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## **Article 2: Procedure Types**

### **2.010 Purpose.**

The purposes of this section are:

- (1) To establish land use review procedures;
- (2) To stratify land use review procedures according to the degree of discretionary judgment required and the extent of public participation appropriate; and
- (3) To relate the type of the procedure to the degree of impact of the proposed development.

### **2.020 Procedure Types.**

- (1) For purpose of administering the provisions of this Code, and other ordinances and policies of the City pertaining to land use and development, there are hereby established five types of basic procedures for processing all land use applications.
- (2) Applications shall be processed in accordance with the procedures specified in Schedule 2-1. Consolidated procedures shall be processed in accordance with Section 3.044(3) of this Code.
- (3) The Director may modify the procedure types as provided in this Code as follows. The Director may:
  - (a) Refer a Type I-B or I-C application to a Type II or Type III review as provided in Sections 2.036 and 2.037.
  - (b) Refer a Type II application to a Type III review as provided in Section 2.042(2).
  - (c) Refer a Type III application to a Type II review as provided in Section 2.052.
  - (d) In special cases where there is a compelling public interest, refer any Type I, II, or III application to a Type IV-A or IV-B review.

**Schedule 2-1. Application Procedures**

		Procedure Type											
Application Type	Development Code Section	Type I-EX	Type I-AU	Type I-A	Type I-B	Type I-C	Type I-D	Type II	Type III	Type IV-A	Type IV-B	Type V	
1. Urban Growth Boundary Amendment	Comp. Plan Section 13.6											✓-p	
2. Comprehensive Plan Map Amendment (1)	Comp. Plan Section 13.5										✓-p		
3. Comprehensive Plan Text Amendment (1)	Comp. Plan Section 13.5										✓-p		
4. Zoning Map Amendment (1) -Base Zone District -Special Purpose Districts ---Slope Hazard ---Flood Hazard ---Historic (See 'Historic Designation, Amendment, or Recision below) -Medical Overlay District	Sections: -4.030 -4.040  ---4.043 ---4.044 ---  -4.050										✓-p		
5. Development Code Text Amendment (1)	4.100										✓-p		
6. Annexation	Article 5									✓-p			
7. Minor Variance	Article 6							✓					
8. Major Variance	Article 6								✓				
9. Historic Designation, Amendment, or Recision	Sections 4.045 – 047 & 13.430										✓-p		
10. Nonconforming Use and Development	Article 15	See Schedule 15-1											
11. Property Line Vacation	17.100									✓			
12. Property Line Adjustment	17.200				✓								
13. Partition	17.300					✓							
14. Subdivision	Article 17												
a. Tentative Plan (<= 9 lots)	17.410							✓-p					
b. Tentative Plan (>=10 lots)	17.410								✓-p				
c. Final Plat	17.420	✓											
15. Modification to Final Plat	17.422												
a. Major Modification	17.422						Same as for Tentative						
b. Minor Modification	17.422					✓							
16. Lot Authorization	17.534							✓					
17. Future Development Plan	17.540						Submitted with Tentative Plan						

Application Type	Development Code Section	Type I-EX	Type I-AU	Type I-A	Type I-B	Type I-C	Type I-D	Type II	Type III	Type IV-A	Type IV-B	Type V
18. Revision of Future Development Plan	17.547					✓						
19. Future Street Plan (local streets only)	17.550					Same as for Land Division						
20. Future Street Plan (arterials and collectors)	17.550										✓	
21. Planned Unit Development	Article 18											
a. Preliminary Plan in Residential Zone	Article 18								✓-p			
b. Preliminary Plan in Commercial or Industrial Zone	Article 18							✓-p				
c. Final Plan	Article 18	✓										
22. Modification to Planned Unit Development Final Plan	18.063								✓			
a. Major Modification	18.063						Same as for Tentative					
b. Minor Modification	18.063					✓						
23. Planned Unit Development Modification or Termination	Article 18								✓			
24. Expedited Industrial Site Plan Review	Article 19						✓					
25. Site Plan Review (Minor or Major) <i>NOTE: Applicant can request an Expedited Industrial Site Plan Review Procedure for property within a Regionally Significant Industrial Area (RSIA)</i>  <b>SEE Art 3 Sec 3.050</b>	Article 19 Section 2.038  Section 3.050	Based on use, activity, zoning, adjacent zoning, and overlay zoning (-p) -See Schedule 12-2 (-p) -See Schedule 12-3 for procedures for RTC District (-p) -See Schedule 13-1 for procedures for medical uses within Medical Overlay Zone -See Schedule 13-2 for procedures for Historic Review (-p) <sup>9</sup> -See Section 20.210 for alternate review procedures for commercial site plan review -See Section 3.050–100-day language w/multi-family developments										
26. Conditional Use Permit	Article 16						See Schedule 12-2 (-p)					
27. Solar Access Permit	22.640							✓				
28. Removal of noxious vegetation & replacement with riparian vegetation within stream corridor	24.343	✓										
29. Allowed Activities in Conservation Class Wetlands	24.551	✓										
30. Conditionally Permitted Activities in Conservation Class Wetlands	24.552					✓						
31. Allowed activities in Protection Class Wetlands	24.561	✓										
32. Performance Parking	25.050					✓						

**Table Legend**

- I-EX = Type I Procedure, Exempt from Development Permit Review, Section 2.033
- I-AU = Type I Procedure, Administrative Use Permit Review Only, Section 2.034
- I-A = Type I Procedure, Building Permit Serves as Development Permit, Section 2.035
- I-B = Type I Procedure, Director’s Decision without Comment Period, Section 2.036

- I-C = Type I Procedure, Director’s Decision with Comment Period, Section 2.037
- I-D = Type I Procedure, Director’s Decision for Expedited Industrial Site Plan Review within RSIA with Comment Period, Section 2.038
- II = Type II Procedure, Hearings Officer’s Decision, Section 2.040
- III = Type III Procedure, Planning Commission’s Decision (or Historic Buildings and Sites Commission’s Decision), Section 2.050
- IV-A = Type IV Procedure, City Council Decision without Planning Commission Recommendation, Section 2.060
- IV-B = Type IV Procedure, City Council Decision with Planning Commission Recommendation, Section 2.060
- V = Type V Procedure, Joint Board of County Commissioners & City Council Decision with Planning Commission Recommendation, Section 2.070
- ✓ = Specifies the required procedure for the application type, using the procedure specified at the top of the column in which the check mark is located.
- p = In accordance with Section 3.041, a pre-application is required unless the Director finds a conference is not needed.

**Notes**

- (1) = The 1998 Intergovernmental Agreement gives the City decision-making authority for these items within the Urbanizing Area, and gives the County automatic party status.

2.030 Type I Procedures.

2.031 Purpose. The purpose of the Type I procedure is to provide a method for the Director to make decisions on applications under land use standards either which do not require interpretation or the exercise of policy or legal judgment, or which require only limited discretion in applying land use standards.

