Medford City Council Meeting

Agenda

June 21, 2018
6:00 P.M.
Medford City Hall, Council Chambers
411 West 8th Street, Medford, Oregon

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10. Roll Call

20. Recognitions, Community Group Reports
20.1 Employee Recognition

30. Oral Requests and Communications from the Audience
Comments will be limited to 4 minutes per individual, group or organization. PLEASE SIGN IN.

40. Public Hearings
Comments are limited to a total of 30 minutes for applicants and/or their representatives. You may request a 5-minute rebuttal time. Appellants and/or their representatives are limited to a total of 30 minutes and if the applicant is not the appellant they will also be allowed a total of 30 minutes. All others will be limited to 4 minutes. PLEASE SIGN IN.

40.1 COUNCIL BILL 2018-64 An ordinance repealing, replacing, amending, and adding various sections of Chapter 10 of the Medford Municipal Code pertaining to procedural requirements and other regulatory activities for land use to be effective July 23, 2018. Land Use, Legislative (DCA 15-088, CP 17-063)

COUNCIL BILL 2018-77 An ordinance approving a minor amendment to the City of Medford Comprehensive Plan pertaining to review and amendment procedures.

40.2 COUNCIL BILL 2018-65 A resolution approving Substantial Amendment No. 2 to the City of Medford's 2017-18 Action Plan for use of Community Development Block Grant funds.

40.3 COUNCIL BILL 2018-66 A resolution adopting the Action Plan for use of the City's Community Development Block Grant (CDBG) funds for fiscal year 2018-19.

50. Approval or Correction of the Minutes of the June 7, 2018 Regular Meeting

60. Consent Calendar
60.1 COUNCIL BILL 2018-67 An ordinance awarding a contract in an amount of $227,018.00 to MIG to prepare a Self-Assessment and Transition Plan for the public right-of-way in accordance with the Americans with Disabilities Act.

60.2 COUNCIL BILL 2018-68 An ordinance awarding a contract in an amount of $752,424.90 to Roxy Ann Rock, Inc. for the development of Village Center Park.

60.3 COUNCIL BILL 2018-69 An ordinance authoring the purchase of Self Contained Breathing Apparatus equipment in the amount of $424,461.00 from Cascade Fire Equipment Company through the Cooperative National Purchasing Partners Program.

Meeting locations are generally accessible to persons with disabilities. To request interpreters for hearing impaired or other accommodations for persons with disabilities, please contact the ADA Coordinator at (541) 774-2074 or ada@cityofmedford.org at least three business days prior to the meeting to ensure availability. For TTY, dial 711 or (800) 735-1232.

60.4 COUNCIL BILL 2018-70 An ordinance amending sections 2.435 and 2.436 of the Medford Municipal Code pertaining to the appointment of Council liaisons and residency requirements.

60.5 COUNCIL BILL 2018-71 An ordinance amending sections 2.204, 2.438, 2.461, and 2.470 of the Medford Municipal Code pertaining to the structure of membership of various Commissions.

70. Items Removed from Consent Calendar

80. Ordinances and Resolutions

80.1 COUNCIL BILL 2018-32 - SECOND READING - An ordinance amending sections 4.405, 4.718, 4.735, 4.807, and 4.1200 of the Medford Municipal Code pertaining to Sanitary Sewer, Storm Drain, and Street Utility fees.

80.2 COUNCIL BILL 2018-63 - SECOND READING – An ordinance authorizing execution of a two-year Prescott Park Road Use and Maintenance License Agreement between the City of Medford and Burl Brim Excavation, Inc., with a two-year-renewal option.

80.3 COUNCIL BILL 2018-46 – SECOND READING - An ordinance authorizing execution of an Intergovernmental Agreement with Jackson County Fire District 3 for automatic aid response planning.

80.4 COUNCIL BILL 2018-72 An ordinance amending section 2.439 of the Medford Municipal Code pertaining to the Housing Advisory Committee.

COUNCIL BILL 2018-73 An ordinance adding section 2.441 of the Medford Municipal Code pertaining to the Medford Community Development Grants Commission.

80.5 COUNCIL BILL 2018-74 An ordinance amending sections 5.651 and 5.653 of the Medford Municipal Code pertaining to outdoor production of marijuana.

80.6 COUNCIL BILL 2018-75 An ordinance adding section 5.660 of the Medford Municipal Code pertaining to transportation of medical marijuana.

80.7 COUNCIL BILL 2018-76 An ordinance authorizing the execution of an agreement with C.A. Galpin and Cedar Investment Group, LLC for the conveyance to the City of Medford of approximately 11.6 acres of open space and two miles of pathways within the Cedar Landing PUD.

90. Council Business

90.1 Proclamations issued:
Beta Sigma Phi Day – June 23, 2018
Parks and Recreation Month – July 2018
Smart Irrigation Month – July 2018

90.2 Committee Reports and Communications

100. City Manager and Staff Reports

100.1 Further reports from City Manager

110. Adjournment

CITY OF MEDFORD
AGENDA ITEM COMMENTARY

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Item No: 40.1

DEPARTMENT: Planning Department
PHONE: (541) 774-2380
STAFF CONTACT: Matt Brinkley, AICP CFM, Planning Director

AGENDA SECTION: Public Hearings
MEETING DATE: June 21, 2018

COUNCIL BILL 2018-64
An ordinance repealing, replacing, amending, and adding various sections of Chapter 10 of the Medford Municipal Code pertaining to procedural requirements and other regulatory activities for land use. (DCA-15-088 and CP-17-063)
and
COUNCIL BILL 2018-77
An ordinance approving a minor amendment to the City of Medford Comprehensive Plan pertaining to review and amendment procedures.

SUMMARY AND BACKGROUND
The proposal includes revisions to both Chapter 10 of the Municipal Code (aka the "Medford Land Development Code" or (MLDC) and complementary changes to the Review and Amendment Procedures chapter of the Comprehensive Plan. The Municipal Code revisions include updating Article II of Chapter 10 and other affected articles within Chapter 10 but outside of Article II. Article II itself contains the procedural requirements for land use and development permits, as well as other regulatory activities related to land use, and defines the roles and responsibilities of the various decision making bodies (Planning Commission, Site Plan and Architectural Commission, and the Landmarks and Historic Preservation Commission).

The Comprehensive Plan amendment would align the various application types with the proposed Municipal Code amendment. Both proposals may be reviewed and adopted concurrently as they are directly related (DCA-15-088 and CP-17-063).

Work on these amendments has been underway for several years as the Planning Department endeavors to modernize Article II and improve ease of use for members of the development community, property owners, and City staff. While the vast majority of the proposed revisions deal with format and relatively minor syntactical issues (for example, transitioning Medford's identification of different "classes" of permit applications to one that is consistent with that used by almost all municipalities throughout the state), the proposed amendments would make one important substantive change to the land use permitting process: Minor Lot Partitions would become a "Type II Administrative" decision made by the Planning Director acting as the approving body. This particular revision was also recommended by the Housing Advisory Committee that was tasked in late 2017 with formulating strategies to encourage and accelerate the development of housing throughout the City.

Although the non-substantive revisions may appear rudimentary, their value should not be underestimated. Land use entitlement processes that are more customer-oriented and efficient will be beneficial to all parties as Medford works to meet the demands of accelerating growth.

The proposed revisions are an important first step in an initiative that will continue over the next several years to review and improve the processes and procedures related to specific types of land use decisions and the bodies granted the authority to make those decisions.

PREVIOUS COUNCIL ACTIONS
This application was originally scheduled for hearing on the September 7, 2017, City Council agenda, but Council requested it be moved to a study session for further discussion at that meeting.

A City Council study session was held on April 26, 2018. Following the study session, staff made final edits to the document, including changes to the appeal section, as directed by Council.

The Planning Commission reviewed the proposed amendment at its regular meeting on July 27, 2017, and voted unanimously to recommend adoption of the amendment by City Council. The Commission reached this decision after three study sessions.

ANALYSIS

Article II of the MLDC defines the responsibilities, rules of procedure, and establishes legal authority for the various bodies that review land use permits. In its current form, Article II has not seen any sustentative updates since its adoption in 1987; any updates to Article II have been in a piecemeal fashion or to specific portions of Article II.

Working with Article II on a daily basis to evaluate and process actual land use applications and implement land use regulations found throughout the Medford Land Development Code led staff to identify certain limitations and deficiencies. From these observations staff concluded that the functionality of Article II could be improved, for staff as well as the development community at-large, through a reorganization and revision that would eliminate confusing and inconsistent language; improve the navigability of the entire article; and more clearly convey information. In large part, the changes proposed within DCA-15-088 are intended to better organize information and to provide greater consistency with other municipalities in the Rogue Valley and throughout the State.

Major changes to the language and formatting include the transition from "Class A, B, C, D, and E" land use reviews to "Type I, II, III, IV" land use reviews; consolidation of individual sections; and reorganization of sections to create a more comprehensive Article II.

The proposal includes one substantive revision: changing the review process for Minor Lot Partitions (a land division process creating three or fewer parcels) from a Class C Quasi-judicial land use decision made by the Planning Commission with a full public hearing to a Type II Administrative land use decision made by the Planning Director with public notice. As presented, such a decision would be appealable to the Planning Commission with public hearing. That hearing would be "de novo", allowing entry of new evidence into the record upon which the Commission would render its decision on the appeal. This language was added at the suggestion of City Council to clarify how appeals would be handled. Appeals of other land use decisions (for example appeal of a quasi-judicial decision by the Planning Commission to City Council) are restricted to consideration of testimony and evidence found within the official record made during the original decision.

A detailed analysis of the proposal is provided in the Commission report. The Planning Commission recommended the City Council approve the amendments during their July 27, 2017, public hearing.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

It is anticipated that a clearer, more usable Article II will enable property owners and developers to improve their understanding of the land use entitlement process, thereby averting unnecessary confusion and the time required of staff to resolve that confusion.

Changing the type of review procedure used for Minor Lot Partitions would reduce workload for the Planning Commission and staff by eliminating the requirement for a public hearing. The process would also be much faster and reduce the time needed for developers to obtain land use approvals needed before development occurs.

TIMING ISSUES
None.

COUNCIL OPTIONS
- Approve the ordinance as presented
- Modify the ordinance as presented
- Decline to approve the ordinance as presented and direct staff regarding further action

STAFF RECOMMENDATION
Staff recommends approval of the ordinance.

SUGGESTED MOTION
I move to approve the ordinance amending the text in Chapter 10 of the Municipal Code and the Review and Amendment chapter of the Comprehensive Plan based on the findings of fact and conclusions of law provided for in the Commission Report dated June 14, 2018 including exhibits A – N.

EXHIBITS
Ordinance
Commission Report

ORDINANCE NO. 2018-64

AN ORDINANCE repealing, replacing, amending, and adding various sections of Chapter 10 of the Medford Municipal Code pertaining to procedural requirements and other regulatory activities for land use to be effective July 23, 2018.

SECTION 1. Section 10.012 of the Medford Code is amended to read as follows:

10.012 Definitions, Specific.
When used in this chapter, the following terms shall have the meanings as herein ascribed:
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Appeal. A means of obtaining review of a decision, determination, order, or failure to act pursuant to the terms of this chapter as expressly authorized by the provisions of Article **II**, Section **10.140** ~~10.051, Appeals~~.
Approving Authority. The designated official or official body charged with the duty of investigating and reporting on the design, improvement and use of proposed developments of real property, the imposing of requirements or conditions thereon and the authority to approve, conditionally approve or disapprove development permits and ~~plan authorizations~~ **land use reviews** as per this chapter.
***
Development permit. The written acknowledgment by the city that a specific development proposal has complied with all required ~~plan authorizations~~ **land use reviews** determined necessary for development.
***
Exceptions. Permission to depart from the literal requirements of this code granted pursuant to Article II, Section **10.186** ~~10.251, Application for Exceptions~~.
***
Land Development Committee. A land **use**/development review and advisory committee comprised of representatives from all referral agencies as identified in Article II, Section ~~10.145~~ **10.112**.
***
Planned Unit Development (PUD). A planned unit development (PUD) is any development approved by the City under Sections ~~10.230~~ **10.190** through ~~10.245~~ **10.198** or under earlier PUD ordinances of the City.
***
Site plan. A plan, prepared to scale, showing accurately and with complete dimensioning, all of the uses as required ~~by Article II, Section 10.287, Application General~~ **in the land use review applications**.
***
Street, private. A street providing public access to more than one lot. It is a separate tax lot that is owned and maintained by private parties. Private streets are only allowed in Planned Unit Developments (PUDs) (See Section 10.~~230(D)(5))~~**192(B)(6))**.
***

SECTION 2. Section 10.021 of the Medford Code is hereby repealed:

~~10.021 Development Permit Required.~~
~~No person shall engage in or cause a development nor shall any person create any street for the purpose of subdividing or partitioning an area or tract of land, or to dispose of, transfer or sell any lot or parcel of land if same constitutes or is part of a process of subdivision or partitioning as herein defined, or to record a final plat thereof without first complying with all of the applicable provisions of this chapter. A building permit shall not be issued for the construction, reconstruction or the alteration, use or occupancy of a structure for which a development permit is required and has not been issued pursuant to Section 10.101, The Development Permit Application, or unless exempted as per Section 10.031, Exceptions to the Development Permit Requirement.~~

SECTION 3. Section 10.031 of the Medford Code is hereby repealed:

~~10.031 Exemptions from the Development Permit Requirement.~~
~~A. An exemption from the development permit requirement does not exempt the use or development from compliance with the applicable standards of this chapter, including but not limited to access, parking, riparian protection, and landscaping.~~
~~B. Exemptions under this section do not apply to uses subject to a conditional use permit or major modifications thereof.~~
~~C. The following uses or developments do not require a development permit.~~
~~(1) Parking lots and parking lot additions, when not associated with building construction required to be reviewed by the Site Plan and Architectural Commission, except any parking lot or parking lot additions located within a Historic Overlay requires Historic Review. (Effective Dec. 1, 2013.)~~
~~(2) Construction of a new building if it does not increase motor vehicle trip generation by more than ten (10) average daily trips, unless within a Historic Overlay, in which case, Historic Review is required for all new construction. (Effective Dec. 1, 2013.)~~
~~(3) A building addition similar to the existing building in architectural style and exterior building materials and that is no more than a 20 percent or 2,500 square foot increase in gross floor area, whichever is less, unless within a Historic Overlay, in which case, Historic Review is required for all building additions and exterior alterations. (Effective Dec. 1, 2013.)~~
~~(4) An emergency measure resulting from fire, an act of God, or a public enemy or other calamity, which is necessary to protect and save property and lives.~~
~~(5) The reconstruction of a legal main structure or legal accessory structure which has been destroyed by fire, an act of God, or a public enemy or other calamity, and restoration is started within one (1) year from such destruction and is diligently pursued to completion.~~
~~(6) Temporary uses as identified in Section 10.840, Temporary Uses and Structures.~~
~~(7) The erection, construction, alteration, maintenance or termination of a public utility service facility, such as a public safety communication tower, that is being developed to provide service to development authorized by this chapter.~~

~~(8) Detached single-family residential development on a lot within a final platted land division or on an otherwise legally created lot, unless within a Historic Overlay, in which case, Historic Review is required for all single-family residential development. (Effective Dec. 1, 2013.)~~
~~(9) Solar Photovoltaic/Solarvoltaic energy systems, as defined in ORS 757.360, except when located on historic landmarks or within historic districts, in which case the review authority shall be the Landmarks and Historic Preservation Commission.~~
~~(10) One duplex dwelling divided by a lot line or on a single lot within a final platted land division or on an otherwise legally created lot, unless within a Historic Overlay, in which case, Historic Review is required.~~
~~(11) Airport accessory structure(s) including hangars, aircraft storage, maintenance facilities, warehouse storage, and office buildings to be located on airport property within the secured fence area (as shown on the Medford Zoning Map) not intended for public use.~~

SECTION 4. Section 10.051 of the Medford Code is hereby repealed:

~~10.051 Appeals.~~
~~A. Any person with standing may appeal to the City Council any Type "C" or "D" decision of an approving authority (Planning Commission, Site Plan and Architectural Commission, Landmarks and Historic Preservation Commission, and Planning Director) which approves conditionally, approves, or disapproves a development permit, or plan authorization, as per Section 10.102, Plan Authorizations, of this chapter, by filing a written notice together with the requisite filing fee with the city recorder within fourteen (14) days after notice of the development permit or plan authorization approval or disapproval by the approving authority is mailed. (Effective Dec. 1, 2013.)~~
~~B. A person has standing if the person: (1) appeared in the initial proceedings orally or in writing; and (2) was entitled to a right of notice and hearing prior to the decision to be reviewed, or is aggrieved by the decision, or has interests adversely affected by the decision.~~
~~C. Class "E" Ministerial Decisions are final and, with the exception of Final PUD Plan applications (see 10.241(E)), are not appealable under the Medford Land Development Code or any other provision of the Medford Code.~~

SECTION 5. Section 10.052 of the Medford Code is hereby repealed:

~~10.052 Notice of Appeal.~~
~~All notices of appeal shall be signed by the appellant or his agent and shall contain:~~
~~(1) An identification of the decision sought to be reviewed, including the date of the decision.~~
~~(2) A statement demonstrating that the appellant has standing to appeal as required by Section 10.051, Appeals.~~
~~(3) A statement of the specific grounds which the appellant relies on as the basis for the appeal. If the appellant contends that the findings of fact made by the approving authority are incorrect or incomplete, the notice shall specify the factual matters omitted or disputed. If the appellant contends that the decision is contrary to ordinance, statute or other law, such errors shall be specifically~~

~~identified in the notice along with the specific grounds relied upon for review.~~
~~Upon timely receipt of the notice of appeal and filing fee, the City Recorder shall set the appeal for hearing before the City Council at its next regular meeting that falls not less than fourteen (14) days after the date of filing. The City Recorder shall notify the appellant and other parties who appeared in the initial proceedings, of the time and place of the hearing by first class mail, enclosing a copy of the notice of appeal.~~

SECTION 6. Section 10.053 of the Medford Code is hereby repealed:

~~10.053 Scope of Review.~~
~~Upon review, the City Council shall not re-examine issues of fact and shall limit its review to determining whether there is substantial evidence to support the findings of the tribunal which heard the matter, or to determining if errors in law were committed by such tribunal. Review shall in any event be limited to those issues set forth in the notice of appeal. The appellant is also precluded from raising an issue on appeal to the Council if he or she could have raised the issue before the hearings body but failed to do so. Review shall be based on the record of the initial proceedings. The record shall consist of the application and all materials submitted with it; documentary evidence, exhibits and materials submitted at the initial hearing; recorded testimony; the decision of the approving authority, including the findings and conclusions; and the notice of appeal. Only the appellant and other parties who appeared in the initial proceedings may participate in the appeal hearing. Appellant shall make the initial presentation and shall be allowed rebuttal. Each participant in the appeal hearing shall present to the council those portions of the record which the participant deems relevant to the appeal. If a party wishes the council to review recorded testimony, the party shall present a written summary or transcript of such testimony to be read by the council in lieu of actually listening to the recording.~~

SECTION 7. Section 10.056 of the Medford Code is hereby repealed:

~~10.056 City Council Decision.~~
~~A. Upon review of the appeal, City Council may by order affirm, reverse or modify in whole or part a determination or requirement of the decision that is under review. When the City Council modifies or renders a decision that reverses a decision of the approving authority, the Council, in its resolution, shall set forth its finding and state its reasons for taking the action encompassed in the order. When the City Council elects to remand the matter back to the approving authority for such further consideration as it deems necessary, it shall include a statement explaining the error to have materially affected the outcome of the original decision and the action necessary to rectify such.~~
~~B. Action by the City Council shall be decided by a majority vote of its members present at the meeting at which review was made and shall be taken either at that or any subsequent meeting. The City Council shall render its decision within the time limits allowed by State law.~~

SECTION 8. Section 10.100 of the Medford Code is amended to read as follows:

10.100 Purpose of Article II.
It is the purpose of this article to **establish land use review procedures,** designate and define the responsibilities of the approving authorities**,** and to set forth the procedural requirements and substantive criteria **and standards** for ~~plan authorizations and the development permit~~ **each land use review necessary to obtain a development permit**.

SECTION 9. Section 10.101 of the Medford Code is hereby repealed:

~~10.101 The Development Permit Application.~~
~~The development permit is the basis for administration of this chapter. A development permit is a comprehensive permit, running with the land, setting forth the general procedural policies and improvement requirements necessary for the development of a specific property. Upon application for a development permit, the Planning Department will indicate the plan authorizations which must be obtained prior to the issuance of a development permit. The applicant for a development permit may choose to request approval of all, any one, or a combination of required plan authorizations. A request for approval of a specific plan authorization may follow, at any time, the application for other required plan authorizations.~~

~~Upon satisfactory completion of all conditions required of the plan authorizations, as identified on the development permit application, a development permit shall be issued by the Planning Director. Upon issuance of a development permit the applicant may obtain a building permit.~~

SECTION 10. Section 10.102 of the Medford Code is amended to read as follows:

10.102 ~~Plan Authorizations~~ **Land Use Review**.
(A) A ~~plan authorization~~ **land use review** is a specific planning and development ~~review~~ process ~~which sets forth specific conditions for development consistent~~ **conducted in order to determine whether proposed land uses comply** with the policies, standards and criteria of the Comprehensive Plan and this chapter. ~~Plan authorizations are categorized as follows:~~ **A land use application shall be provided for each land use review when applicable.**
(B) Each type of land use review has a designated procedural type and each procedural type has specific due process and administrative requirements that shall be followed.
(C) A land use review is complete once a land use decision, as outlined in Section 10.104, has been made by the designated approval authority.

