing Element, Goal 3: “Promote the efficient use and esthetic design of urban residential uses.” The proposed language will make the use of residential land more efficient. The current requirements of 75 feet setback requires a significant portion of a residential lot to be left as yard with no structure and limited landscaping.

Section 4.7.3.B.2 – Demonstration of compliance with all applicable standards and criteria of this code and other applicable implementing ordinances.

FINDING: The proposed changes do not require any changes to be made on the part of the homeowner. The vision clearance changes clarify the options and allow the owner to make decisions about the design of the home and the use of more of the area of the lot.

Section 4.7.3.B.3 – Evidence of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or Land Use Map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 – Transportation Planning Rule Compliance, applicable.

FINDING: The proposed changes are not based on a mistake in the Comprehensive Plan or the Land Use Map. The proposed changes do not impact Transportation needs in the City.

Section 4.7.6 – Transportation Planning Rule, Subsection B, requires that amendments to land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.

FINDING: The addition of covered, unenclosed porches on homes will have no transportation impact to the City transportation facility.

FINDING: The change of the vision clearance requirements will not significantly affect the transportation facility. The proposed vision clearance is consistent with the requirements of other cities within the region and will bring Phoenix in line with this norm.

FINDING: The proposed amendments comply with Sections 4.7.3 and 4.7.6 of the Phoenix Development Code.

IV. RECOMMENDATION: Planning Commission recommends the adoption of the proposed amendments to the above listed sections of the Phoenix Development Code and the Phoenix Municipal Code.

EXHIBIT B
CHAPTERS 1.3, 2.2, 2.3, 2.4, AND 3 OF THE CITY OF PHOENIX LAND
DEVELOPMENT CODE (PLCD), AS AMENDED BY ORDINANCE 952 ON JUNE 16,
2014, SHALL READ AS FOLLOWS:

Chapter 1.3 Definitions

Building line: The line running parallel to a lot line that is the same distance from the lot line as the closest portion of a building foundation on the site.

Building setbacks: The distance between a building and a property line, measured from the closest point on the foundation to the property line. Typically, minimum and maximum setbacks may be required for front, side, exterior side, and rear of the building. See Chapter 2.2.3 Building Setbacks and Chapter 2.3.3 Building Setbacks.

Porch: an exterior appendage to a building, forming an approach or vestibule to doorway that is generally covered. Enclosed means the porch contains wall(s) that are more than forty-two (42) inches in height measured from finished floor level, for fifty percent (50%) or more of the porch perimeter. “Unenclosed” means the porch contains no such walls, but it may be covered

Yard: An open space on a lot which is unobstructed, except for fences, from the ground upward, except as otherwise provided in this Code.

Yard, Front. The yard extending the full width of the front of a lot between the front (street) right of way and the front building line.

Yard, Side, Exterior. The area extending the full length of the lot in the area between the side adjacent to right of way and the side building line.

Yard, Side. A yard extending the full length of the lot in the area between the side lot line and the side building line.

Yard, Rear. A yard extending the full width of the lot in the area between the rear lot line and the rear building line.

Chapter 2.2 Residential Districts

2.2.3 – Building Setbacks

Building setbacks provide space for private yards and building separation for fire protection/security, building maintenance, sunlight, and air circulation. This Section is also intended to promote human-scale design and traffic calming by downplaying the visual presence of garages along the street and encouraging the use of extra-wide sidewalks and pocket parks in front of markets and other non-residential uses. The standards encourage placement of residences close to the street for public safety and neighborhood security.

Building setbacks are measured from the building line to the respective property line (See Chapter 2.2.3 – Building Setbacks, Section D for exceptions.) Setbacks for decks and porches are measured from the edge of the deck or porch to the property line. The setback standards, as listed on the following page and illustrated above, apply to primary structures as well as accessory structures. A Variance is required in accordance with Chapter 5.2 – Variances to modify any setback standard.

Temporary and prefabricated structures are not allowed in setbacks.