2.032 Type I Procedure Subcategories. This Code identifies numerous developments and activities that require a Type I review. The Type I designation includes several subcategories that have different procedural requirements.

Section 3.050 of this Code provides an option where the applicant may choose to have an application that requires a Type I-EX, I-AU, or I-A procedure reviewed through a Type I-B procedure, which provides a land use decision.

- (1) Type I-EX. Exempt from the requirements for a Development Permit. Processed in accordance with Section 2.033.
- (2) Type I-AU. Do not require a Development Permit, but do require a use permit issued in accordance with the provisions of this Code. Processed in accordance with Section 2.034.
- (3) Type I-A. Building Permit serves as Development Permit. Processed in accordance with Section 2.035.
- (4) Type I-B. Director’s Decision without a public hearing, which does not require a public comment period. Processed in accordance with Section 2.036.

- (5) Type I-C. Director’s Decision without a public hearing, which requires a public comment period. Processed in accordance with Section 2.037.
- (6) Type I-D. Director’s Decision without a public hearing, which requires a public comment period. Processed in accordance with Section 2.038 those specific procedures consistent with Expedited Industrial Site Plan Review statutes and available only for application types authorized by statute.

2.033

Type I-EX. Exempt. The permitted development and activities listed as Type I-EX in Schedules 2-1 and 12-2, and the following activities regardless of use, are exempt from the requirements for a Development Permit, but are nonetheless subject to the provisions of this Code:

- (1) Landscaping, irrigation, maintenance or other treatment or use of the land not involving a structure EXCEPT:
  - (a) grading which requires a permit under the Uniform Building Code or other applicable regulations.
  - (b) grading in any of the following areas, where grading shall only occur as allowed by the applicable section, and in accordance with the procedure required by the applicable section:
    - (i) a slope hazard area, which shall be processed in accordance with Section 13.100,
    - (ii) a flood hazard area, which shall be processed in accordance with Section 13.200,
    - (iii) a stream corridor setback, which shall be processed in accordance with Section 24.340
    - (iv) a wetland or wetland buffer, which shall be processed in accordance with Section 24.500.
- (2) Construction or improvement of parking areas of less than 1,000 square feet.
- (3) Paving an existing driveway in a manner that complies with the current standards, access provisions, and landscaping provisions of this Code, subject to an encroachment permit for any work within the right-of-way.
- (4) An emergency measure necessary for the safety or protection of property when authorized by the City Manager.
- (5) Structures not requiring a building permit.
- (6) Maintenance of a building for which a building permit is not required.

- (7) Interior remodel of a building for which a building permit is not required provided it does not result in any of the items listed in Section 2.035(6).
- (8) Roofing or siding of a building for which a building permit is not required, unless the property is an Historic Landmark or within a district that requires review for the work, such as the Historic District or Riverfront Tourist Commercial District.
- (9) Fences meeting the requirements of Section 23.037 that do not require a building permit.

2.034 Type I-AU. Administrative Use Permit. The permitted uses, development and activities listed as Type I-AU in Schedules 2-1 and 12-2 do not require a Development Permit, but do require issuance of a use permit issued in accordance with the applicable Sections of this Code for the stated use.

2.035 Type I-A. Building Permit as Development Permit. The permitted uses, development and activities listed as Type I-A in Schedules 2-1 and 12-2, and the following activities regardless of use, may use the Building Permit as the Development Permit, provided the provisions of this Code are met:

- (1) Fences meeting the requirements of Section 23.037 that require a building permit.
- (2) Required strengthening of non-conforming building or structure as provided in Section 15.090.
- (3) Maintenance of a building for which a building permit is required.
- (4) Roofing or siding of a building for which a building permit is required, unless the property is an Historic Landmark or within a district that requires review for the work, such as the Historic District or Riverfront Tourist Commercial District.
- (5) Expansions of 400 square feet floor area or less which comprise less than 25 percent of the existing floor area of the building, provided the expansion would meet the requirements for a Minor Modification in Section 19.056(2) and the requirements of Subsection (6) below.
- (6) A change of use, interior remodel, or change internal to a building or other structure, provided all of the following are satisfied. If the change would create a noncompliant situation, it shall not be permitted. For all other situations below, review shall be through the applicable review procedure for site plan review, rather than the Type I-A Procedure where building permit acts as development permit.



Noncompliant Situation Created.

- (a) the change does not convert the existing use to a non-permitted use, either based on zoning or proximity to other land uses, such as an Adult Business as provided in Article 14.
- (b) there is no change to the characteristics of the existing use that would make it noncompliant with this Code, such as the standards for a Home Occupation, Bed and Breakfast Inn, or Adult Business, as provided in Article 14.
- (c) the change does not violate conditions of approval of a land use decision or Development Agreement, such as those designed to protect public facilities or adjoining properties.

Site Plan Review Required.

- (d) the change would not result in a use that requires review through a higher Procedure Type than the existing use, such as to convert a single-family dwelling to two units, or to convert a residential accessory use structure to a dwelling, in a zone where a Type II review is required for two units.
- (e) the change does not require more parking than is already present for the existing use on-site or through existing parking agreements.
- (f) the change does not generate more than 20 additional PM Peak Hour vehicle trips or 500 additional Average Daily Weekday Trips vehicle trips, based on the 6<sup>th</sup> Edition ITE Trip Generation Manual, or otherwise generate additional traffic that creates a transportation deficiency or hazard.
- (g) the change does not use the property in a manner substantially different than the original approval, such that a different decision or additional mitigation requirements at the time of the original approval would have been required.

Examples include:

-converting an area approved for outdoor retail to a parking lot when the area does not have the required parking lot landscaping

-installing windows in a commercial structure at a location that would have required screening or privacy considerations for adjacent residential development

-change to a noise intensive use adjacent to residential development that could have required conditions to limit noise or hours of operation

- (h) the change does not add a drive-through window.
- (i) the change would not convert a use from one “land use category” listed in Schedule 12-2 to a different land use category, unless the Director determines that they have substantially the same operating characteristics or impacts on adjoining properties and public facilities. The land use categories are summarized below:
  - (1) Agriculture
  - (2) Residential Dwelling Unit
  - (3) Trade
  - (4) Services
  - (5) Recreation
  - (6) Public
  - (7) Industrial
  - (8) Temporary Use

For example, the following would require site plan review: conversion of a residence to an office or retail building; conversion of an industrial warehouse to a retail use.

2.036

Type I-B. Type I Decision without Public Comment Period. The permitted uses, development and activities listed as Type I-B in Schedules 2-1 and 12-2 shall be processed by the Director in accordance with the requirements of this Section. At the Director’s discretion, an application requiring a Type I-B review may be referred directly to the Hearings Officer for review through a Type II review or the Planning Commission for review through a Type III review.