~~Class A~~
~~Comprehensive Plan Amendment, Major~~
~~Land Development Code Amendment~~

~~Zoning Map Amendment, Major~~
~~Class B~~
~~Annexation~~
~~Comprehensive Plan Amendment, Minor~~
~~Transportation Facility Development~~
~~Vacation~~
~~*See Review & Amendments Chapter of the Comprehensive Plan for definitions of "major" and "minor" Class A and B authorizations.*~~
~~Class C~~
~~Conditional Use Permit~~
~~Exception~~
~~Historic Review~~
~~Land Division~~
~~Planned Unit Development (PUD)~~
~~Site Plan and Architectural Review~~
~~Zoning Map Amendment, Minor (i.e., "Zone Change")~~
~~Class D~~
~~Administrative Decision~~
~~Class E~~
~~PUD Plan, Final~~
~~Ministerial Decision (non-discretionary)~~
~~Historic Review, Minor~~
~~Property Line Adjustments~~
~~The development permit application will identify the required plan authorization(s) necessary for issuance of a development permit. The applicant for a development permit, at the time of application or any time thereafter, may request approval of any one (1) or combination of required plan authorizations as identified on the development permit application.~~

SECTION 11. Section 10.104 of the Medford Code is added to read as follows:

10.104 Land Use Decision.
(A) A land use decision consists of the Final Order signed by the approving authority based upon the criteria and standards considered relevant to the decision, as well as the facts contained within the record. The decision shall address such relevant criteria, standards and facts relied upon in rendering the decision. A written record of the decision shall be provided to the applicant, any person with standing (if applicable), and kept on file in the Planning Department.
(B) When the proposed land use application is inconsistent with the Comprehensive Plan or this chapter the application is either denied or specific requirements called "conditions" are included with the land use decision which when implemented will bring it into conformance.

(C) Upon receipt of an approved land use decision or upon satisfactory completion of any condition(s) of an approved land use decision that are required prior to building permits, a development permit shall be issued by the Planning Director. Upon issuance of a development permit, the applicant may obtain building permits.

(D) 120 Day Rule.

For all Type II and III land use reviews as outlined in Table 10.108-1 below, the city shall arrive at a final decision, including resolution of all appeals, within 120 days from the date the application is deemed complete, unless the applicant requests an extension in writing. The total of all extensions shall not exceed 245 days.

(E) Land Use Approval Required.

No person shall subdivide or partition, nor shall any person create any street or road for the purpose of subdividing or partitioning an area or tract of land, or to dispose of, transfer or sell any lot or parcel of land if same constitutes or is part of a process of subdivision or partitioning as herein defined, or to record a final plat thereof without first complying with all of the applicable provisions of this chapter. A building permit shall not be issued for the construction, reconstruction or the alteration, use or occupancy of a structure for which a development permit is required and has not been issued pursuant to this Section unless exempted as per Section 10.200(C) or Subsection (F) below.

F. Exemptions from Land Use Review.

(1) An exemption from land use review does not exempt the use or development from compliance with the applicable standards of this chapter, including but not limited to access, parking, riparian protection, and landscaping.

(2) The following uses or developments do not require land use review.

(a) An emergency measure resulting from fire, an act of God, or a public enemy or other calamity, which is necessary to protect and save property and lives.

(b) The reconstruction of a legal main structure or legal accessory structure which has been destroyed by fire, an act of God, or a public enemy or other calamity, and restoration is started within one year from such destruction and is diligently pursued to completion.

(c) Temporary uses as identified in Section 10.840, Temporary Uses and Structures.

(d) The erection, construction, alteration, maintenance or termination of a public utility service facility, such as a public safety communication tower.

SECTION 12. Section 10.106 of the Medford Code is added to read as follows:

10.106 Procedural Types.

For purposes of administering the provisions of this chapter, and other ordinances and policies of the City pertaining to land use and development, there are hereby established four types of procedures for processing land use review applications. Two factors vary for each procedural type. First, the degree of discretionary judgment involved in rendering a decision. The greater the degree of discretionary judgment, the more rigorous they are procedurally. Second, the extent of public participation which varies based upon the degree

of impact(s) caused by the proposed use and development of land. The greater degree of impacts, the more the public is notified and invited to participate.

(A) Type I Ministerial Procedures.

(1) Non-discretionary administrative decisions shall be made by applying clear and objective approval criteria and standards.

(2) Decisions shall be made by the Planning Director or designee.

(3) No public notice, public comment period, or public hearing shall be required.

(4) Requested action shall be initiated by the applicant.

(5) Decisions are final, and except for Final Planned Unit Development (PUD) Plan and Minor Historic Review decisions, are not appealable. Final PUD Plan decisions are appealed to the Planning Commission per Section 10.140(F)(3). Minor Historic Review decisions are appealed to the Landmark and Historic Preservation Commission per Section 10.140(F)(4).

(B) Type II Administrative Procedures.

(1) Administrative decisions shall be made by applying clear, objective approval criteria and standards while using limited discretion to determine impact(s) on adjacent properties and the surrounding vicinity, public infrastructure and services, and the health, welfare, and safety of the community at-large.

(2) Decisions shall be made by the Planning Director or designee.

(3) Public notice and a public comment period are required according to Section 10.124 of this Chapter, but a public hearing shall not be required.

(4) Requested action shall be initiated by the applicant.

(5) Appeals of Type II decisions are heard by the Planning Commission at a public hearing per Section 10.140(G).

(C) Type III Quasi-judicial Procedures.

(1) Quasi-judicial decisions require the application of clear, objective approval criteria and standards, and a degree of discretion to determine compliance with approval criteria and the impact(s) of development on adjacent properties and the surrounding vicinity, public infrastructure and services, and the health, welfare, and safety of the community at-large. If necessary to mitigate such impacts, conditions may be imposed to bring the proposed land use into compliance and/or to mitigate impacts.

(2) Decisions are made by the designated approving authority.

(3) Public notice, a public comment period, and a public hearing are required according to Section 10.124 of this Chapter.

(4) Requested action may be initiated by City Council, the Planning Commission or an applicant.

(5) Appeals of Type III decisions are heard by the City Council per Section 10.140(H).

(D) Type IV Legislative Procedures.

(1) Legislative decisions that involve the greatest degree of discretion as they establish by law the general policies and regulations for future land use decisions and have either widespread and significant impact beyond the immediate area or change the character of

the land use, or affect large areas or many different ownerships.
(2) The Planning Commission shall review Type IV land use permit applications and forward a recommendation to City Council to approve, approve with modifications, approve with conditions, deny, or to adopt an alternative. City Council shall consider and address the recommendation, but shall not be bound by it. The City Council is the approving authority and, if it so determines that a Type IV land use permit application has satisfied the standards and criteria for approval, shall approve Type IV land use applications by ordinance.
(3) Public notice(s), public comment period(s) and public hearing(s) are required according to Section 10.124 of this Chapter
(4) Requested action may be initiated by City Council and Planning Commission (except annexations) or for minor amendments, by an applicant(s).
(5) Appeals of Type IV decisions are made to the Land Use Board of Appeals (LUBA) per Section 10.140(I).

SECTION 13. Section 10.108 of the Medford Code is added to read as follows:

10.108 Land Use Review Procedure Types.
Table 10.108-1 identifies the procedural type, applicable standards, and approving authority for each type of land use review as well as whether the 120-day rule in Section 10.104(D) is applicable. Each procedural type is subject to specific due process and administrative requirements of this chapter.

Table 10.108-1. Land Use Review Procedures				
Land Use Review Type	**Procedural Type**	**Applicable Standards**	**Approving Authority**	**Subject to 120 Day Rule (ORS 227.178)?**
Annexation	**IV**	**Urbanization, 10.216**	**City Council**	**No**
Appeal of Final PUD Plan Decision	**I**	**10.140(F)(3)**	**Planning Commission**	**No**
Appeal of Minor Historic Review Decision	**I**	**10.140(F)(4)**	**LHPC**	**No**
Appeal of Type II Decision	**III**	**10.140(G)**	**Planning Commission**	**Yes**
Appeal of Type III Decision	**IV**	**10.140(H)**	**City Council**	**Yes**
Appeal of Type IV Decision	**IV**	**10.140(I)**	**LUBA**	**No**
Comprehensive Plan Amendment, Major	**IV**	**Review & Amendment, 10.220**	**City Council**	**No**
Comprehensive Plan Amendment, Minor	**IV**	**Review & Amendment, 10.222**	**City Council**	**No**
Conditional Use Permit	**III**	**10.184**	**Planning Commission**	**Yes**
De Minimis Revision(s) to an Approved PUD Plan	**I**	**10.198**	**Planning Director**	**No**
Exception	**III**	**10.186**	**PC/LHPC/SPAC**	**Yes**
Final PUD Plan	**I**	**10.196**	**Planning Director**	**No**
Final Plat, Subdivision or Partition	**I**	**10.160**	**Planning Director**	**No**
General Land Use Map Amendment, Major	**IV**	**GLUP, Review & Amendment, 10.220**	**City Council**	**No**
General Land Use Map Amendment, Minor	**IV**	**GLUP, Review & Amendment, 10.222**	**City Council**	**No**
Historic	**III**	**10.188**	**LHPC**	**Yes**
Land Development Code Amendment	**IV**	**10.218**	**City Council**	**No**
Minor Historic Review	**I**	**10.148**	**Planning Director**	**No**
Major Modification to a Site Plan & Architectural Review Approval	**III**	**10.200(H)(1)**	**SPAC**	**Yes**

Table 10.108-1. Land Use Review Procedures				
Land Use Review Type	**Procedural Type**	**Applicable Standards**	**Approving Authority**	**Subject to 120 Day Rule (ORS 227.178)?**
Minor Modification to a Site Plan & Architectural Review Approval	I	10.200(H)(2)	Planning Director	No
Major Modification to an Approved Conditional Use Permit	III	10.184(D)(1)	Planning Commission	Yes
Minor Modification to an Approved Conditional Use Permit	I	10.814(D)(2)	Planning Director	No
Nonconformities	I	10.032 – 10.036	Planning Director	No
Portable Storage Container	II	10.840(D)(6)	Planning Director	Yes
Pre-Application	I	10.156	Not Applicable	No
Preliminary PUD Plan	III	10.190–10.198	Planning Commission	Yes
Property Line Adjustment	I	10.158	Planning Director	No
PUD Plan Revision(s)	III	10.198	Planning Commission	Yes
PUD Plan Termination	III	10.198	Planning Commission	Yes
Riparian Corridors, Reduction or Deviation	I	10.927	Planning Director	No
Sign Permit	I	10.1000 – 10.1810	Planning Director	No
Site Plan and Architectural Review	III	10.200	SPAC	Yes
Tentative Plat, Partition	II	10.170	Planning Director	Yes
Tentative Plat, Subdivision	III	10.202	Planning Commission	Yes
Transportation Facility Development	IV	10.226	City Council	No
Urban Growth Boundary Amendment, Major	IV	Urbanization, 10.220	City Council	No
Urban Growth Boundary Amendment, Minor	IV	Urbanization, 10.222	City Council	No
Vacation of Public Right-of-Way	IV	10.226	City Council	No
Zone Change, Major	IV	Review & Amendment, 10.220	City Council	No
Zone Change, Minor	III	10.204	Planning Commission	Yes

SECTION 14. Section 10.110 of the Medford Code is amended to read as follows:

10.110 Designation **and Duties** of Approving ~~Authority~~ **Authorities**.

(A) Approving Authorities. This article designates the authority to act on ~~planning and development~~ **land use reviews** ~~requests as required by this chapter to five (5) approving authorities~~ as follows:

1. The City Council
2. The Planning Commission
3. The Site Plan and Architectural Commission
4. **The** Landmarks and Historic Preservation Commission
5. The Planning Director

(B) Duties of the Approving Authorities. Under the provisions in Section 10.110, there is hereby designated to the approving authorities the power to:

(1) Approve, conditionally approve, or disapprove applications for land use review(s);

(2) Determine compliance or lack of compliance with the approval criteria listed under each application type.

(C) City Council Authority. The City Council is hereby designated as the approving authority for all the following land use reviews:

Land Use Review

Annexation
Appeals (See Section 10.140)
Comprehensive Plan Amendment (Major or Minor)
General Land Use Plan Map Amendment (Major or Minor)
Land Development Code Amendment
Transportation Facility Development
Urban Growth Boundary Amendment (Major or Minor)
Vacation of Public Right-of-Way
Zoning Map Amendment (Major)

(D) Planning Commission Authority.

(1) The Planning Commission shall have all powers set forth in ORS 227.090 (Powers and Duties of Commission) except as otherwise provided by ordinance of the City Council.

(2) The Planning Commission is hereby designated as the approving authority for the following land use reviews:

Land Use Review

Appeals (See Section 10.140)
Conditional Use Permit
Exception
Preliminary Planned Unit Development (PUD) Plan
Subdivision Tentative Plat
Zone Change (Minor)

(E) Planning Commission, Other Duties

It shall further be the responsibility of the Planning Commission to:

(1) Study and report on all proposed code amendments referred to it by the City Council. When reviewing any such proposed amendments, the Planning Commission shall submit its recommendation and findings to the City Council.

(2) Review this chapter and report on same to the City Council at least once every five years commencing on the date of enactment of this chapter. Specifically the Planning Commission shall:

(a) Analyze the extent to which development has occurred in the city as compared to the projected growth per the Comprehensive Plan.

(b) Recommend any changes in the mapping of zoning districts as determined necessary to accommodate the expected 20-year growth as determined by the Comprehensive Plan.

(3) Serve as the Committee for Citizen Involvement (CCI) per the Comprehensive Plan.

(F) Planning Commission, Membership.

(1) Number Appointed. The Planning Commission shall consist of nine voting members appointed by the Mayor and City Council.

(2) Length of Term. All terms shall be for a period of four years beginning on February 1 of each year with not more than three terms expiring in the same year.

(3) Position Appointments.

The Planning Commission members shall at a minimum comply with the requirements of Oregon Revised Statutes (ORS) 227.030 (Membership) as provided below or as amended:

(a) No more than two members of a city planning commission may be city officers, who shall serve as ex officio nonvoting members.

(b) No more than two voting members of the commission may engage principally in the buying, selling, or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation, that engages principally in the buying, selling or developing of real estate for profit.

(c) No more than two members shall be engaged in the same kind of occupation, business, trade or profession.

(4) Selection Criteria.

All members of the Commission shall either be residents of the City of Medford or Medford Urban Growth Boundary. No more than two members of the Commission shall be appointed who reside outside the Medford city limits. A Commissioner who ceases to meet the residency requirement during their term of office shall forfeit the office and a new member shall be appointed to serve the unexpired portion of the term.

(5) Removal Terms.

A member may be removed by the Mayor and City Council, after a hearing, for misconduct or nonperformance of duty.

(6) Vacancy Replacement. A Commissioner who ceases to meet the residency requirement during their term of office shall forfeit the office and a new member shall be appointed to serve the unexpired portion of the term. Any vacancy shall be filled by the Mayor and City Council for the unexpired term of the predecessor in the office.

(7) Quorum. A quorum of the Planning Commission shall consist of a majority of the current membership of the Commission.

(G) Planning Commission Meeting Procedures.

Except as otherwise provided by law or this Code, the Planning Commission shall conduct its meetings in accordance with Robert's Rules of Order, Newly Revised, unless other rules are adopted by the Commission.

(H) Site Plan and Architectural Commission Authority.

The Site Plan and Architectural Commission is hereby designated as the approving authority for the following land use reviews:

Land Use Review

Exception

Major Modification of Site Plan and Architectural Review Approval

Site Plan and Architectural Review

(I) Site Plan and Architectural Commission, Other Duties. The Site Plan and Architectural Commission shall have the power to adopt design guidelines. Such guidelines may be general or specific in nature and shall be in the form of suggested approaches intended to aid applicants in preparation, presentation and implementation of development proposals in compliance with the City of Medford Comprehensive Plan and implementing ordinances. Guidelines shall be advisory and shall not limit applicants to a single approach.

(J) Site Plan and Architectural Commission, Membership.

(1) Number Appointed. The Site Plan and Architectural Commission shall consist of nine voting members appointed by the Mayor and City Council.

(2) Length of Term. Site Plan and Architectural Commissioner terms shall be for a period of four years, with the exception of the member of the Planning Commission, whose initial term shall be for a period of two (2) years. Subsequent Planning Commissioner terms shall be for one year if reappointed. Said terms shall begin on February 1 of each year with not more than two terms expiring in the same year, exclusive of the Planning Commissioner.

(3) Position Appointments.

(a) One member shall be a Planning Commissioner nominated by the Planning Commission chairperson.

(b) One member shall be a licensed architect.

(c) One member shall be a licensed professional engineer.

(d) One member shall be a licensed landscaping professional.

(e) One member shall be a licensed contractor.

When selecting persons to fill the remaining four positions, preference should be given to applicants who have training or experience closely related to the licensed positions. At the Mayor and City Council's discretion, an appointment to any of the four professional/licensed positions may be an individual who, in lieu of having a valid license in the profession, possesses a comparable combination of skill, education, training and experience related to the respective professional licensing category.

(4) Selection Criteria.

All members of the Commission shall either be residents of the City of Medford or Medford Urban Growth Boundary. No more than two members of the Commission shall be appointed who reside outside the Medford city limits. A Commissioner who ceases to meet the residency requirement during their term of office shall forfeit the office and a new member shall be appointed to serve the unexpired portion of the term.

(5) Removal Terms.

A member may be removed by the Mayor and City Council, after a hearing, for misconduct or nonperformance of duty.

(6) Vacancy Replacement.

A Commissioner who ceases to meet the residency requirement during their term of office shall forfeit the office and a new member shall be appointed to serve the unexpired portion of the term. Any vacancy shall be filled by the Mayor and City Council for the unexpired term of the member being replaced.

(7) Quorum.

A quorum of the Site Plan and Architectural Commission shall consist of five or more members a majority of the current membership of the Commission.

(K) Procedure of the Site Plan and Architectural Commission Meeting Procedures.

Except as otherwise provided by law or this Code, the Site Plan and Architectural Commission shall conduct its meetings in accordance with Robert's Rules of Order, Newly Revised, unless other rules are adopted by the Commission.

(L) The Landmarks and Historic Preservation Commission Authority.

The Landmarks and Historic Preservation Commission is hereby designated as the approving authority for the following land use reviews:

<u>Land Use Review</u>

Appeals (See Section 10.140)

Exceptions

Historic Review

(M) The Landmarks and Historic Preservation Commission, Other Duties

(1) To study proposed Comprehensive Plan and Land Development Code amendments relating to historic preservation, and submit recommendations regarding such proposals to the Planning Commission and City Council.

(2) To institute and support programs and projects that further the historic preservation policies of the City of Medford.

(3) To adopt approval criteria for Minor Historic Review of alterations of roofing materials, exterior colors, or sign face design for an existing sign within Historic Preservation Overlay Districts. Such criteria shall be consistent with the Secretary of the Interior's Standards for the Treatment of Historic Places as applicable.

(4) To adopt design guidelines for new construction and exterior alterations within an Historic Preservation Overlay. Such guidelines may be general or specific in nature and shall be in the form of approaches intended to aid applicants in preparation, presentation, and

implementation of development proposals that comply with the Medford Comprehensive Plan and implementing ordinances. Guidelines shall be advisory and shall not limit applicants to a single approach.

(5) To adopt approval criteria and/or design guidelines for signage within the Historic Preservation Overlay. Such criteria or design guidelines may authorize signs that differ from the standards of Article VI when necessary to meet historic compatibility and preservation goals.

(N) Historic Review.

For the purposes of this section, the definitions, rules, and procedures of Sections 10.401 through 10.408 shall apply.

Historic Review shall include:

(1) Historic Preservation Overlay Changes. Review and investigation of any historic resource in the City of Medford that may have historic significance; initiation of proceedings to change the extent of the Historic Preservation Overlay; decisions on applications to change to the extent of the Historic Preservation Overlay; and preparation of findings substantiating or refuting the historic significance of the resource.

(2) Exterior Alteration and/or New Construction Review. Consideration of proposed exterior alteration and/or new construction within a Historic Preservation Overlay.

(3) Demolition and/or Relocation Review. Consideration of proposed demolition or relocation within a Historic Preservation Overlay, and authorization of either delayed or immediate issuance of a demolition or relocation permit.

(O) Landmarks and Historic Preservation Commission, Membership.

(1) Number Appointed. The Landmarks and Historic Preservation Commission shall be made up of five voting members appointed by the Mayor and City Council.

(2) Length of Term. All regular terms of members of the Landmarks and Historic Preservation Commission shall be for a period of four years, and shall begin on February 1, with not more than three terms expiring in the same year.

(3) Position Appointments. All members of the Landmarks and Historic Preservation Commission shall have demonstrated positive interest, competence, or knowledge of historic preservation. The Planning Director or designee shall serve as an *ex-officio* member of the Landmarks and Historic Preservation Commission.

(4) Selection Criteria. All members of the Commission shall either be residents of the City of Medford or Medford Urban Growth Boundary. No more than two members of the Commission shall be appointed who reside outside the Medford city limits

(5) Removal Criteria. A member of the Landmarks and Historic Preservation Commission may be removed by the Mayor and City Council, after a hearing, for misconduct or nonperformance of duty. Replacements shall be appointed by the Mayor and City Council for the remainder of the unexpired term. A Commissioner who ceases to meet the residency requirement during their term of office shall forfeit the office and a new member shall be appointed to serve the unexpired portion of the term.

(6) Quorum. A quorum of the Landmarks and Historic Preservation Commission shall consist

of a majority of the currently appointed members.
(P) Landmarks and Historic Preservation Commission, Meeting Procedures.
(1) Except as otherwise provided by law or this Code, the Landmarks and Historic Preservation Commission shall conduct its meetings in accordance with Robert's Rules of Order, Newly Revised, unless other rules are adopted by the Commission.
(2) The Landmarks and Historic Preservation Commission shall meet as necessary to act on Historic Reviews in a timely manner.
(3) There shall be at least one meeting of the Landmarks and Historic Preservation Commission held each year, during the month of March.
(Q) Planning Director Authority. The Planning Director is hereby designated as the approving authority for Type I and II land use reviews as well as issuance of the Development Permit. This includes the following land use reviews:

Land Use Review

De Minimis Revision(s) to Approved PUD Plan
Final PUD Plan
Final Plat, Partition/Subdivision
Minor Historic Review
Minor Modification to Conditional Use Permit
Minor Modification to Site Plan and Architectural Review
Pre-Application
Property Line Adjustment
Riparian Corridor Reduction or Deviation
Sign Permit
Tentative Plat, Partition

(R) Planning Director, Other Duties. The Planning Director shall also be responsible for the administration and enforcement of this chapter

SECTION 15. Section 10.112 of the Medford Code is added to read as follows:

10.112 Referral Agencies.
(A) It is the responsibility of a referral agency to provide timely review and comment on all proposals referred by the City. The referral agency shall be requested to determine consistency of a proposal with the referral agency's operating policies and standards and to suggest conditions of approval on a land use review/application.
(B) This Chapter employs the use of referral agencies for the review of land use permit applications according to a Referral Agency Distribution Schedule that is available and maintained by the Planning Department.
(C) Referral agencies may be asked to review certain applications, in the judgment of the Planning Director, the agency may have an interest in the proposal. Additional referral agencies may be notified at the discretion of the Planning Director
(D) Referral Agency Action and Decision Time.