A. Front Yard Setbacks

1. Residential Uses (single-family, duplex and triplex, multi-family housing types).
 - a. A minimum setback of 20 feet is required for single-family uses, except that an unenclosed (covered or uncovered), porch may be within 15 feet, as long as it does not encroach into a public utility easement.
 - b. A minimum setback of 10 feet is required for multi-family uses. If garages face the street, then the garages must be set back 20 feet from the back of the sidewalk.
 - c. When garages face the street, they shall be recessed behind the front elevation (i.e., living area or covered front porch) by a minimum of four feet and shall be setback 20 feet from the back of the sidewalk.
 - d. Multi-family developments with over five units must be accessed from the rear.
 - e. Multi-family housing shall also comply with the building orientation standards in Chapter 2.2.7 – Building Orientation.
2. Neighborhood Commercial Buildings. A minimum setback of 15 feet is required, except as necessary to comply with the vision clearance standards in Chapter 3.2.2 – Vehicular Access and Circulation, Section M. Parking is to be located to the rear of the building.
3. Public and Institutional Buildings. The standards in Subsection 2, above, (Neighborhood Commercial Buildings) shall also apply to Public and Institutional Buildings.

B. Rear yard Setbacks. Rear yard setbacks shall be a minimum of ten feet, (plus one half foot of setback for every foot of height of building over fifteen feet except when the requirement is waived by the decision-making body because the subject property is significantly downslope of the adjacent property to the rear). If a home is being remodeled, then any additional stories shall meet the setback requirements for buildings over 15 feet. Rear yard setbacks shall be determined using the definition of “Height of Building” in Chapter 1.3 – Definitions. Setbacks are based on the height of the building nearest to the rear property line.

C. Side yard setbacks. Side yard setbacks shall be a minimum of five feet, plus one half foot of setback for every foot of height of building over fifteen feet; provided, however, that side yards abutting a street shall be a minimum of fifteen feet in width. If a home is being remodeled, then any additional stories shall meet the setback requirements for buildings over 15 feet. Side yard setbacks shall be determined using the definition of “Height of Building” in Chapter 1.3 – Definitions. Setbacks are based on the height of the building nearest to the side property line.

D. Setback Exceptions. The following architectural features are allowed to encroach into the setback yards: Eaves, chimneys, bay windows, overhangs, and similar architectural features may encroach into setbacks by no more than three feet. Unenclosed (covered or uncovered) porches, decks and similar structures may encroach into front setbacks by no more than five feet, subject to the front yard setback provisions in “A”. Walls and fences may be placed on property lines, subject to the standards in Chapter 3.3 – Landscaping, Street Trees, Fences, and Walls. Walls and fences within front yards shall additionally comply with the vision clearance standards in Chapter 3.2.2 – Vehicular Access and Circulation, Section M.

E. Flag Lot Setbacks. A flag lot in a residential district shall comply with the setback requirements in 4.3.5 – Approval Criteria for Preliminary Plat, Section D.

Chapter 2.3 City Center District

2.3.3 – Building Setbacks

In the City Center District, buildings are placed close to the street to create a vibrant pedestrian environment, to slow traffic down, provide a storefront character to the street, and encourage walking. The setback standards are flexible to encourage public spaces between sidewalks and building entrances (e.g., extra-wide sidewalks, plazas, squares, outdoor dining areas, and pocket parks). The standards also encourage the formation of solid blocks of commercial and mixed-use buildings for a walkable City Center District.

Building setbacks are measured from the building line to the respective property line. Setbacks for porches are measured from the edge of the deck or porch to the property line. The setback standards, as listed on the following page, apply to primary structures as well as accessory structures. The standards may be modified only by approval of a Variance.

A. Front Yard Setbacks.

1. **Minimum Setback.** There is no minimum front yard setback required.
2. **Maximum Setback.** The maximum allowable front yard setback is 10 feet. The setback standard may be increased when a usable public space with pedestrian amenities (e.g., extra-wide sidewalk, plaza, pocket park, outdoor dining area or town square with seating) is provided between the building and front property line. (See also Chapter 2.3.9 – Pedestrian and Transit Amenities, and Chapter 2.3.8 – Architectural Guidelines and Standards for related building entrance standards.)

B. Rear Yard Setbacks.

1. **Minimum Setback.** There is no minimum rear-yard setback for structures except for alley-access lots (distance from building to rear property line or alley easement) in order to provide space for parallel parking.
2. **Through-Lots.** For buildings on through-lots (lots with front and rear frontage onto a street), the front yard setbacks in “A” shall apply.