- (1) Director’s Decision.
  - (a) Action and Criteria. Within 20 working days of the date of determination that an application is complete, the Director shall make a decision by approving, conditionally approving, or denying the application based upon compliance with the provisions of this Code.
  - (b) Conditions. Conditions may be applied to the approval of any application when such conditions are required to comply with the relevant Sections of the Code.
- (2) Notice of Decision. Upon reaching a final decision on the application, the Director shall provide notice in accordance with this Section.
  - (a) Notice Area. The Director shall mail notice of the decision to:
    - (i) The applicant.

- (ii) Owners of property within 100 feet of the entire contiguous site for which the application is made. The list shall be compiled from the most recent property tax assessment roll.
  - (iii) Any neighborhood or community organization whose boundaries include the site and who is listed by the City on a public notice registry.
  - (iv) If requested by the applicant in writing at the time of application, the Director shall also provide notice to the Department of Land Conservation and Development.
  - (v) Public agencies which provide transportation facilities and services, such as Josephine County and the Oregon Department of Transportation (ODOT), for applications which affect private access to roads.
- (b) Notice Content. The notice shall:
- (i) Explain the nature of the application and the proposed use or uses which could be authorized.
  - (ii) List, by commonly used citation, the applicable criteria from the ordinance and the plan that apply to the application at issue.
  - (iii) Set forth the street address or other easily understood geographical reference to the subject property.
  - (iv) Include the name of a City representative to contact and the telephone number where additional information may be obtained.
  - (v) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
  - (vi) Describe the nature of the decision.
  - (vii) State that any person who is adversely affected or aggrieved or who is entitled to written notice under paragraph (a) of this Subsection may appeal the decision by filing a written appeal in a manner provided in this Code within 12 calendar days of the date the written notice is mailed.
  - (viii) State the place, date and time that the appeal is due.

- (ix) State that the decision will not become final until the period for filing a local appeal has expired.
  - (x) State that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.
- (3) Effective Date. The effective date of the final decision shall be 12 calendar days following the date the notice of decision is mailed, unless appealed, in which case the effective date shall as provided for the Type III decision.
  - (4) Appeal. A final decision may be appealed to the Planning Commission as provided in Section 10.020 of this Code.
  - (5) Resubmittal. A denied application may be resubmitted as provided in Section 3.080 of this Code.

2.037

Type I-C. Type I Decision with Public Comment Period. The permitted uses, development and activities listed as Type I-C in Schedules 2-1 and 12-2, shall be processed by the Director in accordance with the requirements of this Section. At the Director's discretion, an application requiring a Type I-C review may be referred directly to the Hearings Officer for review through a Type II review or the Planning Commission for review through a Type III review.

- (1) Public Comment Period Required. The Director shall provide a 14 day period for submission of written comments prior to making a decision on any application requiring a Type I-C procedure.
- (2) Notice of Public Comment Period. The Director shall mail public notice within 10 working days of receiving a complete application pursuant to Section 3.050 of this Code.
- (3) Notice Area. The Director shall mail notice of the public comment period to the following:
  - (a) The applicant.
  - (b) Owners of property within 100 feet of the entire contiguous site for which the application is made. The list shall be compiled from the most recent property tax assessment roll.
  - (c) Any neighborhood or community organization whose boundaries include the site and who is listed by the City on a public notice registry.
  - (d) Public agencies which provide transportation facilities and services, such as Josephine County and the Oregon Department of Transportation (ODOT), for all partitions, and other applications which affect private access to roads.

(4) Notice of Comment Period Content. The notice shall:

- (a) State that issues which may provide the basis for an appeal shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue.

*[Note: The above language is required by ORS 197.195 for Limited Land Use Decisions, even though the procedures herein provide for appeal of a Type I-C decision to be heard by the Planning Commission through a 'de novo' hearing, which allows new issues to be raised and allows introduction of new evidence. The 'notice of comment period' and 'notice of decision' language below is slightly different than the statutory language to reflect the fact that this code allows for local appeal].*

- (b) Explain the nature of the application and the proposed use or uses which could be authorized.
- (c) Briefly summarize the local decision making process for the decision being made.
- (d) List, by commonly used citation, the applicable criteria from the ordinance and the plan that apply to the application at issue.
- (e) Set forth the street addresses or other easily understood geographical reference to the subject property.
- (f) Include the name of a City representative to contact and the telephone number where additional information may be obtained.
- (g) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, all evidence relied upon by the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
- (h) State that any person who is adversely affected or aggrieved, anyone who is entitled to written notice under paragraph (3) of this Subsection, and anyone who provides written comments during the comment period may appeal the decision by filing a written appeal in a manner provided in this Code within 12 calendar days of the date the written notice of decision is mailed.
- (i) State the place, date and time that comments are due.
- (j) State that the decision will not become final until the period for filing a local appeal has expired.

(k) State that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

(5) Director's Decision.

(a) Action and Criteria. Within 10 working days of the end of the public comment period, the Director shall make a decision by approving, conditionally approving, or denying the application based upon compliance with the provisions of this Code.

(b) Conditions. Conditions may be applied to the approval of any application when such conditions are required to comply with the relevant Sections of the Code.

(6) Notice of Decision. Upon reaching a final decision on the application, the Director shall mail a copy of the decision to the applicant and any person who submits comments during the public comment period.

The Director shall also mail notice of the decision in writing to parties who were notified of the comment period in Subsection (3) of this Section.

(7) Notice of Decision Content. The content of the notice of the decision shall:

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

(b) Briefly summarize the local decision making process for the decision being made.

(c) List, by commonly used citation, the applicable criteria from the ordinance and the plan that apply to the application at issue.

(d) Set forth the street addresses or other easily understood geographical reference to the subject property.

(e) Include the name of a City representative to contact and the telephone number where additional information may be obtained.

(f) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, applicable criteria, and all evidence relied upon by the decision-maker are available for inspection at no cost and will be provided at reasonable cost.

(g) Describe the nature of the decision.

(h) State that any person who is adversely affected or aggrieved, anyone who is entitled to written notice under paragraph (3) of this Subsection,

or anyone who provided testimony for the record may appeal the decision by filing a written appeal in a manner provided in this Code within 12 calendar days of the date the written notice of decision is mailed.

- (i) State that issues which may provide the basis for an appeal shall be raised in writing prior to the expiration of the appeal period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue.
  - (j) State the place, date, and time the appeal is due.
  - (k) state that the decision will not become final until the period for filing a local appeal has expired.
  - (l) state that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.
- (8) Effective Date. The effective date of the final decision shall be 12 calendar days following the date the notice of decision is mailed, unless appealed, in which case the effective date shall as provided for the Type III decision.
- (9) Appeal. A final decision may be appealed to the Planning Commission as provided in Section 10.030 of this Code.
- (10) Resubmittal. A denied application may be resubmitted as provided in Section 3.080 of this Code.

2.038

Type I-D. Type I Decision for Expedited Industrial Site Plan Review within Regionally Significant Industrial Area (RSIA) with Public Comment.

Purpose. Consistent with ORS 197.724, this Section provides procedures for an Expedited Industrial Land Use Permit for properties within a Regionally Significant Industrial Area (RSIA) designated by the Economic Recovery Review Council (ERRC).