(1) After deeming an application complete per Section 10.122, the Planning Department shall transmit one copy of the proposed legislation, or land use permit application, and necessary accompanying data for review and comment to any governmental agency or private entity that is entitled to notice per the Planning Department's Distribution Schedule.

(a) Type IV Land Use Reviews: Referral agencies shall have thirty working days to submit comments on all Type IV land use applications/reviews. If the referral agency does not comments within thirty working days, then the referral agency is assumed to have no comment. If requested in writing, by a referral agency, an extension of thirty working days may be granted.

(b) Type III Land Use Reviews: Upon receipt of a Type III land use application/review and necessary accompanying data, each referral agency shall make an investigation and submit a written report within fifteen working days, and forward same to the Planning Department, clearly specifying any recommended conditions for development or approval.

(E) Referral Agency Reports.

Upon receipt of a request for review and comment, each referral agency shall make an investigation and submit written comments to the Planning Department clearly specifying any recommended conditions for development approval.

(1) Affected Agency Reports. Other agencies having jurisdiction shall report to the Planning Department as to any recommendations or provisions which in their determination are required for the approval of the land use permit consistent with this code.

(2) City Engineer's Report. The City Engineer shall investigate and report on existing facilities and make a recommendation on the manner in which the land use is to be provided city services. The City Engineer shall appropriately condition the land use permit to adequately provide for the provision of public infrastructure for the land constituting and surrounding the proposed land use.

(3) Fire Department. The Fire Department shall investigate and report on existing facilities and make a recommendation concerning the number and placement of fire hydrants and other fire protection requirements for the proposed land use.

(4) Water Commission. The Water Commission shall investigate and report on the applicable infrastructure that is in place, what easements pertain to the project, and what are the improvements needed to provide adequate infrastructure to the site.

(5) Planning Department. The Planning Department shall review the land use permit application in relation to the Comprehensive Plan, any applicable specific plans prescribed by law which affect the proposed land use and in relation to any and all criteria and standards applicable to the application type. The staff report shall either summarize, or incorporate by reference, all referral agency reports and public comments received, and shall itemize such conditions as it deems appropriate to be imposed by the approving authority if approval is to be recommended. The staff report shall be made available at no cost by the Planning Department seven days before the public hearing.

SECTION 16. Section 10.114 of the Medford Code is added to read as follows:

10.114 Concurrent Land Use Review
The applicant of a land use application may choose to request consideration of all, any one, or a combination of required land use reviews by the same approving authority at the same time. Otherwise, a request for consideration of a specific land use application may follow, at any time, the application for other required land use reviews.

SECTION 17. Section 10.116 of the Medford Code is added to read as follows:

10.116 Application Submittals.
Land use applications shall be submitted to the Planning Department and shall consist of the submittal requirements specified in this Chapter, Article II, or in other applicable sections of the Medford Land Development Code. If an application does not include all required submittals, it shall be deemed incomplete per Section 10.122.

SECTION 18. Section 10.118 of the Medford Code is added to read as follows:

10.118 Findings of Fact
Findings of Fact are statements of the criteria, facts, and conclusions used in making a decision. In order for the approving authority to approve a land use application, it must find that the proposal complies with the approval criteria and standards listed in this chapter. The findings must demonstrate and lead to the conclusion, based on the facts, that the criteria are being met. Findings which address applicable criteria shall accompany all actions required of this chapter for land use review. At a minimum, the findings of fact shall include:
(A) The approval criteria applicable to the specific land use application.
(B) A complete description of the project including all facts about the proposal which support approval.
(C) An analysis and rationale of how the facts demonstrate that the project meets each of the criteria.

SECTION 19. Section 10.120 of the Medford Code is hereby repealed and replaced to read as follows:

~~10.120 Planning Commission.~~
~~The Planning Commission shall have all powers set forth in ORS 227.090 (Powers and Duties of Commission) except as otherwise provided by ordinance of the City Council.~~
10.120 Due Process.
Each of the procedural types outlined in Section 10.106 are subject to specific due process and administrative requirements which are outlined below in Table 10.120-1 for each land use

application.

Table 10.120-1. Due Process Elements by Procedure Type

Due Process Element	Land Use Procedure Type			
	Type I	Type II	Type III	Type IV
1. Completeness Review		✓	✓	✓
2. Notification		✓	✓	✓
3. Disclosure		✓	✓	✓
4. Conflict of Interest			✓	✓
5. Public Hearing			✓	✓
6. Cross-Examination			✓	✓
7. Action, Decision Time and Notice of Decision		✓	✓	✓
8. Findings of Fact		✓	✓	✓
9. Record		✓	✓	✓

SECTION 20. Section 10.122 of the Medford Code is hereby repealed and replaced to read as follows:

~~10.122 Authority of the Planning Commission.~~

~~The Planning Commission is hereby designated as the approving authority for the following actions:~~

	~~Plan Authorization~~	~~Class~~
~~1.~~	~~Zone Changes, except when applied by the City concurrent with annexation~~	~~"C"~~
~~2.~~	~~Planned Unit Developments, Preliminary PUD Plan~~	~~"C"~~
~~3.~~	~~Conditional Use Permits~~	~~"C"~~
~~4.~~	~~Exceptions~~	~~"C"~~
~~5.~~	~~Land Divisions, Tentative Plats~~	~~"C"~~

~~The Planning Commission shall also act as the advisory agency to the City Council for all Class "A" and Class "B" actions, except annexations as set forth in Section 10.111, Authority of the City Council.~~

~~It shall further be the responsibility of the Planning Commission to:~~

~~(1) Study and report on all proposed code amendments referred to it by the City Council. When reviewing any such proposed amendments, the Planning Commission shall submit its recommendation and findings to the City Council.~~

~~(2) Review this chapter and report on same to the City Council at least once every five (5) years commencing on the date of enactment of this chapter. Specifically the Planning Commission shall:~~

~~(a) Analyze the extent to which development has occurred in the city as compared to the projected growth per the Comprehensive Plan.~~

~~(b) Recommend any changes in the mapping of zoning districts as determined necessary to~~

~~accommodate the expected twenty-year growth as determined by the Comprehensive Plan.~~
~~(3) Serve as the Committee for Citizen Involvement (CCI) per the Comprehensive Plan.~~

10.122 Due Process Element 1: Completeness Review.

(A) Upon submittal of a land use application to the Planning Department, the date of receipt shall be indicated on each copy of the materials submitted.

(B) Within 30 days of receipt, the Planning Department shall determine whether a Type II, III, or IV land use application as submitted, along with the required information, is complete as per this chapter.

(C) If the Planning Department fails to provide notice of completeness to the applicant of a Type II, III, or IV land use application in writing within 30 days of receipt, the application shall be deemed complete. For purposes of this section, the date of notice to the applicant shall be the date of mailing.

(D) If it is determined that the Type II, III, or IV land use application is incomplete or otherwise does not conform to the provisions of this chapter, the Planning Department shall notify the applicant in writing to submit the missing material. The application shall be deemed complete upon receipt of (1) all of the missing information; (2) some of the missing information and written notice from the applicant that no other information will be provided; or (3) written notice from the applicant that none of the missing information will be provided.

(E) If the Type II, III, or IV land use application is deemed complete as first submitted, or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria applicable at the time the application was submitted.

(F) On the 181st day after first being submitted, the Type II, III, or IV land use application is void if the applicant has been notified of the missing information and has not submitted:

(1) all of the missing information;

(2) some of the missing information and written notice that no other information will be provided; or

(3) written notice that none of the missing information will be provided. Any applications that are resubmitted to the Planning Department shall be subject to the standards and criteria in effect at the time the application is resubmitted.

SECTION 21. Section 10.123 of the Medford Code is hereby repealed:

~~10.123 Planning Commission, Membership.~~
~~(1) Number Appointed.~~
~~The Planning Commission shall consist of nine (9) voting members appointed by the Mayor and City Council.~~
~~(2) Length of Term.~~
~~All terms shall be for a period of four (4) years beginning on February 1 of each year with not more than three terms expiring in the same year.~~
~~(3) Position Appointments.~~

~~The Planning Commission members shall at a minimum comply with the requirements of Oregon Revised Statutes (ORS) 227.030 (Membership) as provided below or as amended:~~
~~(a) No more than two members of a city planning commission may be city officers, who shall serve as ex officio nonvoting members.~~
~~(b) No more than two voting members of the commission may engage principally in the buying, selling, or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation, that engages principally in the buying, selling or developing of real estate for profit.~~
~~(c) No more than two members shall be engaged in the same kind of occupation, business, trade or profession.~~
~~(4) Selection Criteria.~~
~~All members of the Commission shall either be residents of the City of Medford or Medford Urban Growth Boundary. No more than two members of the Commission shall be appointed who reside outside the Medford city limits. A Commissioner who ceases to meet the residency requirement during their term of office shall forfeit the office and a new member shall be appointed to serve the unexpired portion of the term.~~
~~(5) Removal Terms.~~
~~A member may be removed by the Mayor and City Council, after a hearing, for misconduct or nonperformance of duty.~~
~~(6) Vacancy Replacement.~~
~~Any vacancy shall be filled by the Mayor and City Council for the unexpired term of the predecessor in the office.~~
~~(7) Quorum.~~
~~A quorum of the Planning Commission shall consist of five or more members.~~

SECTION 22. Section 10.124 of the Medford Code is hereby repealed and replaced to read as follows:

~~10.124 Procedure.~~
~~Except as otherwise provided by law or this chapter, the Planning Commission shall conduct its meeting in accordance with *Robert's Rules of Order, Newly Revised.*~~
10.124 Due Process Element 2: Notification
(A) Content of Public Hearing Notice. The Public Hearing notice shall:
(1) Explain the nature of the application and the proposed use or uses which could be authorized;
(2) List the applicable criteria from the Code and the Comprehensive Plan that apply to the application at issue;
(3) Set forth the street address or other easily understood geographical reference to the subject property;
(4) State the date, time and location of the hearing; or, for Type II applications, state the date the decision will be rendered;

(5) State that failure to raise an issue in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal based on that issue;

(6) Include the name of a local government representative to contact and the telephone number where additional information may be obtained;

(7) State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;

(8) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; or for a Type II application the staff report will be available on the day the decision is rendered; and

(9) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

(B) Public Hearing Signs. On-Site Posting. Public hearing signs shall be posted on the project site for any proposed Type II, III, or IV (minor) land use actions according to the following:

(1) Contents of sign. Public Hearing signs shall include a description of the proposed land use action, the date of the public hearing, and the City of Medford file number for the proposed land use action.

(2) Location and number of signs. A posted notice sign must be placed on each existing street frontage of the project site. If a frontage is over 600 feet long, a notice sign is required for each 600 feet, or fraction thereof. Notice signs must be posted within 10 feet of a street lot line and must be visible to pedestrians and motorists. Notice signs may not be posted in a public right-of-way, unless the land use action specifically pertains to a public right-of-way. If posting must occur in the right-of-way, care should be taken to comply with Section 10.735, Clear View of Intersecting Streets.

(3) Sign posting schedule. The required sign(s) shall be posted as specified in Table 10.124-1. Posted signs shall be removed within 10 days following the final decision.

(4) Consequences of failing to post the property as required. Failure to post the signs as required by this section is a violation of the Medford Municipal Code.

(C) Notification, Affected Property Owners.

(1) Notice of Type II Land Use Action. In the case of Type II land use actions where there is no public hearing, notification shall be mailed to the applicant and all affected property owners within 10 working days of deeming an application complete pursuant to Section 10.122.

(a) Notice of Public Comment Period, Type II. The Planning Director shall provide a 14 day period for submission of written comments prior to making a decision on any application requiring a Type II land use action.

(b) Notice Area, Type II. The Planning Director shall mail notice of the public comment period to the following:

(i) The applicant.

(ii) Property owners within 200 feet of the entire contiguous site for which the application is made. This list shall be compiled from the most recent property tax assessment roll.

(iii) Any neighborhood or community organization recognized by the City and whose boundaries include the site.

(iv) Public agencies which provide transportation facilities and services, such as Jackson County and the Oregon Department of Transportation (ODOT), for all partitions, which affect private access to roads.

(c) Notice of Comment Period Content, Type II. The notice shall:

(i) 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 provide for appeal of a Type II decision to the Planning Commission through a de novo hearing, which allows new issues to be raised and allows the 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 this code allows for local appeal.

(ii) List, by commonly used citation, the applicable criteria for the decision.

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

(iv) Provide a project description that clearly describes the proposal and what is being requested.

(v) Identify the street address or other easily understandable geographical reference of the location of the site under review.

(vi) State the place, date and time the comments are due, and the person whom the comments should be addressed.

(vii) State that copies of all evidence relied upon by the applicant are available for review at no cost, and that copies can be obtained at reasonable cost from the City.

(viii) Include the name of the Planning Director or designee to contact and the telephone number where additional information may be obtained regarding the application.

(ix) State that any person who is adversely affected or aggrieved, anyone who is entitled to written notice in Subsection (C.1.b) above, and anyone who provides written comments during the comment period may appeal the decision by filing an appeal in accordance with this Code within 14 days of the date the written notice of decision is mailed.

(x) State the decision will not become final until the period for filing a local appeal has expired.

(xi) 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.

(d) Notice of Decision, Type II. Upon reaching a final decision on the application, the Planning Director shall mail a copy of the decision to the applicant and any person who submits comments during the public comment period. The Planning Director shall also mail notice of the decision in writing to parties who were notified of the comment period in Subsection (C.1.b) of this Section.

(e) Notice of Decision Content, Type II. The content of the notice of decision shall:

(i) A description of the applicant's proposal and a summary of the City's decision on the proposal.

(ii) Identify the street address or other easily understandable geographical reference of the location of the site.

(iii) Identify a statement of where the City's decision can be obtained and contact information.

(iv) Include a statement that all persons entitled to notice may appeal the decision.

(v) State that any person who is adversely affected or aggrieved, anyone who is entitled to written notice in Subsection (C.1.b) above, and anyone who provides written comments during the comment period may appeal the decision by filing an appeal in accordance with this Code within 14 days of the date the written notice of decision is mailed.

(vi) State that copies of all evidence relied upon by the decision-maker are available for review at no cost, and that copies can be obtained at reasonable cost from the City.

(vii) State the decision will not become final until the period for filing a local appeal has expired.

(viii) 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.

(f) Final Decision and Effective Date, Type II. 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 decision is effective when the appeal is decided.

(g) Appeal, Type II. A final decision may be appealed to the Planning Commission as provided in Section 10.140 of this Code.

(2) Notice of Type III and IV Land Use Actions. Notification shall be mailed to the applicant and all affected property owners no later than 21 days prior to each public hearing date.

(3) All addresses for mailed notices shall be obtained from the latest property tax rolls of the Jackson County Assessor's office.

(4) Affected property owners for each procedure type shall be determined as indicated in Table 10.124-1.

(D) Publication. Unless otherwise indicated, public hearing notices for all proposed land use actions shall be published in a newspaper of general circulation prior to the scheduled public hearing date before the approving authority. The schedule of publication for each procedure type shall be as specified in Table 10.124-1.

Table 10.124-1: Notice of Public Hearing Schedule by Procedure Type			
Procedure Type	**Newspaper Publication**	**On-Site Public Hearing Sign**	**Affected Property Owners Notice**
Type I	**None**	**None**	**None**
Type II	**None**	**None**	**Within 10 working days of deeming an application complete, notice will be sent to all property owners within 200 feet of the project boundaries.**
Type III: Conditional Use Permit, Exception, Preliminary PUD Plan, Zone Change	**Notice shall be published no later than 10 days prior to the public hearing date before the approving authority.**	**A sign shall be placed on the subject property 21 days prior to the public hearing date.**	**21 days prior to the public hearing date notice will be sent to all property owners within the project boundaries plus all property owners within 200 feet of the project boundaries.** **For Preliminary PUD Plans, in addition to the above, the owners of no less than 75 tax lots shall be notified. If 75 tax lots are not located within 200 feet of the exterior boundary of the PUD, the notification area shall be extended by successive 50-foot increments, until the minimum number of lots are included in the notification area.**

Table 10.124-1: Notice of Public Hearing Schedule by Procedure Type			
Procedure Type	**Newspaper Publication**	**On-Site Public Hearing Sign**	**Affected Property Owners Notice**
Type III: Historic Review, Site Plan and Architectural Commission Review	**None**	**A sign shall be placed on the subject property 21 days prior to the public hearing date. AND A notice shall be posted in a public place no later than five days prior to the public hearing date.**	**21 days prior to the public hearing date notice will be sent to all property owners within the project boundaries plus all property owners within 200 feet of the project boundaries.**
Type III: Subdivision Tentative Plat	**Notice shall be published no later than 10 days prior to the public hearing date.**	**A sign shall be placed on the subject property 21 days prior to the public hearing date.**	**21 days prior to the public hearing date notice will sent to all property owners within the project boundaries plus all property owners within 200 feet of the project boundaries.**

Table 10.124-1: Notice of Public Hearing Schedule by Procedure Type			
Procedure Type	**Newspaper Publication**	**On-Site Public Hearing Sign**	**Affected Property Owners Notice**
Type IV: Minor Comprehensive Plan Amendment, General Land Use Plan Map Amendment, Transportation Facility Development	**Notice shall be published no later than 10 days prior to the public hearing date before the Planning Commission (the advisory body) AND No later than 10 days prior to the public hearing date before City Council (the approving authority).**	**A sign shall be placed on the subject property 21 days prior to the first public hearing date.**	**21 days prior to each public hearing date notice will be sent to all property owners within the project boundaries plus all property owners within 200 feet of the project boundaries.**
Type IV: Annexation	**Notice shall be published once each week for two successive weeks prior to the public hearing date.**	**Notice shall be posted in four public places for two successive weeks prior to the public hearing date.**	**21 days prior to the public hearing date notice will be sent to all property owners within the project boundaries plus all property owners within 200 feet of the project boundaries.**
Type IV: Vacation of Public Right-of-Way	**Not less than 14 days before the public hearing date before the approving authority, notice shall be published once a week for two consecutive**	**Within five days after publication of the first notice, and not less than 14 days before the hearing, a sign shall be**	**21 days prior to the public hearing date notice will be sent to all property owners within the area of a plat vacation or all abutting property and all attached real property within 200 feet laterally**

Table 10.124-1: Notice of Public Hearing Schedule by Procedure Type			
Procedure Type	**Newspaper Publication**	**On-Site Public Hearing Sign**	**Affected Property Owners Notice**
	weeks.	**placed at or near each end of the proposed vacation in at least two conspicuous places in the proposed vacation area.**	**and 400 feet beyond the terminus of each right-of-way to be vacated.**
Type IV: Land Development Code Amendment, Major Comprehensive Plan Amendment, Major Zone Change	**Notice shall be published no later than 10 days prior to the public hearing date before the Planning Commission (the advisory body), AND No later than 10 days prior to the public hearing date before the City Council (the approving authority).**	**None**	**Generally not applicable to a legislative action unless it meets ORS 227.186 criteria (*i.e.*, the change effectively rezones property).**

SECTION 23. Section 10.126 of the Medford Code is hereby added to read as follows:

10.126 Due Process Element 3: Disclosure.

There shall be provided to the applicant and other interested parties adequate opportunity to review the facts, findings, staff report and other exhibits as soon as practical, but not less than seven days prior to the time at which a decision is to be made on a land use application by the approving authority.

SECTION 24. Section 10.128 of the Medford Code is hereby added to read as follows:

10.128 Due Process Element 4: Conflict of Interest.
See Section 10.130 (E) and 10.132.

SECTION 25. Section 10.130 of the Medford Code is hereby added to read as follows:

10.130 Due Process Element 5: Public Hearing.
The contents of this section shall govern the conduct of all quasi-judicial public hearings before an advisory body/approving authority. A copy of this section shall be available for public inspection at each quasi-judicial hearing and in the Planning Department. The conduct of public hearings on legislative matters shall be at the discretion of the presiding officer.
(A) Nature of Hearing. All parties with standing shall have an opportunity to be heard, to present and rebut evidence before an impartial tribunal, to have the proceedings recorded, and to have a decision rendered in accordance with the facts on record and the law.
(B) Authority of Presiding Officer. The presiding officer of the advisory body/approving authority shall have authority to:
(1) Regulate the course and decorum of the meeting.
(2) Dispose of procedural requests and similar matters.
(3) Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation, questions, and rebuttal testimoFny.
(4) Question any person appearing, and allow other members to question any such person.
(5) Waive, at their discretion, the application of any rule herein where the circumstances of the hearing indicate that it would be expedient and proper to do so, provided that such waiver does not act to prejudice or deny any party their substantial rights as provided herein or otherwise by law.
(6) Take such other action as authorized by the approving authority to appropriately conduct the hearing.
(C) Challenge or Reversal of Presiding Officer Ruling. A ruling of the presiding officer may be challenged by any member of that advisory body/approving authority present at the hearing. The challenge must be seconded. A ruling may be reversed by a majority of the members present and voting. A tie vote upholds the presiding officer's decision.
(D) Conduct of Participants. Proceedings shall at all times be orderly and respectful. The presiding officer may refuse to recognize or exclude from the hearing anyone who:
(1) Is disorderly, abusive, or disruptive;
(2) Takes part in or encourages audience demonstrations such as applause, cheering, display

of signs, or other conduct disruptive to the hearing;
(3) Testifies without first receiving recognition from the presiding officer and stating his full name and residence; and,
(4) Presents irrelevant, immaterial, or repetitious evidence.
(E) Order of Procedure. The presiding officer shall conduct the hearing in an orderly fashion, within the guidelines set forth herein. The hearing shall proceed in the following manner:
(1) Commencement: At the commencement of a hearing under a *Comprehensive Plan* or land use regulation, a statement shall be made to those in attendance that lists the applicable substantive criteria; states that testimony and evidence must be directed toward the criteria described in this subsection or other criteria in the plan or land use regulation which the person believes to apply to the decision; and states that failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal based on that issue.
(2) Abstentions, Conflict of Interest and Challenges. All members shall comply with ORS 244.120 and 244.130 regarding actual or potential conflicts of interest. Any member who is disqualified or wishes to abstain from participation in the hearing on a proposal shall identify the reasons for the record and shall not thereafter participate in the discussion as a member or vote on the proposal. Any challenges to the impartiality shall also be decided at this time.
(3) Planning Director's Report. The presiding officer shall request that the Planning Director or staff member report on the criteria and standards and the basic factual evidence applicable to the case and indicate the action required to be taken.
(4) Applicant's Case. The presiding officer shall allow the applicant or applicant's representative to present evidence in support of the application. The applicant shall be allowed to produce witnesses on their behalf. Other parties in favor of the proposal shall thereafter be allowed to present their evidence. Applicant may then reserve time for rebuttal. The Planning Director may appear as an applicant on a staff proposal.
(5) Opponent's Case. The presiding officer shall allow opponents to present evidence in opposition to the proposal. Opponents shall be allowed to produce witnesses on their behalf.
(6) Questioning of Witnesses. Cross examination shall be permitted as per Section 10.132.
(7) Applicant's Rebuttal if Reserved.
(8) Staff Summary and Recommendations. The Planning Director or staff person may present any additional evidence, comments and recommendations at the close of the hearing.
(9) Final Discussion. Upon conclusion of the evidence, members shall be allowed to openly discuss the proposal and further question any party appearing for or against the proposal as necessary.
(10) Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. Such an extension shall not be subject to the limitations of ORS 227.178, "120 Day Rule."
(11) When the advisory body/approving authority re-opens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or

criteria for decision-making which apply to the matter at issue.
(12) The failure of the property owner to receive notice as provided in Section 10.124 shall not invalidate such proceedings if the city can demonstrate by affidavit that such notice was mailed. The notice provisions contained in Section 10.124 shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.
(F) Standing. A person has the right to appear as a party to a quasi-judicial proceeding if the person:
(1) received official written notice of the hearing or was entitled to receive such notice, or
(2) has interests which could be adversely affected by the decision.