- C. Side Yard Setbacks.** There is no minimum side yard setback required, except that buildings shall conform to the vision clearance standards and the applicable fire and building codes for attached structures, fire walls, and related requirements.
- D. Buffer Setbacks.** All buildings are subject to buffer requirements when commercial zoning is adjacent to residential zoning.
- E. Oregon 99 Setbacks.** All buildings within the Oregon 99 Setback Overlay Zone shall be set back no less than 15 feet from the Oregon 99 right-of-way line (see 2.10.2-Setback Requirement).

Chapter 2.4- Commercial Highway

2.4.3 – Development Standards

- A. Building Height.** Maximum building height is 50 feet. Building height is measured as measured in accordance with the definition of “Height of Building” in Chapter 1.3 – Definitions.

Where applicable, cornices (e.g., building tops or first-story cornices) shall be aligned to generally match the heights of those on adjacent buildings. Height transition or step-down required adjacent to residential development, where applicable.

- B. Yard Setbacks.** There is no minimum yard setback required, except that buildings shall conform to the vision clearance standards in 3.2.2 – Vehicular Access and Circulation, Section M and the applicable fire and building codes for attached structures, firewalls, and related requirements. (Setbacks for self-storage facilities are in Chapter 2.4.5 – Special Standards for Certain Uses, Section G.)

However, all buildings within the Oregon 99 Setback Overlay Zone shall be set back no less than 15 feet from the Oregon 99 right-of-way line (see 2.10.2-Setback Requirement).

- C. Lot Coverage.** The area covered by impervious surfaces shall be minimized to the greatest extent practicable; best practices for surface water management shall be required. (See the “Water Quality Model Code and Guidebook,” DLCD and DEQ, 2000, or as may be amended.)
- D. Landscaping.** A minimum percentage of 20% landscaping is required. Landscaping shall meet the requirements of Chapter 3.3 – Landscaping, Street Trees, Fences, and Walls. A buffer may be required between abutting commercial/civic/industrial and residential sites, as determined through design review.

Chapter 3.2 – Access and Circulation

Sections:

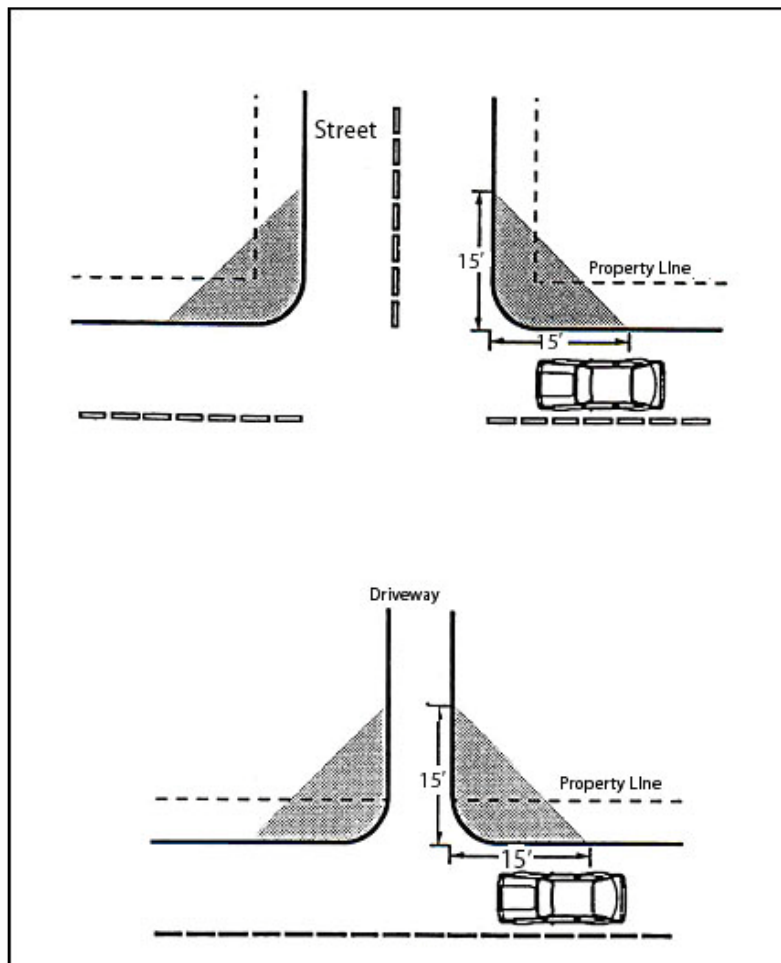
3.2.1 – Purpose

3.2.2 – Vehicular Access and Circulation

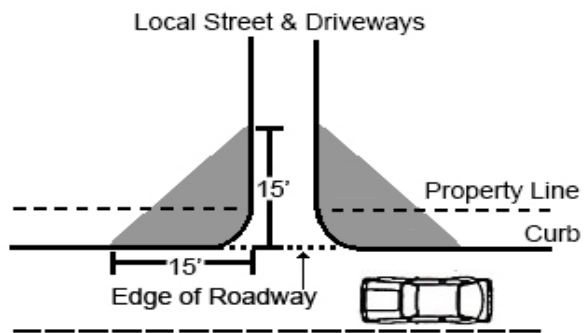
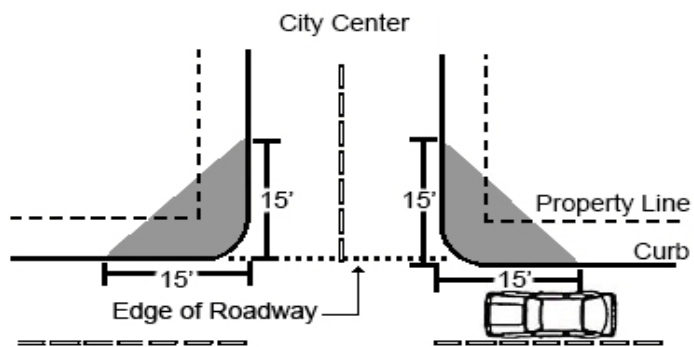
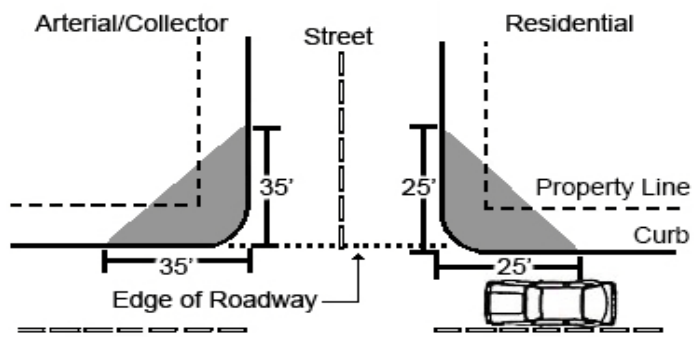
3.2.3 – Pedestrian Access and Circulation

3.2.2 – Vehicular Access and Circulation

M. Vision Clearance. The vision clearance setback shall be measured from curb line or, where not curb exists, from edge of pavement. No signs, structures, or vegetation in excess of three feet in height shall be placed in vision clearance areas, as shown below. The Planning Director may increase the minimum vision-clearance area upon finding that more sight distance is required (i.e., due to Police Department requirements, traffic speeds, roadway alignment, topography, etc.).



3.2.2.M – Vision Clearance Areas



3.6 – Signs

Sections:

3.6.1 – Purpose

3.6.2 – Sign Permits

3.6.3 – Definitions and Calculation Standards

3.6.4 – Prohibited Signs for All Districts

3.6.5 – Nonconforming Sign and Abandoned Signs

3.6.6 – Zoning District Sign Standards

3.6.7 – Sign Variance Criteria

3.6.3 – Definitions and Calculation Standards

For the purposes of calculation of all areas and distances under the sign standards, the following definitions and standards apply:

E. Vision Clearance and Safety Standards

1. Signs must comply with the sight visibility standards within the Development Code (see Chapter 3.2.2.M.)
2. The minimum clearance of all signs projecting over a pedestrian way shall be eight feet.
3. Clearance over vehicle use area. The minimum clearance of all signs projecting over any portion of a vehicle use area shall be 17 feet.

IV. RECOMMENDATION: Planning Commission recommends the adoption of the proposed amendments to the above listed sections of the Phoenix Development Code and the Phoenix Municipal Code.