An applicant for a new industrial use or the expansion of an existing industrial use located within a RSIA may request an application for a land use permit be reviewed as an application for an Expedited Industrial Land Use Permit and the local government shall review the application applying the standards and criteria that otherwise apply to the review and by using the procedures set forth for review of an expedited land division in ORS 197.365 (Application for Expedited Land Division) and ORS 197.370 (Failure of Local Government to Approve or Deny Application within Specified Time).

The permitted uses, development and activities listed as Type I-D in Schedules 2-1 and 12-2, shall be processed by the Director in accordance with the requirements of this Section.

- (1) Public Comment Period Required. The Director shall provide a 14 day period for submission of written comments prior to making a decision on any application requiring a Type I-D procedure.
- (2) Notice of Public Comment Period. The Director shall mail public notice within 10 working days of receiving a complete application pursuant to Section 3.050 of this Code.
- (3) Notice Area. The Director shall mail notice of the public comment period to the following:
  - (a) The applicant.
  - (b) Owners of property within 100 feet of the entire contiguous site for which the application is made. The list shall be compiled from the most recent property tax assessment roll.
  - (c) Any neighborhood or community organization whose boundaries include the site and who is listed by the City on a public notice registry.
  - (d) Any state agencies, local governments or special districts responsible for providing public facilities or services to the development.
- (4) Notice of Comment Period Content. The notice shall:
  - (a) State the deadline for submitting written comments, and that issues which may provide the basis for an appeal to the referee shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue.  
  
*[Note: The above language is required by ORS 197.365 for Expedited Land Divisions, even though the procedures herein provide for appeal of a Type I-D decision to be heard by referee under ORS 197.375. The 'notice of comment period' and 'notice of decision' language below is slightly different than the statutory language to reflect the fact that this code allows for local appeal].*
  - (b) Explain the nature of the application and the proposed use or uses which could be authorized.
  - (c) Briefly summarize the local decision making process for the decision being made.



- (d) List, by commonly used citation, the applicable criteria from the ordinance and the plan that apply to the application at issue.
  - (e) Set forth the street addresses or other easily understood geographical reference to the subject property.
  - (f) Include the name of a City representative to contact and the telephone number where additional information may be obtained.
  - (g) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, all evidence relied upon by the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
  - (h) State that any person who is adversely affected or aggrieved, anyone who is entitled to written notice under paragraph (3) of this Subsection, and anyone who provides written comments during the comment period may appeal the decision by filing a written appeal within 14 days of the date the written notice of decision is mailed.
  - (i) State the place, date and time that comments are due.
  - (j) State that the decision will not become final until the period for filing a local appeal has expired.
  - (k) State that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.
- (5) Director's Decision.
- (a) Action and Criteria. Within 63 days of receiving a completed application, the Director shall make a decision by approving, conditionally approving, or denying the application based upon compliance with the provisions of this Code. For applications subject to this section, the local government:
    - (i) Shall not hold a hearing on the application; **and**
    - (ii) Shall issue a written determination of compliance or non-compliance with applicable land use regulations that include a summary statement explaining the determination.
  - (b) Conditions. Conditions may be applied to the approval of any application when such conditions are required to comply with the relevant Sections of the Code.

- (6) Notice of Decision. Upon reaching a final decision on the application, the Director shall mail a copy of the decision to the applicant and any person who received notice under Subsection (3) of this Section within 63 days of the date of a completed application and any person who submitted comments during the public comment period.

The Director shall also mail notice of the decision in writing to parties who were notified of the comment period in Subsection (3) of this Section.

- (7) Notice of Decision Content. The content of the notice of the decision shall:
- (a) Explain the nature of the application and the proposed use or uses which could be authorized.
  - (b) Briefly summarize the local decision making process for the decision being made.
  - (c) List, by commonly used citation, the applicable criteria from the ordinance and the plan that apply to the application at issue.
  - (d) Set forth the street addresses or other easily understood geographical reference to the subject property.
  - (e) Include the name of a City representative to contact and the telephone number where additional information may be obtained.
  - (f) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, applicable criteria, and all evidence relied upon by the decision-maker are available for inspection at no cost and will be provided at reasonable cost.
  - (g) Describe the nature of the decision in a summary statement.
  - (h) State that any person who is adversely affected or aggrieved, anyone who is entitled to written notice under paragraph (3) of this Subsection, or anyone who provided testimony for the record may appeal the decision by filing a written appeal in a manner provided in this Code within 14 calendar days of the date the written notice of decision is mailed.
  - (i) State that issues which may provide the basis for an appeal shall be raised in writing prior to the expiration of the appeal period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue.
  - (j) State the place, date, and time the appeal is due.

- (k) State that the decision will not become final until the period for filing a local appeal has expired.
  - (l) State that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.
- (8) Effective Date. The effective date of the final decision shall be 14 calendar days following the date the notice of decision is mailed, unless appealed, in which case the effective date shall be in accordance with ORS 197.375 (Appeal of Decision on Application for Expedited Land Division) or ORS 197.726 (Jurisdiction on Appeal).
- (9) Appeal. A final decision shall be in accordance with ORS 197.375 (Appeal of Decision on Application for Expedited Land Division) or ORS 197.726 (Jurisdiction on Appeal).
- (10) Resubmittal. A denied application may be resubmitted as provided in Section 3.080 of this Code.
- (11) Review, Eligibility.
- (a) An applicant for a new industrial use or the expansion of an existing industrial use located within a regionally significant industrial area may request that an application for a land use permit be reviewed as an application for an expedited industrial land use permit under this section if the proposed use does not require:
    - (i) An exception taken under ORS 197.732 (Goal Exceptions) to a statewide land use planning goal;
    - (ii) A change to the acknowledged comprehensive plan or land use regulations of the local government within whose land use jurisdiction the new or expanded industrial use would occur; or
    - (iii) A federal environmental impact statement under the National Environmental Policy Act.
  - (b) If the applicant makes a request that complies with section 2.038, the local government shall review the applications for land use permits for the proposed industrial use by applying the standards and criteria that otherwise apply to the review and by using the procedures set forth for review of an expedited land division in ORS 197.365 (Application for Expedited Land Division) and ORS 197.370 (Failure of Local Government to Approve or Deny Application within Specified Time).
- (12) Jurisdiction on Appeal; Standing. Jurisdiction for appeal of a local decision for an Expedited Industrial Site Plan within a RSIA shall be in accordance with

ORS 197.726 (Jurisdiction on Appeal). See also ORS 197.375 (Appeal of Decision on Application for Expedited Land Division).