SECTION 26. Section 10.132 of the Medford Code is hereby repealed and replaced to read as follows:

~~10.132 Authority of the Site Plan and Architectural Commission.~~
~~(1) Approval Authority of Site Plan and Architectural Commission. The Site Plan and Architectural Commission is hereby designated as the approving authority for the following plan authorizations:~~

	Plan Authorization	Class
1.	Exceptions	"C"
2.	Site Plan and Architectural Review	"C"

~~(2) Other Powers of Site Plan and Architectural Commission. The Site Plan and Architectural Commission shall have the power to adopt design guidelines. Such guidelines may be general or specific in nature and shall be in the form of suggested approaches intended to aid applicants in preparation, presentation and implementation of development proposals in compliance with the City of Medford Comprehensive Plan and implementing ordinances. Guidelines shall be advisory and shall not limit applicants to a single approach.~~
10.132 Due Process Element 6: Cross Examination.
(A) Prior to any quasi-judicial public hearing there shall be provided to all affected parties, upon request, the right to question the advisory body/approving authority, relative to any actual or potential conflict of interest. Once a member of the advisory body/approving authority is disqualified, no further questions shall be directed to them.
(B) Any witness may be questioned in an orderly fashion by any member of the advisory body/approving authority, applicant, proponent or opponent who has first been recognized by the presiding officer. Questions shall be brief and to the point. All questions shall be submitted to the witness through the presiding officer unless the presiding officer expressly permits the submission of questions directly to a witness.

SECTION 27. Section 10.133 of the Medford Code is hereby repealed:

~~10.133 Site Plan and Architectural Commission, Membership.~~
~~(1) Number Appointed.~~

~~The Site Plan and Architectural Commission shall consist of nine (9) voting members appointed by the Mayor and City Council.~~

~~(2) Length of Term.~~

~~Site Plan and Architectural Commissioner terms shall be for a period of four (4) years, with the exception of the member of the Planning Commission, whose initial term shall be for a period of two (2) years. Subsequent Planning Commissioner terms shall be for one (1) year if reappointed. Said terms shall begin on February 1 of each year with not more than two (2) terms expiring in the same year, exclusive of the Planning Commissioner.~~

~~(3) Position Appointments.~~

~~(a) One (1) member shall be a Planning Commissioner nominated by the Planning Commission chairperson.~~

~~(b) One (1) member shall be a licensed architect.~~

~~(c) One (1) member shall be a licensed professional engineer.~~

~~(d) One (1) member shall be a licensed landscaping professional.~~

~~(e) One (1) member shall be a licensed contractor.~~

~~When selecting persons to fill the remaining four (4) positions, preference should be given to applicants who have training or experience closely related to the licensed positions. At the Mayor and City Council's discretion, an appointment to any of the four (4) professional/licensed positions may be an individual who, in lieu of having a valid license in the profession, possesses a comparable combination of skill, education, training and experience related to the respective professional licensing category.~~

~~(4) Selection Criteria.~~

~~All members of the Commission shall either be residents of the City of Medford or Medford Urban Growth Boundary. No more than two members of the Commission shall be appointed who reside outside the Medford city limits. A Commissioner who ceases to meet the residency requirement during their term of office shall forfeit the office and a new member shall be appointed to serve the unexpired portion of the term.~~

~~(5) Removal Terms.~~

~~A member may be removed by the Mayor and City Council, after a hearing, for misconduct or nonperformance of duty.~~

~~(6) Vacancy Replacement.~~

~~Any vacancy shall be filled by the Mayor and City Council for the unexpired term of the member being replaced.~~

~~(7) Quorum.~~

SECTION 28. Section 10.134 of the Medford Code is hereby repealed and replaced to read as follows:

~~10.134 Procedure of the Site Plan and Architectural Commission.~~

~~Except as otherwise provided by law or this chapter, the Site Plan and Architectural Commission shall conduct its meetings in accordance with *Robert's Rules of Order, Newly Revised.*~~

10.134 Due Process Element 7: Action, Decision Time, and Notice of Decision.
(A) Action. After acceptance of an application, the approving authority shall approve, approve with conditions, or deny the request. The decision of the approving authority shall be based upon the application, the evidence and comments from referral agencies and the public, and compliance with this chapter.
(B) Decision Time. Action on all land use reviews shall be taken within the time herein prescribed.
(C) Notice of Decision. For all land use reviews, the Planning Department shall, within five working days of the decision date, provide written notification of the land use decision to the applicant and all persons who testify orally or in writing on the land use review. The notice shall indicate the date that the decision will take effect, the approval's expiration date, and the final date for appeal.

SECTION 29. Section 10.135 of the Medford Code is hereby repealed:

~~10.135 Planning Director Authority.~~
~~The Planning Director is hereby designated as the approving authority for Class D and Class E plan authorizations and for the development permit. The Planning Director shall also be responsible for the administration and enforcement of this chapter.~~

SECTION 30. Section 10.136 of the Medford Code is hereby repealed and replaced as follows:

~~10.136 Authority of the Landmarks and Historic Preservation Commission.~~
~~The Landmarks and Historic Preservation Commission is hereby designated as the approving authority for the following plan authorizations:~~

~~Plan Authorization~~	~~Class~~
~~Historic Review, except Minor Historic Review permitted in Section 10.258(3)~~	~~'C'~~
~~Exceptions~~	~~'C'~~

~~For the purposes of this section, the definitions, rules, and procedures of Sections10.401 through 10.408 shall apply.~~
~~A. Historic Review shall include:~~
~~1. Historic Preservation Overlay Changes. Review and investigation of any historic resource in the City of Medford that may have historic significance; initiation of proceedings to change the extent of the Historic Preservation Overlay; decisions on applications to change to the extent of the Historic Preservation Overlay; and preparation of findings substantiating or refuting the historic significance of the resource.~~
~~2. Exterior Alteration and/or New Construction Review. Consideration of proposed exterior~~

~~alteration and/or new construction within an Historic Preservation Overlay.~~
~~3. Demolition and/or Relocation Review. Consideration of proposed demolition or relocation within an Historic Preservation Overlay, and authorization of either delayed or immediate issuance of a demolition or relocation permit.~~
~~4. Consideration of Appeals of Minor Historic Review Decisions. Should an applicant disagree with a Minor Historic Review decision made by the Planning Director, the applicant may appeal such decision to the Landmarks and Historic Preservation Commission consistent with the requirements of this Code.~~
~~B. Other powers and duties of the Landmarks and Historic Preservation Commission may include:~~
~~1. To study proposed Comprehensive Plan and Land Development Code amendments relating to historic preservation, and submit recommendations regarding such proposals to the Planning Commission and City Council.~~
~~2. To institute and support programs and projects that further the historic preservation policies of the City of Medford.~~
~~3. To adopt approval criteria for Minor Historic Review of alterations of roofing materials, exterior colors, or sign face design for an existing sign within Historic Preservation Overlay Districts. Such criteria shall be consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Places* as applicable.~~
~~4. To adopt design guidelines for new construction and exterior alternations within an Historic Preservation Overlay. Such guidelines may be general or specific in nature and shall be in the form of approaches intended to aid applicants in preparation, presentation, and implementation of development proposals that comply with the Medford Comprehensive Plan and implementing ordinances. Guidelines shall be advisory and shall not limit applicants to a single approach.~~
~~5. To adopt approval criteria and/or design guidelines for signage within the Historic Preservation Overlay. Such criteria or design guidelines may authorize signs that differ from the standards of Article VI when necessary to meet historic compatibility and preservation goals.~~

10.136 Due Process Element 8: Findings of Fact
See section 10.118.

SECTION 31. Section 10.137 of the Medford Code is hereby repealed:

~~10.137 Landmarks and Historic Preservation Commission, Membership.~~
~~(1) Number Appointed.~~
~~The Landmarks and Historic Preservation Commission shall be made up of five (5) voting members appointed by the Mayor and City Council.~~
~~(2) Length of Term.~~
~~All regular terms of members of the Landmarks and Historic Preservation Commission shall be for a period of four years, and shall begin on February 1, with not more than three terms expiring in the same year.~~
~~(3) Position Appointments.~~
~~All members of the Landmarks and Historic Preservation Commission shall have demonstrated~~

~~positive interest, competence, or knowledge of historic preservation. The Planning Director or designee shall serve as an *ex-officio* member of the Landmarks and Historic Preservation Commission.~~

~~(4) Selection Criteria.~~

~~All members of the Commission shall either be residents of the City of Medford or Medford Urban Growth Boundary. No more than two members of the Commission shall be appointed who reside outside the Medford city limits. A Commissioner who ceases to meet the residency requirement during their term of office shall forfeit the office and a new member shall be appointed to serve the unexpired portion of the term.~~

~~(5) Removal Criteria.~~

~~A member of the Landmarks and Historic Preservation Commission may be removed by the Mayor and City Council, after a hearing, for misconduct or nonperformance of duty. Replacements shall be appointed by the Mayor and City Council for the remainder of the unexpired term.~~

~~(6) Quorum.~~

~~A quorum of the Landmarks and Historic Preservation Commission shall consist of a majority of the currently appointed members.~~

SECTION 32. Section 10.138 of the Medford Code is hereby repealed and replaced as follows:

~~10.138 Landmarks and Historic Preservation Commission, Meeting Procedures.~~

~~Except as otherwise provided by law or this Code, the Landmarks and Historic Preservation Commission shall conduct its meetings in accordance with rules as adopted by the commission.~~

~~The Landmarks and Historic Preservation Commission shall meet as necessary to act on Historic Reviews in a timely manner. There shall be at least one meeting of the Landmarks and Historic Preservation Commission held each year, during the month of March.~~

10.138 Due Process Element 9: Records.

The secretary to the advisory body/approving authority shall be present at each meeting and shall cause the proceedings to be recorded stenographically or electronically.

(A) Testimony shall be transcribed if required for judicial review or if ordered by the advisory body/approving authority.

(B) The total public record for any legislative or quasi-judicial action includes, but is not limited to, the application, the staff report, the hearing record, the appeal record, the decision or recommendation of all public bodies that considered the matter, and all additional information, correspondence and other items submitted to the city by any party or by the staff prior to the closing of the record. The record shall be deemed closed at the end of the last hearing on the matter, unless kept open to a later date as otherwise provided by law. Items submitted for the record do not have to be formally introduced and admitted at the hearing. The Planning Department shall create and maintain a separate file with a unique file number for each land use action and all items received by the city for that action shall be placed in the Planning Department file.

(C) The Planning Director shall, where practicable, retain as part of the record each item of physical or documentary evidence presented including the staff report, and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent, opponent or staff. Exhibits received into evidence shall be retained in the file until after the applicable appeal period has expired, at which time the exhibits may be released to the person identified thereon, or disposed of by the Planning Director if not claimed within 60 days of the expiration of any appeal date.
(D) Included in the record shall be a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the criteria, standards and facts set forth.
(E) A person shall have access to the record of the proceedings and the exhibit file during normal working hours. A person shall be entitled to copies of the record at the person's own expense. The custodian of record shall make the copies for a fee equal to the actual cost of reproduction.

SECTION 33. Section 10.140 of the Medford Code is hereby repealed and replaced to read as follows:

~~10.140 Duties of the Approving Authority.~~
~~Under the provisions cited in Article II, Section 10.110, Designation of Approving Authority, through 10.135, Authority of the Planning Director, there is hereby designated to the approving authority the power to:~~
~~(1) Approve, conditionally approve, or disapprove development permits and plan authorizations;~~
~~(2) Determine compliance or lack of compliance of the proposed development, together with the provisions for its design, improvement and use with the Comprehensive Plan and all applicable specific plans, regulations, standards and criteria.~~

10.140 Appeal of Land Use Decision.

(A) Standing for Appeal.

(1) Any person with standing may appeal a land use decision of an approving authority (Planning Commission, Site Plan and Architectural Commission, Landmarks and Historic Preservation Commission, and Planning Director) which approves conditionally, approves, or disapproves an appealable land use action per Subsection (E), by filing a written notice together with the requisite filing fee with the Planning Department within 14 days after notice of the decision is mailed.

(2) A person has standing if the person:
(a) appeared in the initial proceedings orally or in writing; and
(b) was entitled to a right of notice and hearing prior to the decision to be reviewed, or is aggrieved by the decision, or has interests adversely affected by the decision.

(3) For a Type II land use decision, a person with standing is an applicant or owner of the subject property, was entitled to written notice of the decision, or participated in the proceeding by submitting written comments.

(B) Notice of Appeal.

(1) A notice of appeal shall be signed by the appellant or their agent and shall contain:

(a) An identification of the decision sought to be reviewed, including the date of the decision.

(b) A statement demonstrating that the appellant has standing to appeal as required by Subsection (A) above.

(c) A statement of the specific grounds which the appellant relies on as the basis for the appeal. If the appellant contends that the findings of fact made by the approving authority are incorrect or incomplete, the notice shall specify the factual matters omitted or disputed. If the appellant contends that the decision is contrary to ordinance, statute or other law, such errors shall be specifically identified in the notice along with the specific grounds relied upon for review.

(2) Upon timely receipt of the notice of appeal and filing fee, the Planning Department shall schedule the appeal for a hearing before the appropriate appeal body at the next regular hearing that falls not less than fourteen days after the date of filing. The Planning Department shall notify the appellant and other parties with standing, of the time and place of the hearing by first class mail, enclosing a copy of the notice of appeal.

(C) Appeal Procedure.

Only the appellant and other parties with standing may participate in the appeal hearing. Appellant shall make the initial presentation and shall be allowed rebuttal. Each participant in the appeal hearing shall present to the appeal body those portions of the record which the participant deems relevant to the appeal. If a party wishes the appeal body to review recorded testimony, the party shall present a written summary or transcript of such testimony to be read by the appeal body in lieu of actually listening to the recording.

For an appeal of a Type II land use decision, the appellant and other parties shall have an opportunity to present testimony, arguments, and evidence as they would have had in a hearing before the decision was issued. The presentation of testimony, arguments, and evidence shall not be limited to the issues raised in the notice of appeal.

(D) Scope of Appeal.

An appeal hearing shall be either 'de novo', 'limited to issues', or 'on the record' as summarized below.

(1) De novo: Anyone may testify. Issues are not limited to those raised in the appeal. New evidence and argument may be presented.

An appeal of a Type II land use decision, shall be a 'de novo' hearing as required by ORS 227.175 (10)(a)(D). The de novo hearing shall be the initial evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals.

(2) On the record: Issues are limited to those raised in the appeal. New evidence may not be presented. New arguments may be presented so long as they relate to issues raised in the initial proceedings.

a. The appeal body shall not re-examine issues of fact and shall limit its review to determining whether there is substantial evidence to support the findings of the approving authority, or determining if errors in law were committed. The appellant is also precluded from raising an issue on appeal to the appeal body if they could have raised the issue with the approving authority but failed to do so.

b. The record shall consist of the application and all materials submitted with it; documentary evidence, exhibits and materials submitted at the initial hearing; recorded testimony; the decision of the approving authority, including the findings and conclusions; and the notice of appeal.

(E) Decision Regarding Appeals.

(1) Upon review of the appeal, the appeal body may by order affirm, reverse or modify in whole or in part a determination or requirement of the decision that is under review. When the appeal body modifies or renders a decision that reverses a decision of the approving authority, the appeal body, in its final order, shall set forth its finding and state its reasons for taking the action encompassed in the order. When the appeal body elects to remand the matter back to the approving authority for such further consideration as it deems necessary, it shall include a statement explaining the error to have materially affected the outcome of the original decision and the action necessary to rectify such.

(2) Action by the appeal body shall be decided by a majority vote of its members present at the meeting at which review was made and shall be taken either at that or any subsequent meeting. The appeal body shall render its decision within the time limits allowed by State law.

(F) Appeal of Type I Land Use Decision.

(1) With the exception of Riparian Corridor Reductions or Deviations, Final PUD Plan decisions and Minor Historic Review decisions, all other Type I land use decisions are final and not appealable under this chapter or any other provision of the Medford Municipal Code.

(2) Riparian Corridor Reduction or Deviation decisions made by the Planning Director or designee may be appealed to the City Council.

(3) Final PUD Plan decisions made by the Planning Director or designee may be appealed to the Planning Commission.

(4) Minor Historic Review decisions made by the Planning Director or designee may be appealed to the Landmarks and Historic Preservation Commission.

(G) Appeal of Type II Land Use Decisions.

Type II land use decisions made by the Planning Director or designee may be appealed to the Planning Commission as a de novo hearing. The Planning Commission decision on appeal shall be the final local decision on the matter.

(H) Appeal of Type III Land Use Decision.

Type III land use decisions made by the approving authority (Planning Commission, Site Plan and Architectural Commission, or Landmarks and Historic Preservation Commission) may be

appealed to the City Council. The appeal shall be heard on the record.
(I) Appeal of Type IV Land Use Decision.
Type IV land use decisions made by City Council may be appealed to the Land Use Board of Appeals (LUBA) pursuant to ORS 197.830.

SECTION 34. Section 10.142 of the Medford Code is added to read as follows:

10.142 Type I Land Use Actions.
Type I land use actions comprise the following land use reviews:

Type I Land Use Actions

De Minimis Revision(s) to an Approved PUD Plan
Final PUD Plan
Minor Historic Review
Minor Modification(s) to Approved Conditional Use Permit
Minor Modification to a Site Plan and Architectural Review Approval
Nonconformities
Pre-Application
Property Line Adjustment
Riparian Corridor Reduction or Deviation
Sign Permit
Subdivision/Partition Final Plat

SECTION 35. Section 10.144 of the Medford Code is added to read as follows:

10.144 De Minimis Revision(s) to an Approved PUD Plan.
See Section 10.198.

SECTION 36. Section 10.145 of the Medford Code is hereby repealed:

~~10.145 Referral Agencies.~~
~~It is the responsibility of a referral agency to provide timely review and comment on all proposals referred by the City. The referral agency shall be requested to determine consistency of a proposal with the referral agency's operating policies and standards and to recommend conditions on development.~~

SECTION 37. Section 10.146 of the Medford Code is hereby repealed and replaced to read as follows:

~~10.146 Referral Agencies, Distribution.~~

This Chapter employs the use of referral agencies for the review of those plan authorizations indicated below, as shown on the Schedule which follows:

A. Major Comprehensive Plan Amendment
B. Land Development Code Amendment
C. Minor Comprehensive Plan Amendment
D. Annexation, except as provided in Section 10.199
E. Vacation
F. Zone Change, Major and Minor
G. Conditional Use Permit
H. Exception
I. Planned Unit Development
J. Land Division
K. Site Plan and Architectural Review
L. Transportation Facility Development
M. Historic Review
N. Administrative (Class D) plan authorization

Numerical references in the Schedule refer to the following:

1. When the proposal is within, abutting, or affecting the referral agency's jurisdiction.
2. When the proposal is within or abutting the Airport Area of Concern.
3. When the proposal includes new buildings or building additions that are within the referral agency's jurisdiction.
4. When the proposal is within the Southeast Overlay District and in a Parks or Schools land use category on the Southeast Plan Map.
5. When the proposal is within or abutting a Greenway General Land Use Plan Map designation.

Referral agencies may be asked to review certain proposals not indicated on the Schedule if, in the judgment of the Planning Director, the agency may have an interest in the proposal. Additional referral agencies may be notified at the discretion of the Planning Director.

SCHEDULE OF REFERRAL AGENCY DISTRIBUTION

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
CITY DEPTS.														
Building Safety	x	x	x	x	x	x	x	x	x	x	x	-	x	x
City Attorney	x	x	x	x	x	x	x	x	x	x	x	x	x	
City Manager	x	x	x	x	-	-	-	-	-	-	-	-	-	—
Engineering Division	x	x	x	x	x	x	3	-	x	x	x	x	x	-
Fire	x	x	x	x	x	x	3	-	x	x	x	-	x	x
Parks & Recreation	x	x	x	x	x	x	3	-	x	x	x	-	x	-
Parks Director	4	4	4	4	4	4	4	4	4	4	4	4	4	-

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
Planning	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Police	x	-	x	x	x	x	-	-	x	x	x	-	x	x
Public Works	x	x	x	x	x	x	3	-	x	x	x	-	x	x
AGENCIES														
Water Commission	x	x	x	x	x	x	3	-	x	x	x	x	x	-
Army Corps of Engineers	-	-	-	-	-	-	5	5	5	5	5	5	-	-
Landmarks & Historic Preservation Commission	1	1	1	-	1	1	1	1	1	1	1	1	-	-
Cable Television Co.	-	-	x	x	x	x	3	-	x	x	x	x	x	-
City of Central Point	1	1	1	1	1	1	1	1	1	1	1	1	-	-
City of Phoenix	1	1	1	1	1	1	1	1	1	1	1	1	-	-
Dept. of Land Conservation & Development	x	x	x	-	-	-	-	-	-	-	-	-	-	-
Dept. of State Lands	-	-	-	-	-	-	5	5	5	5	5	5	-	-
Federal Aviation Administration	-	2	-	-	-	-	2	2	2	2	2	2		2
Garbage Company	-	-	-	x	x	-	-	-	-	-	-	-	-	-
Jackson Co. Health Dept	-	-	-	x	-	-	-	-	-	x	-	-	-	-
Jackson Co. Planning	x	x	x	-	-	-	-	1	1	-	1	-	-	-
Medford Irrigation District	1	-	1	1	1	-	3	-	1	1	-	-	-	-
Natural Gas Company	-	-	x	x	x	x	3	-	x	x	x	x	x	-
Oregon Dept. of Aviation	-	2	-	-	-	-	2	2	2	2	2	2	-	2
Oregon Dept. of Fish & Wildlife	-	-	-	-	-	-	5	5	5	5	5	5	-	-
Oregon Dept. of Transportation	x	-	1	1	-	1	3	-	1	1	1	1	-	-
Power Company	-	-	x	x	x	x	3	-	x	x	x	x	x	-
Rogue River Valley Irrigation District	1	-	1	1	1	-	3	-	1	1	-	-	-	-
Rogue Valley Medford Airport	1	1	1	-	-	1	2	2	2	2	2	2	-	1
Rogue Valley Sewer Services	1	-	1	1	1	1	3	-	1	1	1	-	1	-
Rogue Valley Transportation District	x	-	1	1	1	x	3	-	1	1	x	x	x	-

	~~A~~	~~B~~	~~C~~	~~D~~	~~E~~	~~F~~	~~G~~	~~H~~	~~I~~	~~J~~	~~K~~	~~L~~	~~M~~	~~N~~
~~Medford 549C Schools~~	~~1~~	-	~~1~~	~~1~~	-	~~1~~	~~3~~	-	~~1~~	~~1~~	-	-	-	-
~~Superintendent~~	4	4	4	4	4	4	4	4	4	4	4	4	-	-
~~Phoenix-Talent Schools~~	~~1~~	-	~~1~~	~~1~~	-	~~1~~	~~3~~	-	~~1~~	~~1~~	-	-	-	-
~~Superintendent~~	4	4	4	4	4	4	4	4	4	4	4	4	-	-
~~Telephone Company~~	-	-	~~x~~	~~x~~	~~x~~	~~x~~	~~3~~	-	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	-
~~U. S. Post Office~~	-	-	-	-	-	-	-	-	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	-
~~Urban Renewal Agency~~	-	-	~~1~~	-	~~1~~	~~1~~	~~1~~	~~1~~	~~1~~	~~1~~	~~1~~	~~1~~	~~1~~	-
~~Water Districts~~	~~1~~	-	~~1~~	~~1~~	-	~~1~~	-	-	~~1~~	~~1~~	-	-	-	-

10.146 Final PUD Plan.
See Section 10.196.

SECTION 38. Section 10.148 of the Medford Code is added to read as follows:

10.148 Minor Historic Review.
See Section 10.188.

SECTION 39. Section 10.150 of the Medford Code is hereby repealed and replaced to read as follows:

~~10.150 General Procedural Requirements.~~
~~There are five (5) procedural classifications employed in the administration of this chapter:~~
~~CLASS "A" Legislative actions~~
~~CLASS "B" Council-approved quasi-judicial decisions~~
~~CLASS "C" Other quasi-judicial decisions~~
~~CLASS "D" Administrative decisions~~
~~CLASS "E" Non-discretionary, ministerial decisions~~
~~Each of the above procedural classifications is subject to the specified due process and administrative requirements of this chapter.~~
10.150 Minor Modification to an Approved Conditional Use Permit.
See Section 10.184.

SECTION 40. Section 10.152 of the Medford Code is added to read as follows:

10.152 Minor Modification to a Site Plan and Architectural Review Approval.
See Section 10.200.

SECTION 41. Section 10.154 of the Medford Code is added to read as follows:

10.154 Nonconformities.
See sections 10.032 – 10.037.

SECTION 42. Section 10.155 of the Medford Code is hereby repealed:

~~10.155 Due Process.~~
~~A. In addition to the application review requirements of Section 10.175, Application Review Procedure, there are eight basic due process elements applicable to Class A, Class B, and Class C procedural classifications. The due process requirements are:~~
~~(1) Notification~~
~~(2) Disclosure~~
~~(3) Conflict of Interest~~
~~(4) Hearing~~
~~(5) Cross-Examination~~
~~(6) Action and Decision Time~~
~~(7) Findings~~
~~(8) Record~~
~~B. Due process for Class D plan authorizations includes requirements 1, 2, 6, 7, and 8 of the preceding list, in addition to the application review requirements of Section 10.175, Application Review Procedure.~~

SECTION 43. Section 10.156 is hereby repealed and replaced to read as follows:

~~10.156 Notification, General.~~
~~The notice provided shall:~~
~~(1) Explain the nature of the application and the proposed use or uses which could be authorized;~~
~~(2) List the applicable criteria from the Code and the Comprehensive Plan that apply to the application at issue;~~
~~(3) Set forth the street address or other easily understood geographical reference to the subject property;~~
~~(4) State the date, time and location of the hearing; or, for Class D, state the date the decision will be rendered;~~
~~(5) State that failure to raise an issue in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue;~~
~~(6) Include the name of a local government representative to contact and the telephone number where additional information may be obtained;~~
~~(7) State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;~~

~~(8) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; or, for Class D, state that a copy of the staff report will be available for inspection at no cost on the day the decision is rendered; and~~
~~(9) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.~~

10.156 Preapplication Conference.

Prior to submitting a land use permit application, the applicant may apply for a preapplication conference with the Planning Department. Upon receipt of an application the preapplication conference shall be scheduled. At the conference there shall an exchange of information regarding procedural requirements, required land use applications, consistency with the Comprehensive Plan and this Chapter, scheduling and such other technical and design assistance as will aid the applicant in preparing a complete application. Upon conclusion of the conference the Planning Department shall provide the applicant with a written summary of the conference.

SECTION 44. Section 10.157 of the Medford Code is hereby repealed:

~~10.157 Notification, Publication and On-Site Posting.~~
~~(1) Publication. Unless otherwise indicated notification of all proposed actions shall be published in a newspaper of general circulation prior to the scheduled meeting date before the approving authority. The schedule of publication for each type plan authorization shall be as follows:~~

~~Plan Authorization Classification~~	~~Specific Type~~	~~Publication Schedule~~
~~A~~	~~All~~	~~No later than 10 days prior to the scheduled meeting date before the advisory agency.~~ ~~No later than 10 days prior to the scheduled public hearing date before the approving authority.~~
~~B~~	~~Annexation~~	~~Once each week for two successive weeks prior to the day of the hearing before the approving authority. Notice shall also be posted in four public places in the city for a like period.~~
~~B~~	~~Vacations~~	~~Once a week for two consecutive weeks prior to the date of the hearing before the approving authority. Within five days after publication of the first notice, the City Recorder shall cause to be posted at or near each end of the proposed vacation a copy of the notice which shall be headed "Notice of Street Vacation", "Notice of Plat Vacation" or "Notice of Plat and Street Vacation" as the case may be; the notice shall be posted in at least two~~

		conspicuous places in the proposed vacation area. The posting and first day of publication of such notice shall be not less than 14 days before the hearing.
B	Minor Comp. Plan Amendments [quasi-judicial], Transportation facility development	Shall be published in a newspaper of general circulation no later than 10 days prior to the scheduled meeting date before the approving authority.
C	Zone changes, Preliminary PUD plans, Conditional use permits, Exceptions, Land divisions	Shall be published in a newspaper of general circulation no later than 10 days prior to the scheduled meeting date before the approving authority.
C	Site plan and architectural review, Historic review	Shall be posted in a public place no later than five days prior to the scheduled meeting date before the approving authority.
D		None

(2) On-Site Posting. Public notice signs shall be posted on the project site for any proposed Class B, C, or D land use action according to the following:

(a) Contents of sign. Notice signs shall include a description of the proposed land use action, the date of the public hearing, and the City of Medford file number for the proposed land use action.

(b) Location and number of signs. A posted notice sign must be placed on each existing street frontage of the project site. If a frontage is over 600 feet long, a notice sign is required for each 600 feet, or fraction thereof. Notice signs must be posted within 10 feet of a street lot line and must be visible to pedestrians and motorists. Notice signs may not be posted in a public right-of-way, unless the land use action specifically pertains to a public right-of-way. If posting must occur in the right-of-way, care should be taken to comply with Section 10.735, Clear View of Intersecting Streets.

(c) Sign posting schedule. The required sign(s) shall be posted not later than 21 days prior to the first public hearing date of each body that hears the application. Posted signs shall be removed within 10 days following the final decision.

(d) Consequences of failing to post the property as required. Failure to post the signs as required by this section is a violation of the Medford Municipal Code.

SECTION 45. Section 10.158 of the Medford Code is hereby repealed and replaced to read as follows:

~~10.158 Notification, Affected Property Owners.~~
~~Notification shall be mailed to the applicant and all affected property owners no later than 20 days prior to the scheduled meeting date before the approving authority. All addresses for mailed notices shall be obtained from the latest property tax rolls of the Jackson County Assessor's office. Affected property owners for each type of plan authorization shall be determined as follows:~~

~~Plan Authorization Classification~~	~~Specific Types~~	~~Affected Property Owners~~
~~A~~		~~Generally not applicable to a legislative action unless it meets ORS 227.186 criteria (*i.e.*, the change effectively rezones property.)~~
~~B~~	~~Vacations~~	~~All property owners within the area of a plat vacation or all abutting property and all attached real property within 200 feet laterally and 400 feet beyond the terminus of each right-of-way to be vacated.~~
~~B~~	~~Annexations, Minor Comp. Plan Amendments (quasi-judicial), Transportation Facility Development~~	~~All owners of property within the project boundaries plus all property owners within 200 feet of the project boundaries.~~
~~C~~	~~Zone Changes, Conditional Use Permits, Exceptions, Site Plan and Architectural Review, Land Divisions, Historic Review~~	~~All owners of property within the project boundaries plus all property owners within 200 feet of the project boundaries.~~
~~C~~	~~Preliminary PUD Plans~~	~~All owners of property within the project boundaries plus all property owners within 200 feet of the project boundaries. The owners of no less than seventy-five tax lots shall be notified. If seventy-five tax lots are not located within 200 feet of the exterior boundary of the PUD, the notification area shall be extended by~~

		~~successive 50-foot increments, until the minimum number of lots are included in the notification area. Owners of all tax lots within the extended notification area shall receive notice.~~
~~D~~		~~All owners of property within the project boundaries plus all property owners within 200 feet of the project boundaries.~~

10.158 Property Line Adjustment.

(A) Property Line Adjustment Purpose.

The purpose of property line adjustments is to relocate or eliminate a common property line between abutting properties.

(B) Property Line Adjustment Approval Criteria.

A property line adjustment shall be approved if it complies with the following:

(1) All properties were lawfully created;

(2) No new lots or parcels of land will result from the adjustment;

(3) The adjustment will not result in a unit of land that overlaps the city limit line, urban growth boundary, or zoning districts;

(4) The adjusted property configurations shall not create a substandard condition relative to the applicable standards of the Code. When one or more properties are less than the minimum required area or width, none of the resulting units of land shall be made smaller in area or narrower in width than the original smallest existing unit of land.

(C) Property Line Adjustment Application Form.

Property line adjustments shall be submitted to the Planning Department on application forms supplied by the Planning Department. The Planning Director or designee may waive the submittal of any of the materials or information that is deemed to be excessive, repetitive, or unnecessary. The application for property line adjustment shall require the following information:

(1) A site plan drawn to scale by a land surveyor registered in the State of Oregon showing the following:

(a) Existing and proposed property lines, including dimensions and square footage, for all properties involved;

(b) Assessor's map and tax lot identification for subject properties;

(c) Location of existing wells, septic systems, sanitary sewer, storm drain laterals, and water service;

(d) Location, name, and purpose of all existing and proposed easements; If the property line adjustment will result in any portion of a utility service, lateral, driveway, or water service being located on a different parcel than the structure served by them, an easement granting continued use of the improvement will be required;

(e) The name of public and private streets that abut or lie within the subject area;

(f) Accurate location, height, ground floor area, and use of all structures on the subject

properties including the distance from all proposed property lines. If the units of land are vacant, a written statement certifying the same shall be provided;
(g) Names of subject property owners as shown on the accompanying deeds;
(h) Signature of person preparing the map, attesting to the accuracy of information contained thereon;
(i) If items above are not shown on site plan, a statement is required stating the specific items do not exist on the property;
(2) A report from a title company prepared within 30 days listing the vested owners, easements, encumbrances, and other matters of record for each property;
(3) The owners of all properties that will be modified by the property line adjustment must sign the application form or a letter of authorization.
(D) Property Line Adjustment Procedure.
(1) Preliminary Review.
Once the application has been submitted the Planning Department shall send a copy to affected agencies and City departments for review. Within 25 working days after the application has been submitted, the Planning Department shall send a written notification to the applicant indicating:
(a) The application is missing information required in Section 10.158. Once all of the missing information is submitted, the City will have 25 working days to complete the review; or
(b) The application has been preliminarily approved consistent with Section 10.158; or
(c) The application has been disapproved as it is not consistent with Section 10.158.
(2) Final Review.
(a) Within one year of the preliminary approval date, the applicant shall submit to the Planning Department all of the following:
(i) Map of survey showing the adjusted property lines prepared by an Oregon licensed surveyor in accordance with the procedures of ORS 92.060(7) and 209.250. This requirement applies to all properties regardless of size.
(ii) A report from a title company prepared within 15 days listing the current vested owners, easements of record, encumbrances, and other matters of record;
(iii) A copy of proposed easements to be recorded. Proposed easements may be included as a reservation on the property line adjustment deeds;
(iv) Deeds which include a statement that identifies the associated conveyance of property as a property line adjustment and labeled as a "Property Line Adjustment." If a property line is being eliminated, the deeds shall be labeled "Property Line Adjustment – Lot Consolidation."
(v) Property descriptions attached to the deeds shall either describe the resultant properties or otherwise specify that the conveyed land shall be consolidated with the property of the grantee.
A property line adjustment deed shall contain the names of the parties, the description of the adjusted line, references to original recorded documents, and signatures of all parties with proper acknowledgment.
(b) Within 25 days of submittal, the City will conduct the final review for consistency with the preliminary approval and the approval criteria. Upon approval, the survey will be signed by

the City Surveyor and the Planning Director.
(E) Property Line Adjustment Recordation and Expiration.
Within one year of the final decision date, the property line adjustment deeds must be filed with the Jackson County Recorder's Office. If the deeds are not filed within one year, the application approval will expire.

SECTION 46. Section 10.159 of the Medford Code is hereby repealed:

~~10.159 Disclosure.~~
~~There shall be provided to the applicant and other interested parties adequate opportunity to review the facts, findings, staff report and other exhibits as soon as practical, but not less than seven (7) days prior to the time in which a decision is to be made on a plan authorization by the approving authority.~~

SECTION 47. Section 10.160 of the Medford Code is added to read as follows:

10.160 Riparian Corridors, Reduction or Deviation.
See Sections 10.920 – 10.928.

SECTION 48. Section 10.162 of the Medford Code is hereby repealed and replaced to read as follows:

~~10.162 Cross Examination.~~
~~Prior to any quasi-judicial public hearing there shall be provided to all affected parties, upon request, the right to question the approving authority, relative to any actual or potential conflict of interest. Once a member of the approving authority is disqualified, no further questions shall be directed to him/her.~~
~~Any witness may be questioned in an orderly fashion by any member of the approving authority, applicant, proponent or opponent who has first been recognized by the presiding officer. Questions shall be brief and to the point. All questions shall be submitted to the witness through the presiding officer unless the presiding officer expressly permits the submission of questions directly to a witness.~~
10.162 Subdivision and Partition Final Plats.
(A) Final Plat Approval Required.
No person shall cause or permit the sale or development of any real property under their ownership or control, nor shall any development permit be issued for such development, until final approval therefor has been granted by the Planning Director in accordance with this chapter, and an approved final plat has been recorded with the Jackson County Recorder. The requirements of this section shall not be applicable to any of the following which are exempt from such provisions:
(1) Where final plat approval for the identical lot or site has been previously obtained from the City within 10 years prior to the date of application for a building permit, in accord with

such ordinance requiring plat approval which was in effect at that time, and such final plat is of record evidencing such plat approval;

(2) Developments made solely for the purpose of opening or widening a public street or alley, or those involving conveyance, transfer, access, sewer, water, or public utility, provided that no partitions or parcels of land are created other than those directly caused by such action.

(3) Developments made solely because of the acquisition of lands by government agencies for freeways, parks, public buildings, flood control channels, or other public purposes, or for the sale of minor remnant parcels by such agencies to adjacent property owners where such land involved in the sale is not designated in the City's Comprehensive Plan as a recreational facility. In connection with the sale of any such minor remnant parcel, the person acquiring the property shall consolidate the acquired remnant parcel with his existing contiguous ownership;

(4) Developments involving land dedicated for cemetery purposes; or

(5) Developments caused by a conveyance for the purpose of adding land to one parcel by deducting it from another contiguous parcel, where such does not reduce the area of the parcel from which such portion is taken below the minimum area, frontage, width or depth prescribed for the zoning district in which said parcel is located, nor reduce any of the required yard spaces surrounding any structure or use on such parcel below the minimum prescribed for such zoning district.

(B) Final Plats, General.

The form and content of a final plat shall be in accord with the provisions of ORS 92.050 through 92.080, and this code. Final plats not submitted in accord with this code shall not be considered for approval.

(C) Form of Final Plat and Data to Appear Thereon.

Where identified by an "X" in table 10.162-1, the final plat of subdivisions and partitions shall conform to the following provisions:

Final Plat Form and Data – Table 10.162-1

Final Plat Provisions	Include on Subdivision Final Plat	Include on Partition Final Plat
1. Title and subtitle of plat. The title sheet shall contain the name as approved by the Planning Commission. Below the title sheet shall appear a subtitle giving a general location of the property being developed by reference to the plats which have previously been recorded. In case the property included within the subdivision lies wholly in the city of Medford, the following words shall appear below the title, "In the City of Medford."	X	

Final Plat Form and Data – Table 10.162-1		
Final Plat Provisions	**Include on Subdivision Final Plat**	**Include on Partition Final Plat**
2. Distances and bearings. Sufficient data to determine readily the bearing and length of every lot line, block line, and boundary line. Dimensions of lots shall be given as total dimensions, corner to corner and shall be shown in feet and hundredths of a foot. The plat shall show the basis of bearings and lengths of straight lines and radii, and all arc lengths, central angle, or other data as necessary to define all curves within the subdivision.	**X**	**X**
3. Boundary references and monuments. The plat shall show clearly what monuments (type and size) or other evidence is found on the ground to determine boundaries of the subdivision. The adjoining corners of all adjoining subdivisions shall be identified by lot and block number, and subdivision name. The plat shall show the location and description of monuments found or placed in making the survey for proper reference and data sufficient for relocation and retracing of any and all exterior boundary lines and lot and block lines. Whenever the city or county engineer has established the centerline of a street adjacent to or in the proposed subdivision, the data shall be shown on the plat.	**X**	**X**
4. The plat shall note whether the subdivision or portion thereof are subject to periodic inundation by water as determined from the Federal Flood Insurance Rate Maps.	**X**	**X**
5. The centerlines and sidelines of all streets, and total width thereof, and the widths of each side of the centerline and widths of any portion of a street being dedicated, the width of existing dedications, and the widths of any railway, drainage channel, or other rights-of-way shall be shown.	**X**	**X**

Final Plat Form and Data – Table 10.162-1		
Final Plat Provisions	**Include on Subdivision Final Plat**	**Include on Partition Final Plat**
6. The plat shall show all easements of record, or easements to be recorded, to which the lots will be subject. Such easements must be clearly labeled and identified if already of record, and record reference given. If any easement is not definitely located of record, a statement of such easement must appear on the plat. All easements other than for streets shall be denoted by fine broken lines and designated as to type. Easement widths and the lengths and bearings of the lines thereof, together with sufficient ties thereto, shall be set forth to definitely locate the easement with respect to the development.	**X**	**X**
7. City boundary lines which bound, adjoin or cross the development, shall be clearly designated and referenced.	**X**	**X**
8. Lot numbers shall begin with the number "1" and shall continue consecutively throughout the development with no omission or duplications, except that lot numbers in subsequent contiguous development units may expand the numbering sequence of the previous unit providing the commercial name of the development remains unchanged. Each block shall be shown on one sheet when possible. Where adjoining blocks appear on separate sheets, the street adjoining both blocks shall be shown on both sheets, complete with centerline and property line data. All letters and figures within the development shall be conspicuous and solid.	**X**	**X**
9. The plat shall particularly define and designate all lots and parcels, including those reserved for private purposes, all parcels and easements offered for dedication for any purpose, with all the dimensions, boundaries, and courses clearly shown and defined in each case. Ditto (" ") marks shall not be used.	**X**	**X**
10. All street names, including those designated by numbers, and including the words "Avenue", Boulevard", "Place", etc., shall be spelled out in full.	**X**	**X**

Final Plat Form and Data – Table 10.162-1 Final Plat Provisions	Include on Subdivision Final Plat	Include on Partition Final Plat
11. The plat shall also show and delineate all other data that is or may be required by other provisions of this chapter or otherwise by law.	X	X
12. Certificates: Areas dedicated to public use shall be free and clear of all encumbrances, except public utility easements which the City Engineer determines will not interfere with the use contemplated by the dedication. All mortgages, trust deeds, and other liens shall be released as to public use areas.	X	X
13. Certificates: Each final plat shall contain the requisite owner's certificate or dedication, release of liens, Surveyor's certificate, City Engineer's certificate, City Surveyor's certificate, County Recorder's certificate, and such other certificates as may hereafter be required by law. The form of each said certificate shall be prescribed by the City Attorney.	X	X
14. Certificates: The owner's dedication statement shall include offers of dedication of all streets and other easements shown on the final plat intended for any public use, except those parcels of land which are intended for the exclusive use of the lot owners in the development, their licensees, visitors, tenants and employees, which private streets and other private easements shall be specifically designated as such on the plat.	X	X
15. Certificates: The Planning Director certificate shall contain a statement that acknowledges compliance with all conditions of the development permit and recognition of same.	X	X

(D) Filing of Final Plat with City Engineer.