- (a) The Land Use Board of Appeals does not have jurisdiction to consider decisions, aspects of decisions or actions taken under ORS 197.722 (Definitions for ORS 197.722 to 197.728) to ORS 197.728 (Rules). See also ORS 197.360 (Expedited Land Division Defined) to ORS 197.380 (Application Fees for Expedited Land Division).
- (b) An appeal of a decision on an application for an Expedited Industrial Land Use Permit made under ORS 197.724 (Review of Application for Land Use Permit within Regionally Significant Industrial Area) may be made in the manner set forth in ORS 197.375 (Appeal of Decision on Application for Expedited Land Division) for appeal of a decision on an expedited land division. Notwithstanding ORS 197.375 (Appeal of Decision on Application for Expedited Land Division);
  - (i) The applicant and a person who filed written comments in the time period established under ORS 197.365 (Application for Expedited Land Division) may file an appeal;
  - (ii) If an appeal is filed, the referee shall hold a hearing on the appeal; and
  - (iii) The referee shall issue a written decision within 42 days (ORS 197.375(4)(b) or within 56 days (ORS 197.726(2)(c) after the appeal was filed.
- (c) A party to a proceeding before a referee under this Section may seek judicial review of the referee's decision in the manner provided for review of final orders of the Land Use Board of Appeals under ORS 197.850 (Judicial Review of Board Order) and 197.855 (Deadline for Final Court Order). The Court of Appeals shall review decisions of the referee in the manner provided for review of final orders of the Land Use Board of Appeals in ORS 197.850 (Judicial Review of Board Order) and 197.855 (Deadline for Final Court Order). However, notwithstanding ORS 197.850 (Judicial Review of Board Order) (9) or any other provision of law, the court shall reverse or remand the decision only if the court finds that:
  - (i) The local government's decision clearly does not concern an application for an expedited industrial land use permit as described in ORS 197.360 (Expedited Land Division Defined) or ORS 197.724 (Review of Application for Land Use Permit within Regionally Significant Industrial Area) and the appellant raised this issue in proceedings before the referee;

- (ii) There is a basis to vacate the decision as described in ORS 36.705 (Vacating Award)(1)(a) to (d), or a basis for modification or correction of an award as described in ORS 36.710 (Modification or Correction of Award)(ORS 197.375(8)(b));
- (iii) The referee’s decision contains a clear, material error of fact based on the record, and the Appellant raised the issue in proceedings before the referee;
- (iv) The referee’s decision contains a clear, material error of law, giving deference to any interpretations of law by the referee, and the Appellant raised the issue in proceedings before the referee; or
- (v) The decision of the local government or the referee is unconstitutional.

2.040      Type II Procedure

2.041      Purpose. The purpose of the Type II procedure is to hold a meeting between the applicant and surrounding property owners, in which the opportunity is given to resolve any potential conflict between the applicant and affected parties in an informal setting, and reach an acceptable decision regarding the proposal. The decisions involved in development review are to be objective in nature, and require only moderate discretion in the application of the requirements of this Code.

2.042      Processing.

- (1) Except as provided in Section 2.042(2), a Type II application shall be processed by the Hearings Officer through a publicly held and noticed mediation hearing.
- (2) Hearing Option. At the Director’s discretion, a Type II review may be referred directly to the Planning Commission for review and approval, using the Type III procedure as provided in Section 2.050.
- (3) Upon verification of a complete application pursuant to Section 3.050 of this Code, the Director shall provide for a public mediation meeting as provided in Section 2.043 through 2.044 following, and shall cause review of the application as required by this Code to proceed.
- (4) A staff report on the application shall be prepared and shall be available to the applicant and any other interested parties at least seven calendar days prior to the meeting.

Notice of Mediation Hearing

- (1) Notice Area. The Director shall mail notice not less than <sup>8</sup>20 calendar days prior to the mediation hearing to the following:
  - (a) The applicant.
  - (b) Owners of record of property on the most recent property tax assessment roll where such property is located within 100 feet of the property which is the subject of the notice.
  - (c) Any neighborhood or community organization whose boundaries include the site and who is listed by the City on a public notice registry.
  - (d) Public agencies which provide transportation facilities and services, such as Josephine County and the Oregon Department of Transportation (ODOT), for all subdivisions, and other applications which affect private access to roads.
  
- (2) Notice Content. The notice shall:
  - (a) Explain the nature of the application and the proposed use or uses which could be authorized.
  - (b) List the applicable criteria from this Code and the Comprehensive Plan that apply to the application at issue.
  - (c) Set forth the street address or range of addresses, Assessor's map reference, or other easily understood geographical reference to the subject property.
  - (d) State the date, time and location of the meeting.
  - (e) State that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue may preclude an appeal to the board based on that issue.
 

*[Note: ORS 197.763 requires the language "...precludes appeal to the board on that issue". The procedures herein provide for local appeal of a Type II decision to be heard by the Planning Commission and City Council prior to an appeal to the Land Use Board of Appeals. The procedures also allow for the possibility of a 'de novo' hearing, which allows new issues to be raised and allows introduction of new evidence].*
  - (f) Include the name of a City representative to contact and the telephone number where additional information may be obtained.

- (g) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection and will be provided at a reasonable cost.
- (h) State that a copy of the staff report will be available for inspection at no cost at least seven calendar days prior to the hearing and will be provided at reasonable cost.
- (i) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

2.044

Mediation Hearing.

- (1) Purpose. The mediation hearing is a face-to-face meeting of those persons directly involved, whose purpose is to determine design and development conditions that may mitigate the impacts of the proposed development. The Hearings Officer shall take the role of mediator, and shall encourage a design solution meeting the needs and concerns of both the applicant and objecting property owners.
- (2) The Mediation Hearing shall be held by the Hearings Officer on the date noticed by the Director. The conduct of the hearing shall be as provided in Article 8, Quasi-Judicial Hearing Rules.
- (3) Orderly Conduct. The Hearings Officer shall chair the mediation hearing, and shall provide for the orderly conduct of the hearing in an informal but fair and open manner. Participants will conduct themselves in a reasonable and orderly manner, and may be excused from the meeting by the Hearings Officer for disruptive conduct.
- (4) At the commencement of the hearing, a statement shall be made to those in attendance that:
  - (a) Lists the applicable criteria by which a decision will be made.
  - (b) States that testimony, evidence, and arguments, must be directed toward these criteria or other criteria contained in this Code or the Comprehensive Plan which the person believes to apply to that decision.
  - (c) States that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue may preclude appeal based on that issue.