(1) Prior to submitting a final plat to the Planning Department, the applicant shall:

(a) Cause the proposed land division to be accurately surveyed and a final plat to be prepared substantially in accordance with the approved tentative plat;

(b) Cause a minimum of five copies of the final plat, with any and all alterations and changes required thereto, to be filed with the City Engineer for approval. At the time of filing of the final plat with the City Engineer, the developer shall also file concurrently therewith the

following:

(i) A traverse sheet, giving the latitude and departures, or computer print-out, showing the mathematical closure, within allowable limits of error, of the exterior boundaries of the tract in all cases in which said boundaries are irregular or in which the tract is laid out in irregular blocks, and of the exterior boundaries of all irregular lots and blocks.

(ii) Plans, profiles, details, and specifications for improvements conforming to all ordinances of the city and to the standards of this code which must show full details of all improvements and shall be to a scale of 40 or 50 feet to the inch horizontal and four or five feet to the inch vertical.

(iii) A detailed estimate of quantities and costs of the proposed improvements for approval by the City Engineer.

(iv) A title report or subdivision guarantee by a title company doing business in Jackson County, showing names of all persons whose consent is necessary for the preparation of said plat and for any dedication to public use, and their interest therein, certified for the benefit and protection of the City that the persons therein named are all of the persons necessary to give clear title to the streets and other easements therein to be offered for dedication. Said title report shall be dated no later than 15 days from the date of submittal.

(v) Two copies of all proposed covenants, conditions, and restrictions or a statement in writing signed by the developer that no such restrictions will be established.

(vi) Instruments prohibiting traffic over the side or rear lines of any street or other public way when and if the same is required by this chapter.

(vii) Such streets, offers of dedication or other instruments affecting or conveying title or any interest in land as are required under the conditions of approval of the tentative plat.

(viii) A statement that all applicable fees required by the city code have been paid.

(ix) Two copies of the city's standard (or deferred) form of improvement agreement executed by the developer, together with two executed copies of each labor and material and improvement bond guaranteeing payment of the cost of setting monuments (ORS 92.065) and county certification that the requisite tax bond has been posted (ORS 92.095) and such other agreements and bonds as may from time to time be required by law.

(2) The City Engineer shall examine the final plat and accompanying data and shall within 15 working days determine:

(a) Whether all engineering conditions of tentative plat approval have been satisfactorily completed, or if incomplete, are matters which can be included in a regular or deferred improvement agreement with the city;

(b) Whether said plat is technically correct.

(3) Upon the City Engineer's determination that conformity with the foregoing has been made, they shall execute the City Engineer's certificate on said final plat and cause said plat to be forwarded to the Planning Department for approval by the Planning Director.

(E) Filing of the Final Plat with Planning Department.

(1) No final plat shall be accepted by the Planning Department unless, in addition to the above, the following is complied with:

(a) An accepted final plat shall be considered by the Planning Director 10 working days following acceptance.

(b) The final plat is accompanied by:

(i) A blue or black line print thereof;

(ii) The approved improvement plans signed by the City Engineer;

(iii) All documents and matters previously submitted to the City Engineer under Subsection (D) above.

(c) All required fees by the developer have been paid.

(d) A print of the final plat signed off by all affected referral agencies and involved agencies.

(2) The Planning Department shall examine the final plat and accompanying data and shall within five working days determine:

(a) Whether the land division is substantially the same as shown on the tentative plat with only approved alterations thereof;

(b) Whether bonds and agreements guaranteeing improvement of all conditions of tentative plat approval have been completed pursuant to Section 10.666, Improvement Agreements, and Section 10.667, Security for Public Improvements.

(F) Action and Decision Time: Final Plat.

(1) The Planning Director shall within a period of not more than 25 working days after a final plat is submitted to the Planning Department, approve or disapprove the final plat and acknowledge compliance with all conditions of the tentative plat.

(2) If the final plat does not conform with all local code requirements applicable at the time of approval of the tentative plat and all rulings made thereunder, the Planning Director may disapprove said plat, or approve it; said approval to become unconditional at such time as said plat is made to comply with the approved tentative plat and such code requirements.

(3) Upon disapproval of any final plat, the Planning Director shall return said plat to the applicant together with a written statement setting forth the reasons for such disapproval.

(4) Upon approval by the Planning Director becoming unconditional, the Planning Director shall sign and affix the city seal to the approving authority certificate attached to said plat.

(5) No land division will be recognized as complete until final plat is unconditionally approved by the Planning Director and no title to or interest in any property described in any offer of dedication on the final plat which is accepted by the Planning Director shall pass until recordation of said plat.

(6) Within 10 days after recordation of the final plat, the applicant at their own expense shall furnish to the Planning Department one copy.

SECTION 49. Section 10.163 of the Medford Code is hereby repealed:

~~10.163 Action and Decision Time.~~
~~Action on all plan authorizations shall be taken within the time herein prescribed. For all authorizations, the Planning Department shall, within five working days of the decision date, provide written notification to the applicant and all persons who testify orally or in writing on the plan authorization. The notice shall indicate the date that the decision will take effect, the approval's expiration date, and the final date for appeal.~~

SECTION 50. Section 10.164 of the Medford Code is hereby repealed:

~~10.164 Class "A", Action and Decision Time.~~
~~Following completion of a recommendation by the advisory agency (Planning Commission), the request shall be scheduled for a public hearing. The decision of the approving agency (City Council) shall be based upon the application, the evidence, comments from the referral agencies, and compliance with the Statewide Planning Goals and Guidelines and with this code and the Comprehensive Plan.~~

SECTION 51. Section 10.165 of the Medford Code is hereby repealed:

~~10.165 Class "B", Action and Decision Time.~~
~~After acceptance of an application, the approving authority (City Council) shall approve, approve with conditions, or deny the request. The decision of the approving authority (City Council) shall be based upon the application, the evidence and comments from the referral agencies, and compliance with this chapter and the Comprehensive Plan.~~

SECTION 52. Section 10.166 of the Medford Code is hereby repealed:

~~10.166 Class "C", Action and Decision Time.~~
~~The approving authority shall take final action within 120 days after the application is deemed complete and shall at that time approve, approve with conditions, or deny the request. The decision of the approving authority (Planning Commission, Site Plan and Architectural Commission, or Landmarks and Historic Preservation Commission) shall be based upon the application, the evidence, comments from the referral agencies, and compliance with this chapter and the Comprehensive Plan.~~
~~An applicant may make a written request to extend the 120-day period for a specified period of time. In no case may the total extensions exceed 245 days.~~

SECTION 53. Section 10.167 of the Medford Code is hereby repealed:

~~10.167 Class "D", Action and Decision Time.~~

~~The approving authority shall take final action within 120 days after the application is deemed complete and shall at that time approve, approve with conditions, or deny the request. The decision of the approving authority shall be based upon the application, the evidence, written comments, and compliance with this chapter.~~

~~An applicant may make a written request to extend the 120-day period for a specified period of time. In no case may the total extensions exceed 245 days.~~

SECTION 54. Section 10.168 of the Medford Code is hereby repealed and replaced to read as follows:

~~**10.168 Findings.**~~

~~**Findings which address applicable criteria shall accompany all actions required of this chapter for plan authorizations.**~~

10.168 Type II Land Use Actions.

(A) Type II actions comprise the following land use reviews:

Land Use Actions

Partition, Tentative Plat

Portable Storage Containers

(B) Type II Action and Decision Time.

The Planning Director shall take final action within 120 days after the application is deemed complete. An applicant may make a written request to extend the 120-day period for a specified period of time. In no case may the total extensions exceed 245 days. At the Planning Director's discretion, an application requiring a Type II land use action may be referred directly to the Planning Commission for review through a Type III land use action.

SECTION 55. Section 10.169 of the Medford Code is hereby repealed:

~~10.169 Records.~~

~~The secretary to the approving authority shall be present at each meeting and shall cause the proceedings to be recorded stenographically or electronically.~~

~~(1) Testimony shall be transcribed if required for judicial review or if ordered by the approving authority.~~

~~(2) The total public record for any legislative or quasi-judicial action includes, but is not limited to, the application, the staff report, the hearing record, the appeal record, the decision or recommendation of all public bodies that considered the matter, and all additional information, correspondence and other items submitted to the city by any party or by the staff prior to the closing of the record. The record shall be deemed closed at the end of the last hearing on the matter, unless kept open to a later date as otherwise provided by law. Items submitted for the record do not have to be formally introduced and admitted at the hearing. The Planning Department shall create and~~

~~maintain a separate file with a unique file number for each land use action and all items received by the city for that action shall be placed in the Planning Department file.~~

~~(3) The Planning Director shall, where practicable, retain as part of the record each item of physical or documentary evidence presented including the staff report, and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent, opponent or staff. Exhibits received into evidence shall be retained in the file until after the applicable appeal period has expired, at which time the exhibits may be released to the person identified thereon, or disposed of by the Planning Director if not claimed within 60 days of the expiration of any appeal date.~~

~~(4) Included in the record shall be a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the criteria, standards and facts set forth.~~

~~(5) A person shall have access to the record of the proceedings and the exhibit file during normal working hours. A person shall be entitled to copies of the record at the person's own expense. The custodian of record shall make the copies for a fee equal to the actual cost of reproduction.~~

SECTION 56. Section 10.170 of the Medford Code is added to read as follows:

10.170 Partition Tentative Plat.

(A) Final Plat Approval Required.

The partitioning of land shall be subject to the application requirements as herein set forth and shall include both the tentative and final platting requirements. The approval of a partition tentative plat is a Type II administrative decision with notice and the Planning Director is the approving authority. Final partition plat approval is a Type I ministerial action which relies on compliance with the requirements established at the time of tentative plat approval, and on the requirements set forth in Section 10.162.

(B) Application for Partition Tentative Plat. See Section 10.202(B).

(C) Form of Tentative Plat and Accompanying Data. See Section 10.202(C).

(D) Partition Approval Criteria.

The Planning Director shall not approve any tentative partition plat unless they can determine that the proposed land partition, together with the provisions for its design and improvement:

(1) Is consistent with the Comprehensive Plan, any other applicable specific plans thereto, including Neighborhood Circulation Plans, and all applicable design standards set forth in Article IV and V;

(2) Will not prevent development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this chapter;

(3) If it includes the creation of streets or alleys, that such streets or alleys are laid out to be consistent with existing and planned streets and alleys and with the plats of land divisions already approved for adjoining property, unless the approving authority determines it is in

the public interest to modify the street pattern;
(4) If it has streets or alleys that are proposed to be held for private use, that they are distinguished from the public streets or alleys on the tentative plat, and reservations or restrictions relating to the private streets or alleys are set forth;
(5) Will not cause an unmitigated land use conflict between the land partition and adjoining agricultural lands within the EFU (Exclusive Farm Use) zoning district.
(E) Expiration of Partition Tentative Plat Approval.
Approval of a tentative partition plat application shall take effect on the date the Planning Director's decision is signed, unless appealed, and shall expire two years from the effective date unless the final plat has been approved by the Planning Director pursuant to Sections 10.162. If a request for an extension of a tentative partition plat application approval is filed with the Planning Department within two years from the date of the Planning Director's decision, an extension not to exceed one additional year shall be granted. Extensions shall be based on findings that the facts upon which the tentative partition plat application was first approved have not changed to an extent sufficient to warrant refiling of the application.

SECTION 57. Section 10.172 of the Medford Code is added to read as follows:

10.172 Portable Storage Containers.
(See Section 10.840(d)(6)).

SECTION 58. Section 10.175 of the Medford Code is hereby repealed:

~~10.175 Application Review Procedure.~~
~~Each procedural classification is subject to four (4) application review procedures as follows:~~
~~(1) Application, General~~
~~(2) Referral and Review~~
~~(3) Application Form~~
~~(4) Criteria~~

SECTION 59. Section 10.176 of the Medford Code is hereby repealed:

~~10.176 Preapplication Conference.~~
~~Prior to applying for a development permit, the applicant may request a preapplication conference with the Planning Department. When requested, a preapplication conference shall be scheduled and shall provide an exchange of information regarding procedural requirements, required planning authorizations, consistency with the Comprehensive Plan, scheduling and such other technical and design assistance as will aid the applicant in preparing a complete application. Upon conclusion of the conference the Planning Department shall provide the applicant with a written summary of the conference.~~

SECTION 60. Section 10.180 of the Medford Code is hereby repealed:

~~10.180 Class "A" Actions.~~
~~Class "A" actions comprise the following plan authorizations that involve such a substantial area and number of property owners or such broad public policy changes that administrative processing would be inappropriate:~~
~~(1) Major Comprehensive Plan Amendments;~~
~~(2) Code Amendments;~~
~~(3) Major Zoning Map Amendments;~~
~~(4) Any other change deemed legislative.~~

SECTION 61. Section 10.181 of the Medford Code is hereby repealed:

~~10.181 Initiation of Class "A" Actions, General.~~
~~Class "A" authorizations may only be initiated by the Planning Commission or City Council. Class "A" amendments are legislative actions and include adoption or revision of:~~
~~(1) The following components of the Medford Comprehensive Plan:~~
~~(a) General Land Use Plan Map, major.~~
~~(b) Comprehensive Plan Elements.~~
~~(c) Goals, policies, conclusions, or implementation strategies.~~
~~(d) Special area plans or neighborhood circulation plans.~~
~~(e) Significant resource inventories.~~
~~(f) Transportation System Plans:~~
~~Street Functional Classification Plan~~
~~Bicycle Facilities Plan~~
~~Major Pedestrian Facilities Plan~~
~~Major Transit Routes and Stops~~
~~Designated Truck Routes~~
~~(g) By reference, separate functional plans, such as public facility plans (parks, sewer, stormwater, etc.) and capital improvement plans.~~
~~(h) Urban Growth Boundary.~~
~~(i) Review and Amendments chapter.~~
~~(j) Urban Reserve.~~
~~(k) Urban Reserve Management Agreement (URMA) between the City and County.~~
~~(l) Urban Growth Boundary Management Agreement (UGMA) between the City and County.~~
~~(2) Land Development Code.~~
~~(3) Zoning Map, major.~~
~~*See Review & Amendments chapter of the Comprehensive Plan for definitions of "major" and "minor".*~~

SECTION 62. Section 10.182 of the Medford Code is added to read as follows:

10.182 Type III Land Use Actions.

(A) Type III actions comprise the following land use reviews:

Land Use Action
Conditional Use Permit
Exception
Historic Review
Preliminary PUD Plan
Site Plan and Architectural Review
Subdivision Tentative Plat
Zone Change

(B) Type III Action and Decision Time.

(1) The approving authority shall take final action within 120 days after the application is deemed complete.

(2) An applicant may make a written request to extend the 120-day period for a specified period of time. In no case may the total extensions exceed 245 days.

(C) Resubmission of Type III Application. After 60 working days of the final determination denying a Type III action, the applicant may make appropriate alterations to a proposal and resubmit along with the payment of any additional fees as required by Section 10.070.

(D) Effective Date of a Type III Application. A Type III land use decision shall take effect on the date the final order or resolution for approval is signed.

SECTION 63. Section 10.183 of the Medford Code is hereby repealed:

~~10.183 Referral and Review.~~

~~After initiation of a Class "A" plan authorization, the Planning Department shall transmit one (1) copy of the proposed legislation to each referral agency for review and comment pursuant to Section 10.146, Referral Agencies Distribution, for Class "A" actions. If the referral agency does not comment within thirty (30) working days, then the referral agency is assumed to have no comment. If requested in writing, by a referral agency, an extension of thirty (30) working days may be granted. Upon conclusion of the thirty (30) day period, the Planning Department shall study and investigate the proposal and prepare a Staff Report setting forth a recommended action to the approving authority based on compliance with the appropriate criteria and recommendations by the referral agencies.~~

SECTION 64. Section 10.184 of the Medford Code is hereby repealed and replaced as follows:

~~10.184 Class "A" Amendment Criteria.~~
~~(1) Comprehensive Plan Amendment. Refer to the Review and Amendment section of the Comprehensive Plan, except in the case of the two following actions:~~
~~(a) Urban Growth Boundary Amendment. Refer to Urbanization Element of the Comprehensive Plan.~~
~~(b) Urban Reserve Adoption/Amendment. Refer to ORS 197.137–145 and OAR 660-021.~~
~~(2) Land Development Code Amendment. The Planning Commission shall base its recommendation and the City Council its decision on the following criteria:~~
~~(a) Explanation of the public benefit of the amendment.~~
~~(b) The justification for the amendment with respect to the following factors:~~
~~(1) Conformity with goals and policies of the Comprehensive Plan considered relevant to the decision.~~
~~(2) Comments from applicable referral agencies regarding applicable statutes or regulations.~~
~~(3) Public comments.~~
~~(4) Applicable governmental agreements.~~
~~(3) Zoning Map Amendment, Major. The Planning Commission shall base its recommendation and the City Council its decision on the same criteria as in subsection (2), preceding.~~

10.184 Conditional Use Permit.

(A) A development classified as a conditional use shall be given special review via this process in order to assure its appropriateness for the site and allow for adjustment to be made to assure its compatibility with adjacent land uses.

(B) Conditional Use Permits Exempt of Site Plan and Architectural Commission Review.

(1) Conditional Use Permits (CUPs) approved under this Section shall be exempt from, and there shall be no requirement to apply separately for, a Site Plan and Architectural Commission review or to demonstrate compliance with the approval criteria in Section 10.200(E). However, the Planning Director in their discretion may forward a CUP proposal or proposed revisions thereto to the Site Plan and Architectural Commission for review. When forwarded by the Planning Director, the Site Plan and Architectural Commission shall have authority to review the CUP plans and make recommendations to the Planning Commission.

(2) Delegation of Authority.

The Planning Commission may delegate authority to the Site Plan and Architectural Commission or to the Planning Director to approve in its name the plans for buildings or any other element of a CUP or revisions thereto after the Planning Commission has approved the CUP. The authority delegated by the Planning Commission under this Subsection shall be delimited in conditions attached to the approval. Notwithstanding any other provision of this Code, the approval of delegated matters shall be subject to a Type III Procedure as set forth in Article II.

(C) Conditional Use Permit Approval Criteria.

(1) The Planning Commission must determine that the development proposal complies with either of the following criteria before approval can be granted.

(a) The development proposal will cause no significant adverse impact on the livability, value, or appropriate development of abutting property, or the surrounding area when compared to the impacts of permitted development that is not classified as conditional.

(b) The development proposal is in the public interest, and although the development proposal may cause some adverse impacts, conditions have been imposed by the Planning Commission to produce a balance between the conflicting interests.

(2) In authorizing a conditional use permit the Planning Commission may impose any of the following conditions:

(a) Limit the manner in which the use is conducted, including restricting the time an activity may occur, and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.

(b) Establish a special yard or other open space or lot area or dimension requirement.

(c) Limit the height, size, or location of a building or other structure.

(d) Designate the size, number, location, or nature of vehicle access points.

(e) Increase the amount of street dedication, roadway width, or improvements within the street right-of-way.

(f) Designate the size, location, screening, drainage, surfacing, or other improvement of parking or truck loading areas.

(g) Limit or otherwise designate the number, size, location, height, or lighting of signs.

(h) Limit the location and intensity of outdoor lighting, or require its shielding.

(i) Require screening, landscaping, or other facilities to protect adjacent or nearby property, and designate standards for installation or maintenance thereof.

(j) Designate the size, height, location, or materials for a fence.

(k) Protect existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources.

(D) Conditional Use Permits, Mitigation of Impacts.

A conditional use requiring the mitigation of impacts under Subsection (C)(1)(b) above must do one of the following:

(1) Preserve unique assets of interest to the community.

(2) Provide a public facility or public nonprofit service to the immediate area or community.

(3) Otherwise provide a use or improvement that is consistent with the overall needs of the community in a location that is reasonably suitable for its purpose.

(E) Modifications of a Conditional Use Permit.

(1) Major Modification of a CUP. Any modification that is not a minor modification is a major modification. A request to substantially modify a conditional use permit shall be processed in the same manner as a request for a conditional use permit in this section. The Planning Director or designee may waive submittal requirements deemed unnecessary or inapplicable to the proposal.

(2) Minor Modification of a CUP. A minor modification to an approved permit may be approved provided the Planning Director can determine that the modification does not constitute a major modification. The purpose of the determination is to assure that a modification does not significantly affect other property or uses; will not cause any deterioration or loss of any natural feature, process or open space; nor significantly affect any public facility. A minor modification shall meet all of the following standards:

- **(a) Meets all requirements of the Land Development Code and other legal requirements.**
- **(b) The amount of open space and landscaping is not decreased.**
- **(c) No relocation of vehicle access points and parking areas where the change will generate an impact that would adversely affect off-site or on-site traffic circulation.**
- **(d) No reduction or elimination of any project amenities such as recreational facilities, significant natural resources (streams, creeks, landform), fencing and other screening material.**
- **(e) Modifications to facilities and utilities conform to the adopted facility plans.**
- **(f) Modifications to any other components of the plan conform to standards of the Land Development Code.**
- **(g) No modification to any condition of approval.**

(F) Expiration of Conditional Use Permit.

Within one year following the final order date, issuance of building permit for vertical construction shall be completed, or if a use, the use shall have commenced. If a request for an extension is filed with the planning department within one year from the approval date of the final order, the Planning Commission, may, upon written request by the applicant, grant a single extension of the expiration date for a period not to exceed one year from the expiration date of the final order. An extension shall be based on findings that the facts upon which the conditional use permit was first approved have not changed to an extent sufficient to warrant re-filing of the conditional use permit.

(G) Conditional Use Permit Application Form

An application for a conditional use permit shall contain the following:

(1) Vicinity map drawn at a scale of 1" = 1,000' identifying the location of the proposed site.

(2) Assessor's map with subject site identified.

(3) Site plan drawn to scale on an eighteen inch by twenty-four inch (18" x 24") sheet. Site plan shall identify all existing and proposed buildings, parking, drives, vegetation or landscaping, adjacent development.

(4) Property owner's (and agent's) names, addresses, and map and tax lot numbers within 200 feet of the subject site, typed on mailing labels.
(5) Findings prepared by the applicant or his/her representative addressing the criteria set forth in Section 10.184 (C), Conditional Use Permit Approval Criteria.
(6) A conceptual stormwater facility plan with associated landscape plan, if applicable, pursuant to Sections 10.486(B) or 10.729(B).
(7) A Landscape Plan, meeting the specifications and requirements in Section 10.780, if applicable.

SECTION 65. Section 10.185 of the Medford Code is hereby repealed:

~~10.185 Class "B" Actions.~~
~~Class "B" actions comprise the following plan authorizations:~~
~~(1) Minor Comprehensive Plan Amendment~~
~~(2) Annexation, except as provided in Section 10.199~~
~~(3) Vacation~~
~~(4) Transportation Facility Development~~

SECTION 66. Section 10.186 of the Medford Code is hereby repealed and replaced to read as follows:

~~10.186 **Application, General.**~~
~~Applications for Class "B" plan authorizations may be initiated by the Planning Commission, City Council, or property owners representing the subject area. An exception to the preceding rule is that the Planning Commission does not initiate annexations.~~
~~Class "B" procedural applications shall be submitted to the Planning Department and shall consist of the materials specified for each type Class "B" procedural application as set out below.~~
~~Upon submittal of the application to the Planning Department, the date of submission shall be indicated on each copy of the materials submitted. Within thirty (30) working days from the date of submission, the Planning Department shall determine whether the application as submitted, along with the required information, is complete as per this chapter.~~
~~If it is determined that the application is incomplete or otherwise does not conform to the provisions of this chapter, the Planning Department shall notify the applicant. An application which has been refused for non-compliance with this code may be resubmitted to the planning department when such application complies with this code.~~
~~At the time of acceptance of the application, the Planning Department shall indicate on the application the date of acceptance.~~
10.186 Exception.
(A) Exception, Purpose.
The purpose of this section is to empower the approving authority to vary or adapt the strict application of the public improvement and site development standards as contained in Article

III, Sections 10.349 through 10.361, and 10.370 through 10.385, as well as Articles IV and V of this chapter. Exceptions may be appropriate for reasons of:

(1) exceptional narrowness or shape of a parcel; or

(2) exceptional topographic conditions; or

(3) extraordinary and exceptional building restrictions on a piece of property; or

(4) if strict applications of the public improvement or site development standards in the above-referenced Articles would result in peculiar, exceptional, and undue hardship on the owner.

(B) Criteria for an Exception.

No exception, in the strict application of the provisions of this chapter, shall be granted by the approving authority having jurisdiction over the land use review unless it finds that all of the following criteria and standards are satisfied. The power to authorize an exception from the terms of this code shall be sparingly exercised. Findings must indicate that:

(1) The granting of the exception shall be in harmony with the general purpose and intent of the regulations imposed by this code for the zoning district in which the exception request is located, and shall not be injurious to the general area or otherwise detrimental to the health, safety, and general welfare or adjacent natural resources. The approving authority shall have the authority to impose conditions to assure that this criterion is met.

(2) The granting of an exception will not permit the establishment of a use which is not permitted in the zoning district within which the exception is located.

(3) There are unique or unusual circumstances which apply to this site which do not typically apply elsewhere in the City, and that the strict application of the standard(s) for which an exception is being requested would result in peculiar, exceptional, and undue hardship on the owner.

(4) The need for the exception is not the result of an illegal act nor can it be established on this basis by one who purchases the land or building with or without knowledge of the standards of this code. It must result from the application of this chapter, and it must be suffered directly by the property in question. It is not sufficient proof in granting an exception to show that greater profit would result.

(C) Expiration of an Exception.

Within one year following the final order date, issuance of building permit for vertical construction shall be completed, or if a use, the use shall have commenced. If a request for an extension is filed with the Planning Department within one year from the approval date of the final order, the approving authority may, upon written request by the applicant, grant a single extension of the expiration date for a period not to exceed one year from the expiration date of the final order. An extension shall be based on findings that the facts upon which the exception was first approved have not changed to an extent sufficient to warrant re-filing of the exception. An exception directly related to another land use review(s), such as an exception which was filed concurrently with the other land use review(s), and/or an exception which is integrally intertwined with and necessary to the development or use authorized by the other

land use review(s), shall expire when the related land use review(s) expires.

(D) Exception Application Form

An application for an exception shall be made by the owner of the property for which the exception is requested to the approving authority for the plan authorization involving the exception. An exception application shall include the following:

(1) A list of the specific standard(s) for which an exception is being requested and a description of the degree of exception(s) being requested, including findings prepared by the applicant or applicant's representative addressing the criteria as set forth in Section 10.186 (B), Criteria for an Exception.

(2) Vicinity map drawn at a scale of 1" = 1000' identifying the location of the site of the variance.

(3) Assessor's map with the subject site identified.

(4) Site plan showing in detail the circumstance(s) which justifies each exception.

SECTION 67. Section 10.187 of the Medford Code is hereby repealed:

~~10.187 Class "B", Referral and Review.~~

~~Within five (5) working days of accepting a Class "B" application, the Planning Department shall transmit one (1) copy of the application or appropriate sections thereof to each referral agency for review and comment as specifically required of each type of Class "B" application. If a referral agency does not comment within thirty (30) working days, then the referral agency is assumed to have no comment and standard conditions of development will be applied. If requested in writing, by a referral agency or the applicant, an extension of thirty (30) working days may be granted.~~

~~Upon conclusion of the thirty (30) day comment period, the Planning Department shall study and investigate the request and prepare a Staff Report setting forth a recommended action based on compliance with the Comprehensive Plan and this chapter and also setting forth conditions of development as recommended by the referral agencies.~~

~~Except in the case of annexation, the advisory agency (Planning Commission) shall consider the request and Staff Report and make a recommendation to the approving authority (City Council). For an annexation, the City Council makes a decision without recommendation by the Planning Commission.~~

SECTION 68. Section 10.188 of the Medford Code is added to read as follows:

10.188 Historic Review.

The Historic Review process is hereby established to assure compliance with the Historic Preservation Overlay, Sections 10.401 through 10.407, the Oregon Administrative Rules, Oregon Revised Statutes, and to achieve consistency with The Secretary of the Interior's Standards for the Treatment of Historic Properties.

(A) An application for Historic Review is required in the following instances:

(1) To request addition to or removal from the Historic Preservation Overlay for any area,

parcel, or portion thereof. The property owner, Planning Director, Landmarks and Historic Preservation Commission, or City Council may request initiation of proceedings to change the extent of the Historic Preservation Overlay.

(2) For proposed exterior alteration and/or new construction within an Historic Preservation Overlay.

(3) Prior to application for a demolition or relocation permit for all or part of a building, structure, object or site in an Historic Preservation Overlay.

(B) Historic Review of proposed exterior alteration and/or new construction is required irrespective of whether a building permit or a development permit is required. Historic Review final actions shall be taken prior to application for a building permit or proceeding with work that does not require a permit.

(C) Historic Review, Approval Criteria.

Approval of Historic Review applications shall require findings that the proposal is consistent with the indicated approval criteria:

(1) Changes to the Historic Preservation Overlay.

The extent of the Historic Preservation Overlay may be changed to include a historic resource other than those specified in Section 10.402 (1), (2), and (3) through a Type III Historic Review process if findings can be made substantiating that the proposal is consistent with the criteria below:

- **(a) It has been demonstrated that the designation of the historic resource is consistent with the purposes of the Historic Preservation Overlay in Section 10.401; and,**
- **(b) It has been demonstrated that the designation of the historic resource is appropriate, considering the historic value of the resource and any other conflicting values, and will not result in a loss of substantial beneficial use of the property; and,**
- **(c) It has been demonstrated that the historic resource has a significance rank of "primary" or "secondary" on an historical survey conducted in conformance with the standards of the Oregon State Historic Preservation Office; or, the historic value of the resource has sufficient local significance to merit designation as a Local Historic Resource.**

(2) Exterior Alteration and/or New Construction.

The Landmarks and Historic Preservation Commission shall approve a Historic Review application for exterior alteration and/or new construction within an Historic Preservation Overlay after consideration during a public hearing, if findings can be made substantiating that the proposal is consistent, or can be made consistent through the imposition of conditions, with all of the following criteria:

- **(a) It has been demonstrated that the proposed exterior alteration and/or new construction is consistent with the purposes of the Historic Preservation Overlay in Section 10.401; and,**
- **(b) It has been demonstrated that the proposed exterior alteration and/or new**

construction will preserve the historic character, form, and integrity of the historic resource; and,

(c) It has been demonstrated that the proposed exterior alteration and/or new construction is consistent with the most current version of the The Secretary of the Interior's Standards for the Treatment of Historic Properties; and,

(d) It has been demonstrated that the proposed exterior alteration and/or new construction is compatible with the historical and architectural style of the historic resource, of adjacent historic properties, and of the historic district within which it is located, if any. Assessment of compatibility may include consideration of the design, arrangement, proportion, detail, scale, color, texture, and materials, and the way new features will be differentiated from the old; and,

(e) It has been demonstrated that the proposed exterior alteration and/or new construction is consistent with all other applicable provisions of this Code.

(3) Minor Historic Review.

Minor Historic Review of certain exterior alterations may be conducted by the Planning Director, according to standards adopted by the Landmarks and Historic Preservation Commission. The Planning Director shall approve a Minor Historic Review application if the proposal conforms to approval criteria adopted by the Landmarks and Historic Preservation Commission. These approval criteria are available at the Planning Department.

Minor Historic Review shall be limited to the review of:

(a) Changes in roofing materials and exterior paint colors in residentially-zoned Historic Preservation Overlay Districts as per the Paint and Roofing Approval Criteria adopted in December 2007;

(b) Changes in exterior paint colors in commercially-zoned Historic Preservation Overlay Districts, when new paint colors are chosen from the adopted color palette;

(c) Changes in awning fabric materials without a change in the shape of the awning frame, in Historic Preservation Overlay Districts, if the new fabric is either solid or striped and the fabric colors are chosen from the adopted color palette;

(d) Change of sign face/copy as defined in Section 10.1010.

(4) Demolition and Relocation. The Landmarks and Historic Preservation Commission shall temporarily delay issuance of a demolition or relocation permit for all or part of a building, structure, object or site in an Historic Preservation Overlay, unless, during a public hearing:

(a) It is demonstrated that a temporary suspension of the demolition or relocation permit would not aid in avoiding the demolition or relocation of the historic resource; in informing the owner of the benefits of renovation; nor in pursuing public or private acquisition or restoration; and,

(b) In the case of a demolition, it is demonstrated that there is no practical opportunity to relocate the historic resource to another site, nor to salvage

historic or architectural elements; and,

(c) It is demonstrated that the proposed demolition or relocation would not adversely affect the protection, enhancement, perpetuation, improvement, or use of any historic district or other historic resource; and,

(d) It is demonstrated that the benefits of protecting the historic resource no longer outweigh the benefits of allowing the demolition or relocation.

(5) Temporary Suspension of a Demolition or Relocation Permit.

(a) In the case of temporary suspension of a demolition or relocation permit by the Landmarks and Historic Preservation Commission, issuance of the permit shall be delayed for a period of 120 days from the date of application for Historic Review or for the demolition or relocation permit, whichever is earlier.

(b) The Landmarks and Historic Preservation Commission may invoke an extension of the suspension period for an additional period not exceeding 90 days if it determines during a subsequent public hearing that there is a program underway that could result in public or private acquisition, or preservation or restoration of such building, structure, object, or site, and that there are reasonable grounds to believe that such a program will be successful.

(c) During the period of suspension, no permit shall be issued for demolition or relocation, nor shall any person demolish or move the building, structure, object, or site.

(d) At the end of the suspension period, if all such programs have been unsuccessful, the Medford Building Safety Director shall issue a demolition or relocation permit as long as the application otherwise com-plies with all other city ordinances.

(D) Historic Review, Conditions of Approval.

In approving a Historic Review application, the Landmarks and Historic Preservation Commission may impose conditions necessary to ensure compliance with the standards of this Code and the criteria in this section, and to otherwise protect the health, safety and general welfare of the surrounding area and community as a whole. These conditions may include, but are not limited to the following:

(1) Limiting the number, height, location and size of signs;

(2) Requiring the installation of appropriate public facilities and services and dedication of land to accommodate public facilities when needed;

(3) Limiting the visibility of mechanical equipment through screening or other appropriate measures;

(4) Requiring the installation or modification of irrigated landscaping, walls, fences or other methods of screening and buffering;

(5) Limiting or altering the location, height, bulk, configuration or setback of buildings, structures and improvements;

(6) Requiring the improvement of an existing, dedicated alley which will be used for

ingress or egress for a development;

(7) Controlling the number and location of parking and loading facilities, points of ingress and egress and providing for the internal circulation of motorized vehicles, bicycles, public transit and pedestrians;

(8) Requiring the retention of existing natural features;

(9) Modifying architectural design elements including exterior construction materials and their colors, roofline, fenestration and restricting openings in the exterior walls of structures;

(10) Restricting the height, directional orientation and intensity of exterior lighting.

(E) Historic Review Approval, Expiration.

(1) Approval of a Historic Review application shall take effect on the date the final order for approval is signed, unless appealed, and shall expire two years from the effective date. Within two years following the effective date, issuance of building permit for vertical construction must have occurred or an extension of the approval shall be necessary. If a request for an extension of a Historic Review application approval is filed with the Planning Department within two years from the effective date, the Landmarks and Historic Preservation Commission may grant an extension not to exceed one additional year if based upon findings that the facts upon which the Historic Review application was first approved have not changed to an extent sufficient to warrant re-filing of the application.

(2) When it is the developer's intent to complete an approved project in phases, the Landmarks and Historic Preservation Commission may authorize a time schedule for the issuance of building permits for a period exceeding two years, but in no case shall the total time period for the issuance of building permits be greater than five years without having to re-submit a new application for Historic Review. Phases developed after the passage of two years from approval of the Historic Review application shall be required to modify the plans if necessary to avoid conflicts with changes in the Comprehensive Plan or this chapter.

(F) Major Revisions or Amendments to Historic Review Approval.

Major revisions or amendments to plans approved through Historic Review shall require re-application.

(G) Issuance of Building Permits Consistent with Historic Review Approval.

(1) All applications for a building permit, wherein Historic Review has been required, shall be consistent with the plans as approved and all conditions of approval imposed thereon and shall be accompanied by an accurate and correct plan.

(2) Security for Completion of Public Improvements: If all required public improvements, as specified in the conditions of Historic Review approval, have not been satisfactorily completed before issuance of a building permit, the developer shall enter into a written agreement (provided by the City) to secure full and faithful performance thereof, according to Sections 10.666 and 10.667(A) respectively.

(H) Historic Review Application Content

An application for Historic Review shall include the information and materials listed below:

(1) Application form.

(2) All information requested on the application form.

(3) Findings of fact demonstrating compliance with the approval criteria in Section 10.258, Historic Review, Approval Criteria.

(4) Appropriate fee.

In addition to that listed, the City may require the applicant to submit additional information deemed necessary to take action on an application in accordance with this Code and applicable State laws.

SECTION 69. Section 10.190 of the Medford Code is hereby repealed and replaced to read as follows:

~~10.190 Application, Minor Comprehensive Plan Amendment.~~

~~A minor revision to the Comprehensive Plan is one typically focused on specific individual properties and therefore considered quasi-judicial. Applications for minor Comprehensive Plan amendments shall contain the information as herein required.~~

10.190 Planned Unit Development (PUD) – Application and Approval Provisions.

(A) Purpose and Intent of PUDs.

The PUD approach permits flexibility to allow creative and imaginative urban development that would otherwise not be possible under the strict requirements of this Code. The intent is to promote more efficient use of urban land and urban services while protecting natural features, creating common open space, promoting the development of transit-oriented design along designated transit corridors and within designated transit-oriented development (TOD) areas, and encouraging a mixture of land uses and housing types that are thoughtfully planned and integrated.

(B) PUD Stepped Process.

Consolidated Applications Authorized: Approval of a PUD shall be a two-step process involving approval of a Preliminary PUD Plan by the Planning Commission as a Type III land use action as the first step and approval of a Final PUD Plan by the Planning Director as a Type I land use action as the second step. As used in Sections 10.190 through 10.194, the Planning Director shall mean the Director of the Medford Planning Department or their designee. Except applications for annexations and comprehensive plan amendments, applications authorized in Article II may be consolidated with an application for a Preliminary PUD Plan per Section 10.114.

(C) Application for a Preliminary PUD Plan.

(1) An application for Preliminary PUD Plan shall be on forms supplied by the City. A complete application shall include the materials and information listed in this Subsection. However, the Planning Director, in their discretion, may waive the submittal of any of the materials or information that are deemed to be excessive, repetitive or unnecessary based upon the size and nature of the PUD. Unless waived by

the Planning Director, the following items shall be required to constitute a complete application for a Preliminary PUD Plan:

(a) Current assessor map with the boundaries of the proposed PUD identified.

(b) Preliminary PUD Plan (16 copies) and supplemental materials conforming to the Site Plan and Architectural Review application requirements in Section 10.200 (J). Additionally, such plans shall include preliminary plans for providing public water and sanitary sewer service. The Preliminary PUD Plan shall indicate boundaries within the property which distinguish areas devoted to different land uses pursuant to Subsections 10.190 (C)(1)(c)(vi), 10.192(B)(7) and 10.230(D)(8). Where different land uses are separated by streets, railroad rights-of-way, drainage channels or other water courses, the centerlines of such features shall be their boundaries. One copy of the Preliminary PUD Plan shall be a reduced size suitable for photocopy. If a tentative plat for a land division is submitted concurrently with a Preliminary PUD Plan, the Preliminary PUD Plan and tentative plat shall be on separate sheets. It is further provided that:

(i) Unless otherwise required in this Code, architectural plans for single family detached dwellings and landscaping plans for lots occupied by single family detached dwellings are not subject to review or approval as part of a PUD. However, nothing shall prevent an applicant from supplying architectural or landscaping plans for single family detached housing as a means to comply with one or more approval criteria.

(ii) If private or non-city standard street lighting is proposed, a street lighting plan shall be provided which provides a detail of the proposed lighting fixture(s). The Preliminary PUD Plan shall indicate the location of proposed private or non-city standard light fixtures.

(iii) An applicant may postpone the submission and approval of architectural plans for proposed buildings and to have such plans approved later as a separate matter under Subsection 10.192 (I) after the Preliminary PUD Plan has been approved. When the approval of architectural plans has been postponed, the Preliminary PUD Plan shall show a conceptual footprint for each planned building and each building footprint shall be separately enclosed by a dashed line which shall be called and labeled a building envelope. Building envelopes shall reasonably anticipate and define the maximum extent of the footprint for each building in the PUD.

(c) A narrative description of the PUD which shall cover:

(i) The rationale for planning this development as a PUD.

(ii) The nature, planned use, future ownership and method of perpetual maintenance of land to be left in natural or developed open space or

which will be held in common ownership.

(iii) A listing of all modified applications of the Code that are proposed, followed by a brief explanation which covers the nature of, extent of, and reason for each modification.

(iv) If one or more signs are intended to vary from the provisions of this Code, then a detailed plan for all signs which require a sign permit shall be submitted. The sign plan shall specify the size, number, type, height and location of all signs which require a sign permit and shall clearly indicate all proposed modifications.

(v) A proposed development schedule. If the PUD will be constructed in phases, the development schedule for each phase shall be keyed to a plan that indicates the boundaries of each phase.

(vi) The gross acreage devoted to the various proposed land uses and housing types.

(d) Written findings of fact and conclusions of law which address the approval criteria in Subsection 10.190 (D)

(e) The names and mailing addresses of the owners of record of tax lots, obtained by the latest tax rolls of the Jackson County Assessor's Office, located within 200 feet of the exterior boundary of the whole PUD. The owners of no less than seventy-five (75) tax lots shall be notified of the pending land use hearing. If seventy-five (75) tax lots are not located within two-hundred (200) feet of the exterior boundary of the PUD, the notification area shall be extended by successive fifty (50) foot increments, until a minimum of seventy-five (75) tax lots are included in the notification area. The owners of all tax lots within the extended notification area shall receive written notice; therefore, noticing of more than seventy-five (75) tax lots may be required. The names and mailing addresses shall be typed on mailing labels and shall include the assessor map and tax lot numbers for each parcel.

(f) A conceptual stormwater facility plan with associated landscape plan, if applicable, pursuant to Sections 10.486(B) or 10.729(B).

(g) Documentation of pre-submittal PUD Neighborhood Meeting. Documentation shall include:

(i)A copy of a Certificate of Mailing for the neighborhood meeting notification mailing pursuant to Section 10.194(C);

(ii) A completed Verification of Neighborhood Meeting form attesting to the contents of the materials provided or reviewed at the meeting;

(iii) A set of the notification materials listed in Section 10.194 (B); and,

(iv)The signature sheet(s) from the Neighborhood Meeting.

(2) An applicant may postpone the submission and approval of architectural plans for proposed buildings and to have such plans approved later as a separate matter under Section 10.192(I) after the Preliminary PUD Plan has been approved. When the

approval of architectural plans has been postponed, the Preliminary PUD Plan shall show a conceptual footprint for each planned building and each building footprint shall be separately enclosed by a dashed line which shall be called and labeled a building envelope. Building envelopes shall reasonably anticipate and define the maximum extent of the footprint for each building in the PUD.

(3) Extended Notification Area, PUD. The application for Preliminary PUD Plan shall include the names and mailing addresses of the owners of record of tax lots, obtained by the latest tax rolls of the Jackson County Assessor's Office, located within 200 feet of the exterior boundary of the whole PUD. The owners of no less than seventy-five (75) tax lots shall be notified of the pending land use hearing. If seventy-five (75) tax lots are not located within two-hundred (200) feet of the exterior boundary of the PUD, the notification area shall be extended by successive fifty (50) foot increments, until a minimum of seventy-five (75) tax lots are included in the notification area. The owners of all tax lots within the extended notification area shall receive written notice; therefore, noticing of more than seventy-five (75) tax lots may be required. The names and mailing addresses shall be typed on mailing labels and shall include the assessor map and tax lot numbers for each parcel.

(D) Approval Criteria for Preliminary PUD Plan.