*[Note: ORS 197.763 requires the language "...precludes appeal to the board on that issue". The procedures herein provide for local appeal of a Type II decision to be heard by the Planning Commission and City Council prior to an*

*appeal to the Land Use Board of Appeals. The procedures also allow for the possibility of a 'de novo' hearing, which allows new issues to be raised and allows introduction of new evidence].*

2.045 Hearings Officer's Decision.

- (1) Action and Criteria. The Hearings Officer shall review the application, written comments, mediation hearing testimony, if any, and the requirements of this Code, and shall make a decision on the application by approving, conditionally approving, or denying the application. The criteria for reaching a decision under a Type II procedure shall be based on compliance with the provisions of the Code.
- (2) Conditions. Conditions may be applied to the approval of any application under a Type II procedure when such conditions are required to comply with the applicable provisions of this code.
- (3) Final Decision and Notice. At the conclusion of the mediation hearing, or within 10 calendar days of the mediation hearing, the Hearings Officer shall reach a final decision, and shall mail notice in writing of the final decision to the applicant, all affected parties participating in the mediation meeting, and all affected parties submitting written comment prior to the mediation meeting requesting such notice. The content of the notice of final decision shall be as provided in Section 2.037(7) of this Code, and shall state the right of appeal of the final decision as provided in this Code. A copy of the adopted Findings shall be mailed to the applicant/owner and other parties requesting such copy.
- (4) Effective Date. The effective date of the final decision shall be 12 calendar days following the date the written notice of decision is mailed, unless appealed, in which case the effective date shall be as provided for the Type III decision.

2.046 Appeal. The final decision of the Hearings Officer under the Type II procedure may be appealed to the Planning Commission as provided in Section 10.040 of this Code.

2.047 Resubmittal. A denied application may be resubmitted as provided in Section 3.080 of this Code.

2.050 Type III Procedure

2.051 Purpose. The purpose of the Type III procedure is to provide for quasi-judicial review of designated land use actions by the Planning Commission at a public hearing. Such actions may be complex and discretionary in nature, requiring the exercise of judgment in applying the policies of the Comprehensive Plan and the requirements of this Code.



2.052 Processing.

- (1) A Type III application shall be reviewed at a public hearing before the Planning Commission. At the Director's discretion, a Type III review may be referred to the Hearings Officer, in which case the application shall be reviewed using the Type II procedure. The Director shall only refer a Type III decision to the Hearings Officer when unusual circumstances apply, and the amount of discretion is not substantially greater than applications reviewed through a Type II procedure.
- (2) Upon verification of a complete application pursuant to Section 3.050 of this Code, the Director shall schedule a public hearing as provided in Sections 2.053 through 2.054 following, and shall cause review of the application as required by this Code to proceed.

2.053 Notice of Public Hearing

- (1) Notice shall be mailed not less than 20 calendar days prior to the hearing, or, if there are two or more evidentiary hearings, notice shall be mailed not less than 10 days before the first hearing. Notice shall be mailed to the following:
  - (a) The applicant.
  - (b) Owners of record of property on the most recent property tax assessment roll where such property is located within 100 feet of the property which is the subject of the notice. NOTE: Noticing outside the UGB requires a 250 foot radius.
  - (c) Any neighborhood or community organization whose boundaries include the site and who is listed by the City on a public notice registry.
  - (d) Public agencies which provide transportation facilities and services, such as Josephine County and the Oregon Department of Transportation (ODOT).
- (2) If the hearing is a Planning Commission recommendation hearing or City Council action hearing for a Type IV procedure, the following notice shall also be provided:
  - (a) For Development Code text amendments and Comprehensive Plan amendments, notice shall be provided in a newspaper of general circulation 4 to 10 days prior to the hearing.
  - (b) If the application would change the zone of property which includes all or part of a manufactured home park, notice shall be mailed to each existing mailing address for tenants of the manufactured home park at least 20 calendar days and not more than 40 calendar days prior to the hearing.

- (c) For Development Code amendments and Comprehensive Plan amendments that “rezone” property as defined in Section 2.095, mailed notice shall be provided in Section 2.095.
- (3) On an appeal from the Type I or II procedures, the Director shall mail notice to parties specified in Section 10.022, 10.032, 10.036, or 10.042, provided below for reference:
- (a) Type I-B. The applicant, the appellant, any adversely affected or aggrieved party requesting notice in writing, and all persons previously mailed written notice of the decision.
  - (b) Type I-C. The applicant, the appellant, any adversely affected or aggrieved party requesting notice and writing, and all persons previously noticed as part of the process leading to the Director’s final action.
  - (c) Type I-D. The applicant, the appellant, any adversely affected or aggrieved party requesting notice in writing, and all persons previously noticed as part of the process leading to the Director’s final action.
  - (d) Type II. The applicant, the appellant, any adversely affected or aggrieved person requesting notice in writing, and all persons previously noticed leading to the Hearings Officer’s written decision.
- (4) Notice Content. The notice shall:
- (a) Explain the nature of the application and the proposed use of uses which could be authorized.
  - (b) List the applicable criteria from this Code and the Comprehensive Plan that apply to the application at issue.
  - (c) Set forth the street address or range of addresses, Assessor’s map reference, or other easily understood geographical reference to the subject property.
  - (d) State the date, time and location of the meeting.
  - (e) State that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue may preclude appeal of the Planning Commission’s decision based on that issue and may preclude an appeal of the City Council’s decision to the Land Use Board of Appeals based on that issue.

- (f) Include the name of a City representative to contact and the telephone number where additional information may be obtained.
- (g) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection and will be provided at a reasonable cost.
- (h) State that a copy of the staff report will be available for inspection at no cost at least seven calendar days prior to the hearing and will be provided at reasonable cost.
- (i) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

2.054 Public Hearing. A public hearing shall be held by the Hearing Officer or the Planning Commission on the date noticed by the Director. The conduct of the hearing shall be as provided in Article 8, Quasi-judicial Hearing Rules.

2.055 Final Decision

- (1) Action and Criteria. The review body shall review the application, together with staff review, written comment received prior to or during the hearing, and testimony made at the hearing, and shall make a decision on the application by approving, approving with conditions or denying the application. The criteria for reaching a decision under a Type III procedure, including decisions made under appeal, shall be based upon compliance with the provisions of this Code.
- (2) Conditions. Conditions may be applied to the approval of any application under a Type III procedure, when such conditions are required to comply with the applicable Sections of this Code.
- (3) Findings and Notice of Final Decision. The initial action by the Planning Commission shall be known as the oral decision, as provided in Section 8.038.
  - (a) A final decision by the Planning Commission incorporating the oral decision shall be adopted by the next regularly scheduled meeting of the Commission, and shall include findings which address the applicable criteria when required by this Code.
  - (b) Notice of the final decision shall be mailed to the applicant, and other affected parties requesting such notice in writing, within 10 calendar days of the rendering of the final decision by the Planning Commission, and shall state the right of appeal of the final decision as provided in this Code. A copy of the adopted Findings shall be mailed to the applicant/owner and other parties requesting such copy.
- (4) Effective Date. The effective date of the final decision shall be 12 calendar days following the date the written notice of decision is mailed, unless

appealed, in which case the effective date shall be as provided for the Type IV decision.

2.056 Appeal. The final decision of the review body under the Type III procedure may be appealed to the City Council as provided in Section 10.050 of this Code.

2.057 Resubmittal. A denied application may be resubmitted as provided in Section 3.080 of this Code.

2.060 Type IV Procedures.

2.061 Purpose. The purpose of the Type IV procedure is to provide for quasi-judicial and legislative review of designated land use actions by the City Council at a public hearing. Such actions are complex and discretionary in nature, and require the exercise of judgment in applying the policies of the Comprehensive Plan and the requirements of this Code.

2.062 Processing.

- (1) A Type IV application may be reviewed at a public hearing before the Planning Commission for a recommendation, unless otherwise stipulated by this Code, and shall be reviewed at a public hearing before the City Council for action on the matter.
- (2) Upon verification of a complete application pursuant to Section 3.050 of this Code, the Director shall schedule a public hearing before the Planning Commission as provided in Sections 2.063 through 2.064 following, and shall cause review of the application required by this Code to proceed.
- (3) As specified in this Code, certain land use actions processed under the Type IV procedure may require review by the City Council only, all other particulars of the review process under the Type IV procedure remaining the same. These actions are designated as Type “IV-A” in Schedule 2-1. Unless specifically stated otherwise in this Code, the Type IV procedure shall include consideration by the Planning Commission. These actions are designated as Type “IV-B” in Schedule 2-1.

2.063 Recommendation Hearing Before Planning Commission.

- (1) Notice. When an application is scheduled for the recommendation hearing by the Planning Commission, notice area, method and content shall be as provided in Section 2.053 of this Code.
- (2) Public Hearing. A public hearing shall be held by the Planning Commission on the date noticed by the Director. The conduct of the hearing shall be as provided in Article 8, Quasi Judicial Hearing Rules or Article 9, Legislative Hearing Guidelines, as appropriate.

2.064

Recommendation Hearing by the Planning Commission

- (1) Action, Criteria and Conditions. The Planning Commission shall review the application and make a recommendation to the City Council, either for approval, approval with conditions or denial of the proposal. The criteria for reaching a decision under the Type IV procedure shall be compliance with the Comprehensive Plan, including but not limited to the Master Transportation Plan, and the provisions of this Code.
- (2) Findings and Notice of Recommendation Decision. The initial action by the Planning Commission at the Recommendation Hearing shall be known as the oral recommendation.
  - (a) A final recommendation embodying the oral recommendation by the Planning Commission shall be adopted at the next regularly scheduled meeting of the Commission, and shall include findings which address the applicable criteria of this Code.
  - (b) Notice of the final recommendation shall be incorporated within the City Council's public hearing notice indicating the hearing date the City Council will review the recommendation.

2.065

Action Hearing Before City Council.

- (1) Schedule. Within 14 calendar days of the final recommendation by the Planning Commission, the Director shall schedule the action hearing on the application before the City Council.
- (2) Notice of Public Hearing. Notice shall be as provided in Section 2.053 of this Code, except that mailed notice shall also include those affected parties who testified either in person or in writing at the recommendation hearing before the Planning Commission.
- (3) Public Hearing. A public hearing by the City Council shall be held on the date noticed by the Director. The conduct of the hearing shall be as provided in Article 8, Quasi-Judicial Hearing Rules, or Article 9, Legislative Hearing Guidelines, as appropriate.

2.066

Final Decision by City Council.

- (1) Action and Criteria. The City Council shall review the application, together with the staff review, findings and final recommendation of the Planning Commission, evidence received prior to and during both the Planning Commission and City Council hearings, and shall make a decision on the application by approving, conditionally approving or denying the application. The criteria for reaching a decision under the Type IV procedure shall be compliance with the Comprehensive Plan and the provisions of this Code.

- (2) Conditions. Conditions may be applied to the approval of any application under Type IV procedure, when such conditions are in accord with the applicable Sections of this Code.
- (3) Findings and Notice of Final Decision. The initial action by the City Council shall be known as the oral decision.
  - (a) A final decision embodying the oral decision shall be adopted by the City Council by the second regularly scheduled meeting of the Council following the oral decision by Council.
  - (b) Notice of the final action shall be mailed to the applicant, and to other affected parties requesting such notice in writing within 10 calendar days of the rendering of the final decision. A copy of the adopted Findings shall be mailed to the applicant/owner and other parties requesting such copy.
- (4) Effective Date. The decision of the Council shall be final upon signing of the findings of fact.

2.067 Appeal. The final decision of the City Council under the Type IV procedure may be appealed to the Oregon Land Use Board of Appeals as provided in Section 10.060.

2.068 Resubmittal. A denied application may be resubmitted as provided in Section 3.080 of this Code.

2.070 Type V Procedure. Type V procedure providing for joint City Council and Board of County Commissioners review shall be as provided in the Joint Urban Area Services Management Agreement.

2.071 Appeal. The final decision of the City Council and Board of County Commissioners under the Type V procedure may be appealed to the Oregon Land Use Board of Appeals as provided in Section 10.060.

2.080 Deadline for Decision

The review body shall take final action on any application including resolution of all appeals as provided in Section 3.050.

2.085 Coordinated Review for Transportation Facilities

All land use decisions involving transportation facilities, corridors and sites shall include as part of the record, and consider the findings of, any relevant Environmental Impact Statements and Environmental Assessments completed by the Oregon Department of Transportation (ODOT).

2.090 Noticing Requirements for Certain Proposed Administrative Rules and New State Statutes and Administrative Rules

The purpose of this Section is to comply with noticing procedures required by ORS 197.047.

- (1) Applicability. The provisions of this Section apply to all statutes and administrative rules of the Land Conservation and Development Commission that limit or prohibit otherwise permissible uses or cause a local government to rezone property.
- (2) 'Rezoned' Defined. For purposes of this section, property is rezoned when the statute or administrative rule causes the City to:
  - (a) Change the base zoning classification of property; or
  - (b) Adopt or amend an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.
- (3) 'Owner' Defined. As used in this section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.
- (4) Notice Requirement for Proposed LCDC Administrative Rule That Rezones Property. When the City receives notice under ORS 197.047(2) of a proposed new or amended administrative rule of the Land Conservation and Development Commission, it shall cause the notice set forth in Subsection (5) of this Section to be mailed to every property owner that will be rezoned as a result of the proposed rule. Notice to an owner under this subsection must be mailed at least 45 days prior to the final public hearing on the proposed rule.
- (5) Notice Content for Proposed LCDC Administrative Rule That Rezones Property. The notice required in Subsection (4) of this Section must:
  - (a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

This is to notify you that the Land Conservation and Development Commission has proposed a new or amended administrative rule that, if adopted, may affect the permissible uses of your property and other properties."
  - (b) Contain substantially the following language in the body of the notice:

"On (date of public hearing), the Land Conservation and Development Commission will hold a public hearing regarding adoption of proposed (new or amended) rule (number). Adoption of this rule may affect the

permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Rule (number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of the proposed rule (number) also is available for purchase at a cost of \$\_\_\_\_\_.

For additional information, contact the Department of Land Conservation and Development at (phone number).”

- (6) Notice Requirement for Adopted Statute or LCDC Administrative Rule That Rezones Property. When the City receives notice under ORS 197.047(6) of an adopted new or amended statute or administrative rule of the Land Conservation and Development Commission, it shall cause the notice set forth in Subsection (7) of this Section to be mailed to every property owner that will be rezoned as a result of adoption of the rule or enactment of the statute, unless notice was provided pursuant to Subsection (4) of this Section.

The City shall mail the notice to an owner under this subsection at least 45 days prior to the effective date of the rule or statute unless the rule or statute is effective within 90 days of enactment or adoption, in which case the City shall mail the notice to an owner under this subsection not later than 30 days after the City receives notice under ORS 197.047(6).

- (7) Notice Content for Adopted Statute or LCDC Administrative Rule That Rezones Property. The notice required in Subsection (6) of this notice must:

- (a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

“(Check on the appropriate line:)

\_\_\_\_\_ This is to notify you that the Land Conservation and Development Commission has adopted an administrative rule that may affect the permissible uses of your property and other properties; or

\_\_\_\_\_ This is to notify you that the Legislative Assembly has enacted a land use planning statute that may affect the permissible uses of your property and other properties.”

- (b) Contain substantially the following language in the body of the notice:

“(Check on the appropriate line:)

\_\_\_\_\_ On (date of rule or adoption), the Land Conservation and Development Commission adopted administrative rule (number). The



rule may affect the permissible uses of your property, and other properties in the affected zone, any may change the value of your property.

Rule (number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of the rule (number) also is available for purchase at a cost of \$\_\_\_\_\_.

For additional information, contact the Department of Land Conservation and Development at (phone number); or

\_\_\_\_\_ On (date of enactment), the Legislative Assembly enacted (House/Senate bill number). The Department of Land Conservation and Development has determined that enactment of (House/Senate bill number) may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

A copy of the (House/Senate bill number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of (House/Senate bill number) also is available for purchase at a cost of \$\_\_\_\_\_.

For additional information, contact the Department of Land Conservation and Development at (telephone number).

- (8) DLCD Reimbursement to City. The Department of Land Conservation and Development shall reimburse the City for:
- (a) The actual costs incurred responding to questions from the public related to a proposed new or amended administrative rule of the Land Conservation and Development Commission and to notice of the proposed rule; and
  - (b) All usual and reasonable costs of providing notices required under subsection (4) or (8) of this section.

2.095 Noticing Requirements for Certain Comprehensive Plan and Ordinance Amendments that Rezone Property

The purpose of this Section is to comply with noticing procedures required by ORS 227.186.

- (1) 'Rezoned' Defined. For purposes of this Section, property is rezoned when the City:
- (a) Changes the base zoning classification of the property; or

- (b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.
- (2) 'Owner' Defined. As used in this Section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the latest available complete tax assessment roll.
- (3) Legislative Acts by Ordinance. All legislative acts relating to comprehensive plans, land use planning or zoning adopted by the City shall be by ordinance.
- (4) Additional Notice Requirement for Proposed Ordinance Amending Comprehensive Plan That Would Require Rezoning of Property to Comply with Plan. The noticing requirement in this Section is in addition to the applicable notice requirements contained elsewhere within this Article.

Except as provided in Subsection (7) of this Section, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof, or to adopt a new comprehensive plan, a city shall cause written individual notice of a land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

- (5) Additional Notice Requirement for Proposed Ordinance That Rezones Property. The noticing requirement in this Section is in addition to the applicable notice requirements contained elsewhere within this Article.

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

- (6) Notice Content for Proposed Ordinance Described in Subsection (4) or (5). An additional individual notice of land use change required by Subsection (4) or (5) of this Section shall be approved by the City and shall describe in detail how the proposed ordinance would affect the use of the property. The notice shall:

- (a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

"This is to notify you that the City of Grants Pass has proposed a land use regulation that may affect the permissible uses of your property and other properties."

- (b) Contain substantially the following language in the body of the notice:

“On (date of public hearing), the City of Grants Pass will hold a public hearing regarding the adoption of Ordinance Number \_\_\_\_\_. The City of Grants Pass has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, any may change the value of your property.

Ordinance Number \_\_\_\_\_ is available for inspection at the Grants Pass City Hall located at 101 NW ‘A’ Street. A copy of Ordinance Number \_\_\_\_\_ also is available for purchase at a cost of \$\_\_\_\_\_.

For additional information concerning Ordinance Number \_\_\_\_\_, you may call the City of Grants Pass Planning Division at 474-6355.”

- (7) Notice Requirement for Adoption of Ordinance Amending Comprehensive Plan or Land Use Regulation for Periodic Review. At least 30 days prior to the adoption or amendment of a comprehensive plan or land use regulation by a city pursuant to the requirements of periodic review of the comprehensive plan under ORS 197.628, 197.633 and 197.636, the City shall cause a written individual notice of the land use change to be mailed to the owner of each lot or parcel that will be rezoned as a result of the adoption or enactment. The notice shall describe in detail how the ordinance or plan amendment may affect the use of property. The notice also shall:

- (a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

“This is to notify you that the City of Grants Pass has proposed a land use regulation that may affect the permissible uses of your property and other properties.”

- (b) Contain substantially the following language in the body of the notice:

“As a result of an order of the Land Conservation and Development Commission, the City of Grants Pass has proposed Ordinance Number \_\_\_\_\_. The City of Grants Pass has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Ordinance Number \_\_\_\_\_ will become effective on (date).

Ordinance Number \_\_\_\_\_ is available for inspection at the Grants Pass City Hall located at 101 NW ‘A’ Street. A copy of Ordinance Number \_\_\_\_\_ also is available for purchase at a cost of \_\_\_\_\_.

For additional information concerning Ordinance Number \_\_\_\_\_, you may call the City of Grants Pass Planning Division at 474-6355.

- (8) Combined Mailing Option. Notice provided under this Section may be included with the tax statement required under ORS 311.250.
- (9) Method of Mailing. Notwithstanding Subsection (8) of this Section, a city may provide notice of a hearing at any time provided notice is mailed by first class mail or bulk mail to all persons for whom notice is required under Subsections (4) and (5) of this Section.
- (10) Relationship to Section 2.090. The provisions of this Section do not apply to legislative acts of the City Council resulting from action of the Legislative Assembly or the Land Conservation and Development Commission for which notice is provided under Section 2.090 or resulting from an order of a court of competent jurisdiction.
- (11) Notice Not Required to Duplicate Ownerships. The City Council is not required to provide more than one notice under this Section to a person who owns more than one lot or parcel affected by a change to the comprehensive plan or land use regulation.
- (12) DLCD Reimbursement to City. The Department of Land Conservation and Development shall reimburse the City for all usual and reasonable costs to provide notice required under Subsection (7) of this Section.

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REVISIONS

DATE	ORD #
10/7/92	4747
11/15/95	4843
9/4/02	5152
4/20/05	5285
1/18/16	5333
6/7/06	5359
4/16/08	5442
5/20/09	5489
3/5/14	5598
12/3/14	5632
2/17/16	5673
9/21/16	5697
6/6/18	5735
4/17/19	5757