The Planning Commission shall approve a Preliminary PUD if it concludes that compliance exists with each of the following criteria:

(1) The proposed PUD:

- **(a) preserves an important natural feature of the land; or**
- **(b) includes a mixture of residential and commercial land uses; or**
- **(c) includes a mixture of housing types in residential areas; or**
- **(d) includes open space, common areas, or other elements intended for common use or ownership; or**
- **(e) is otherwise required by the Medford Land Development Code.**

(2) The proposed PUD complies with the applicable requirements of this Code, or

- **(a) the narrative describes the proposed modified standards of the Code and how they are related specifically to the implementation of the rationale for the PUD as described in the application, and**
- **(b) the proposed modifications enhance the development as a whole resulting in a more creative and desirable project, and**
- **(c) the proposed modifications to the limitations, restrictions, and design standards of this Code will not materially impair the function, safety, or efficiency of the circulation system or the development as a whole.**

(3) The property is not subject to any of the following measures or if subject thereto the PUD can be approved under the standards and criteria thereunder:

- **(a) Moratorium on Construction or Land Development pursuant to ORS 197.505 through 197.540, as amended.**
- **(b) Public Facilities Strategy pursuant to ORS 197.768 as amended.**

(c) Limited Service Area adopted as part of the Medford Comprehensive Plan.

(4) The location, size, shape and character of all common elements in the PUD are appropriate for their intended use and function.

(5) If the Preliminary PUD Plan includes uses not allowed in the underlying zone pursuant to Subsection 10.192(B)(7)(c), the applicant shall alternatively demonstrate that either:

(a) Demands for the Category "A" public facilities listed below are equivalent to or less than for one or more permitted uses listed for the underlying zone, or

(b) By the time of development the property can be supplied with the following Category "A" public facilities in sufficient condition and capacity to support development of the proposed use:

(i) Public sanitary sewerage collection and treatment facilities.

(ii) Public domestic water distribution and treatment facilities.

(iii) Storm drainage facilities.

(iv) Public streets.

Determinations of compliance with this criterion shall be based upon standards of public facility adequacy as set forth in this Code and in goals and policies of the comprehensive plan which by their language and context function as approval criteria for comprehensive plan amendments, zone changes or new development. In instances where the Planning Commission determines that there is insufficient public facility capacity to support the development of a particular use, nothing in this criterion shall prevent the approval of early phases of a phased PUD which can be supplied with adequate public facilities.

(6) If the Preliminary PUD Plan includes uses proposed under Subsection 10.192(B)(7)(c), approval of the PUD shall also be subject to compliance with the conditional use permit criteria in Section 10.184.

(7) If approval of the PUD application includes the division of land or the approval of other concurrent land use applications as authorized in Subsection 10.190(B), approval of the PUD shall also be subject to compliance with the substantive approval criteria in Article II for each of the additional land use applications.

(E) Conditions of Preliminary PUD Plan Approval.

If the Planning Commission approves a Preliminary PUD Plan, in addition to conditions of approval authorized under Section 10.200(F), it may attach conditions to the Preliminary PUD Plan approval which are determined to be reasonably necessary to ensure:

(1) The Final PUD Plan will be substantially consistent with the approved Preliminary PUD Plan and specifications related thereto.

(2) Development of the PUD will be consistent with the approved Final PUD Plan and specifications related thereto. To ensure satisfactory completion of a PUD in compliance with the approved plans, the Planning Commission may require the developer to enter into an agreement with the City as specified under Section 10.200(I).

(3) The PUD will comply with the Comprehensive Plan, the Medford Municipal Code and all provisions of this Code except the specific provisions for which there are approved

modifications.

(4) There are appropriate safeguards to protect the public health, safety and general welfare.

(5) There will be ongoing compliance with the standards and criteria in this Section.

(6) To guarantee that streets, public facilities and utilities can be appropriately extended from one PUD phase to each successive future phase in accordance with the approved Preliminary PUD Plan, the City may require the conveyance of easements or other assurances.

(F) Expiration of Preliminary PUD Plan Approval.

Preliminary PUD Plan approval shall be valid for three years and may not be extended. The three-year period shall begin the date the Final Order approving the Preliminary PUD Plan is signed by the Planning Commission Chairperson. If a Preliminary PUD Plan is appealed, the three-year period shall begin on the date on which all appeals are resolved, including the resolution of all issues on remand. Within the three-year time period, an application for a Final PUD Plan must be filed for the entire site or for the first phase if the PUD has been approved for phased development.

(G) Time Limit Between PUD Phases.

After Final PUD Plan approval for the first phase of a PUD having approved multiple phases, and for each successive phase thereafter, no more than five years shall lapse between the approval of phases. If more than five years pass between the Final PUD Plan approval of any two PUD phases after the first phase, the Planning Commission may, without the consent of the owner(s) of the PUD, initiate action to terminate undeveloped portions of the PUD under Section 10.198(B).

(H) Binding Effect; Previously Approved PUDs.

A PUD Plan approval shall run with the land and shall be binding upon all successors in interest in all land within the whole PUD. It is further provided that a Preliminary PUD Plan approval shall remain in full force and effect unless the approval expires or is terminated by action of the City pursuant to Section 10.198(B). Preliminary plans submitted prior to the adoption date of this ordinance, and final plans resulting from those preliminary plans, are subject to the regulations for PUDs in effect at the time the preliminary plan application was submitted.

SECTION 70. Section 10.191 of the Medford Code is hereby repealed:

~~10.191 Application Form.~~

~~An application for a minor Comprehensive Plan amendment shall contain the following items:~~

~~(1) Vicinity map drawn at a scale of 1" = 1,000' identifying the proposed area to be changed on the General Land Use Map.~~

~~(2) Written findings which address the following:~~

~~(a) Consistency with applicable Statewide Planning Goals.~~

~~(b) Consistency with the goals and policies of the Comprehensive Plan.~~

~~(c) Consistency with the applicable provisions of the Land Development Code.~~

SECTION 71. Section 10.192 of the Medford Code is hereby repealed and replaced as follows:

~~10.192 Minor Comprehensive Plan Amendment Criteria.~~
~~Refer to the Review and Amendment section of the Comprehensive Plan.~~

10.192 Preliminary PUD Plan – General Provisions.

(A) Minimum Acreage for a PUD.

PUDs must contain one acre or more at the time of application filing.

(B) Modified Application of Standards Authorized for PUDs.

To fulfill the purpose and intents of the standards set forth in Section 10.190(A), authority is herewith granted for the approval of PUDs which vary from the strict standards of this Code. The nature and extent of potential modifications shall be limited to the categories below described, provided that the City, in approving such modifications, shall not violate substantive provisions of the Oregon Transportation Planning Rule:

(1) Lots and Parcels in PUDs. Limitations, restrictions and design standards pertaining to the size, dimension, location, position and coverage of lots, and restrictions related to through lots.

(2) Yards, Setbacks and Building Height in PUDs. Limitations, restrictions and design standards pertaining to the location, size, height, yards and setbacks for buildings and other structures.

(3) Parking, Bicycle and Pedestrian Standards in PUDs. Limitations, restrictions and design standards pertaining to off-street vehicle and bicycle parking and loading, and standards related to pedestrian access.

(4) Frontage, Access, Landscaping and Signs in PUDs. Limitations, restrictions and design standards pertaining to lot frontage, access, required landscaping, signs and bufferyards.

(5) Streets Generally in PUDs. Streets within PUDs may be either city streets dedicated for public use or private streets owned and maintained by an association of owners, and may exceed maximum block length and perimeter standards provided in Section 10.426(C)(1). Streets within or adjacent to a PUD shall comply with the following:

(a) Collector and arterial streets shall be dedicated city streets, the existence and general location of which shall be determined by the Comprehensive Plan.

(b) City streets shall comply fully with the strict requirements of this Code, provided that the City in approving a PUD may permit the width of parking lanes for city streets to be less than the Code otherwise requires.

(c) The City may require any proposed PUD street or segment thereof to be constructed and dedicated as a city street.

(6) Private Streets in PUDs. Private streets may vary from the limitations, restrictions and design standards pertaining to streets with respect to length, width, position, aspect,

intersection standards, grades, curve radii, cul-de-sac turnarounds, street lights, easements, sidewalks, curbs and driveway approaches for streets within the PUD, provided:

(a) With respect to the amount, quality and installation of construction materials, private streets shall be structurally equivalent to or better than city-standard streets.

(b) The City Fire Marshall shall approve the design of all private streets for access by emergency vehicles before approval of the Preliminary PUD.

(c) Private streets shall be posted as private streets and shall connect to the public street system. The applicant shall convey to the City and all appropriate utility companies a perpetual easement over the private street(s) for use by emergency vehicles and employees of the City and utility company(s) in the maintenance of public facilities and utilities.

(7) Allowed Uses and Housing Types in PUDs. The following uses and housing types shall be permitted as part of a PUD subject to the following:

(a) In addition to permitted uses, any portion of a PUD may contain any housing type listed in Subsection 10.314(1-3). In approving housing types, the Planning Commission may waive or reduce any of the special use regulations or standards contained in Sections 10.811 through 10.839.

(b) Any conditional use listed for the underlying zone may be permitted without addressing the Conditional Use Permit criteria in Section 10.184 except when the conditional use is within 200 feet of the perimeter of the PUD. This exemption does not apply to conditional uses within Riparian Corridors pursuant to Section 10.925.

(c) Use(s) not permitted in the underlying zone may, nevertheless, be permitted and approved to occupy up to 20% of the gross area of the PUD provided that no portion of the use(s), including its parking, is located nearer than 200 feet from the exterior boundary of the PUD. If any portion of the use(s) is nearer than 200 feet from the exterior PUD boundary, then said use(s) shall be considered to be a conditional use and may be approved subject to compliance with the conditional use permit criteria in Section 10.184. However, this provision shall not apply where the land outside the PUD which is nearer than 200 feet from proposed use(s) is inside a zone in which the proposed use(s) is permitted.

(8) Mixed Land Use Designations in PUDs.

Unless otherwise prohibited, PUDs that have more than one General Land Use Plan designation or Southeast Plan land use category shall have the flexibility to mix or relocate such designations within the boundaries of the PUD in any manner and/or location as may be approved by the Planning Commission.

(C) Common Elements in PUDs.

A multi-family residential PUD must include a minimum of 20% of the land area as common

area unless otherwise modified by the Planning Commission. This common area shall be for the purpose of providing protection for natural features, common recreational space, landscaped area, or commonly enjoyed amenities other than parking areas or private streets. Where a PUD has open spaces, private streets, parking or other elements to be owned or maintained in common by the owners or future owners of land or improvements within the PUD, the Final PUD Plan shall not be approved and no unit shall be sold or conveyed until the PUD has been found to comply with the following requirements, as applicable:

(1) PUD Planned Community.

If the PUD is a planned community under ORS Chapter 94, the declaration and tentative plat for the planned community shall be submitted with the Final PUD Plan for approval by the Planning Director before recording in the official records of Jackson County.

(2) PUD Condominium.

If the PUD is a condominium under ORS Chapter 100, a copy of the recorded declaration and plat shall be submitted to the City after it has been approved by the Oregon Real Estate Commissioner and recorded in the official records of Jackson County. A condominium declaration and plat shall not be reviewed and approved by the Planning Director and the Planning Director shall have no authority under this Subsection to require changes thereto.

(3) PUD Common Ownership.

If the PUD contains elements intended for common ownership but ORS Chapters 94 and 100 do not apply, there shall be appropriate legal documents which assure that the common elements will be improved and perpetually maintained for their intended purposes. The legal documents in such instance shall be submitted to the Planning Director for approval as part of the Final PUD Plan before recording in the official records of Jackson County.

(4) Phased PUDs.

When a PUD is proposed to be developed in phases, the phased provision of improved common elements shall be roughly proportional with the development of housing and other elements intended for private ownership. Unless approved by the Planning Commission as part of a phasing plan or which was approved by the Planning Commission prior to the adoption of this ordinance, no significant common element shall be postponed to the final phase of a PUD. Nothing in this Subsection shall prevent the provision of improved common elements at a rate that is proportionally greater than the development of housing and other elements intended for private ownership.

(5) Public Dedications and PUDs.

Land shown on the Final PUD Plan as a common element or which is intended for public dedication shall be conveyed under one of the following options:

(a) To a public entity which shall agree in writing to perpetually maintain the common element(s) being conveyed.

(b) To an association of owners created pursuant to ORS Chapters 94 or 100 or as

otherwise created under Subsection 10.192(C)(3) in which instance the legal document which establishes the association shall provide that the association cannot be terminated or discontinued without the City's prior consent.

(6) Private Streets in PUDs.

If the PUD will have private streets, the legal document which establishes the association of owners shall provide that the City may enforce the maintenance or protection of its easements or public facilities.

(D) PUDs Exempt from Site Plan and Architectural Review.

PUDs approved under this Section shall be exempt and there shall be no requirement to apply separately for Site Plan and Architectural Review or to demonstrate compliance with the criteria in Section 10.200. However, the Planning Director in their discretion may forward a Preliminary PUD Plan or proposed revisions thereto to the Site Plan and Architectural Commission for review. When forwarded by the Planning Director, the Site Plan and Architectural Commission shall have authority to review the PUD plans and make recommendations to the Planning Commission.

(E) Delegation of Authority.

The Planning Commission may delegate authority to the Site Plan and Architectural Commission or to the Planning Director to approve in its name the plans for buildings or any other element of a PUD or revisions thereto after the Planning Commission has approved the Preliminary PUD Plan. The authority delegated by the Planning Commission under this Subsection shall be delimited in conditions attached to the approval. Notwithstanding any other provision of this Code and subject to an applicant's written request, the approval of delegated matters, where eligible, shall be procedurally treated as an Expedited Land Division pursuant to ORS 197.360 through 197.380, as amended. Lacking a written request from the applicant, approval of delegated matters shall be subject to a Type III Procedure as set forth in this Article.

(F) Building Permits, Development and Operation of a PUD.

All building and construction plans submitted to the City for the purpose of obtaining building and other site improvement permits shall be consistent with the approved Final PUD Plan. The development and operation of the PUD shall conform in all respects with the approved Final PUD Plan.

(G) Residential Density in PUDs.

(1) Residential Density Calculation.

Minimum and maximum residential densities in PUDs shall be calculated pursuant to Section 10.708, except, in PUDs having residential and non-residential land uses within a residential zoning district, including mixed-use buildings as defined herein, the minimum and maximum number of dwelling units shall be calculated using the gross area of the residentially zoned land including any to be occupied by non-residential uses. "Natural unbuildable areas" may be excluded at the developer's option as provided in Section 10.708.

(2) Residential Density Bonus.

In PUDs larger than five acres, the residential density may be increased by up to 20% more than the maximum density permitted by Subsection (1) above.

(H) Revised Preliminary PUD Plans.

In instances where conditions of approval result in substantial, complex or unpredictable changes to a proposed Preliminary PUD Plan, the Planning Commission, as a condition of Preliminary PUD Plan approval, may require an applicant to incorporate the changes into a revised Preliminary PUD Plan. When required, the revised plans shall be approved by the Planning Commission and when approved, the revised plans shall become the approved Preliminary PUD Plan and any conditions satisfied by the revised plans shall be stricken or appropriately altered.

(I) Postponed Preliminary PUD Plan Approval for Building Architecture.

When the approval of architectural plans for buildings in the PUD has been postponed under Section 10.190(C)(2), no Final PUD Plan shall be approved until the architecture of buildings has been approved by the Planning Commission, or by the Site Plan and Architectural Commission pursuant to Subsection (E) above, and the Final Order for such approval has been appended to the earlier approval of the Preliminary PUD Plan.

(J) Engineering Construction Plans, Preliminary PUD Plans.

Engineering construction plans, profiles, details and specifications for all public facility and utility improvements shall be prepared by a qualified engineer registered in Oregon. The engineering plans shall be approved by the City before the start of construction. Unless specifically authorized by the Planning Commission in the Preliminary PUD Plan approval, all public facilities and utilities shall be designed and constructed in accordance with the standards and procedures of the City or other public entity to which ownership will be conveyed. The procedures for engineering design, plan approval and inspection shall in all respects be the same as for land divisions under this Code.

SECTION 72. 10.194 of the Medford Code is added to read as follows:

10.194 Preliminary PUD Plan - Neighborhood Meeting Requirement.

(A) Purpose of Neighborhood Meeting Requirement for Preliminary PUD Plans.

To ensure neighborhood knowledge of proposed development and to provide an opportunity for direct communication, the applicant shall present the development proposal at a neighborhood meeting prior to submitting the land use application to the Planning Department. The applicant shall arrange and conduct the neighborhood meeting. City staff need not attend. Attendees shall be asked to sign a signature sheet and provide their mailing address. Attendance at the neighborhood meeting does not give an attendee legal standing for appeal.

(B) Neighborhood Meeting Presentation, Preliminary PUD Plans.

The presentation at the neighborhood meeting shall include at a minimum the following:

(1) A map depicting the location of the subject property proposed for development; and,

(2) A visual description of the project including a tentative site plan, tentative subdivision

plan and elevation drawings of any structures, if applicable; and,

(3) A description of the nature of the proposed uses and physical characteristics, including but not limited to, sizes and heights of structures, proposed lot sizes, density; and,

(4) A description of requested modifications to code standards; and

(5) Notification that attendance at the neighborhood meeting does not give legal standing to appeal to the City Council, the Land Use Board of Appeals, or Circuit Court.

(C) Scheduling and Noticing Neighborhood Meeting, Preliminary PUD Plans.

It shall be the responsibility of the applicant to schedule the neighborhood meeting and provide adequate notification of the meeting. The applicant shall send mailed notice of the neighborhood meeting to the owners of no less than 75 of the nearest tax lots regarding the neighborhood meeting. If 75 tax lots are not located within 200 feet of the exterior boundary of the PUD, the notification area shall be extended by successive 50-foot increments, until a minimum of 75 tax lots are included in the notification area. The owners of all tax lots within the extended notification shall receive written notice; therefore, noticing of more than 75 tax lots may be required. In addition to the affected property owners, the applicant shall also provide notice to the Planning Department. The applicant shall use the Jackson County Tax Assessor's property owner list from the most recent property tax assessment roll. The notice shall be mailed a minimum of 15 days prior to the neighborhood meeting which shall be held in Medford on a weekday evening. A certificate of mailing attesting to the date of mailing and the name and signature of the agent responsible for mailing said notices shall be prepared and submitted to the Planning Department in accordance with the materials identified in the application for Preliminary PUD Plan. The notice for PUD neighborhood meeting shall include:

(1) Date, time and location of the neighborhood meeting; and,

(2) A brief written description of the proposal; and,

(3) The location of the subject property, including address (if applicable), nearest cross streets and any other easily understood geographical reference, and a map (such as a tax assessor's map) which depicts the subject property.

SECTION 73. Section 10.195 of the Medford Code is hereby repealed:

~~10.195 Application for Annexation.~~

~~Except for the annexation of unincorporated territory surrounded by the city as provided in Section 10.199, applications for annexation shall, in addition to requirements contained herein, be subject to the provisions of ORS 222.111 to 222.180 or 222.840 to 222.915.~~

SECTION 74. Section 10.196 of the Medford Code is hereby repealed and replaced to read as follows:

~~10.196 Application Form.~~

~~An application for annexation shall contain the following information:~~

~~(1) Vicinity Map drawn at a scale of 1" = 1,000' identifying the proposed area of annexation and existing city limits.~~

~~(2) Assessor's Maps of the proposed annexation area. The assessor's maps shall have identified those parcels for which consents to annex have been acquired and adjacent right-of-way to be annexed.~~

~~(3) Consent to annex forms completed and signed by all consenting property owners within the proposed annexation area.~~

~~(4) Legal metes and bounds or lot and block description of the annexation area including to the centerline of the adjacent right-of-way in electronic form per the instructions of the City of Medford Planning Department.~~

~~(5) Specific information on each parcel within the proposed annexation area:~~

~~(a) Current assessed valuation shown on County Assessor's tax rolls.~~

~~(b) Acreage of both public and private property to be annexed.~~

~~(c) Map and tax lot number.~~

~~(6) Addresses of all dwelling units and businesses located within the annexation area and names of all residents and whether they are registered voters.~~

~~(7) The following information shall be supplied by the applicant:~~

~~(a) Existing land uses within annexation area.~~

~~(b) Existing zoning within the annexation area.~~

~~(c) Existing improvements:~~

~~- water system~~
~~- streets~~
~~- sanitary sewer~~
~~- storm drainage~~

~~(d) Special Districts within the area:~~

~~- water district~~
~~- irrigation district~~
~~- fire district~~
~~- school district~~
~~- Rogue Valley Sewer Services~~
~~- other~~

~~(e) A completed Census Information Sheet for all parcels being considered for annexation.~~

~~(f) Written findings indicating compliance with all of the annexation criteria 1 through 3 contained in Section 10.197, Annexation Criteria.~~

~~(8) Property owners' (and agents') names, addresses and map and tax lot numbers within 200 feet of the subject site, typed on mailing labels.~~

10.196 Final PUD Plan - Application Procedures.

(A) Application for a Final PUD Plan.

Application for a Final PUD Plan shall be on forms supplied by the Planning Department. The

Final PUD Plan shall contain all information and materials listed on the application unless certain items are or have been waived by the Planning Director as therein provided. However, there shall be no burden to demonstrate compliance with the criteria in Subsection 10.190(D). As appropriate, the Final PUD Plan shall incorporate all conditions imposed on the Preliminary PUD Plan approval. The application for a Final PUD Plan shall include a written narrative explaining how the Final PUD Plan complies with the Final PUD Plan approval criteria in Subsection (D) below, and the conditions of approval.

(B) Phased PUD.

The Final PUD Plan may be submitted for the entire project or for each phase consistent with the approved Preliminary PUD Plan. If a Preliminary PUD Plan was not approved as a phased project, nothing in this Section shall prevent the Planning Director from approving a Final PUD Plan in phases provided that they approve a phasing plan pursuant to Sections 10.190(G) and 10.192(C)(4) as part of the Final PUD Plan approval, and provided further that the phasing plan ensures that essential services such as roads, fire access, storm drain, and sewer are available to serve each successive phase. After Final PUD Plan approval for the first phase, Final PUD Plans for all subsequent phases must be filed with the Planning Director.

(C) Final Plat for Land Division.

Application for the approval of a Final PUD Plan may occur before or concurrent with the approval of a final plat for a land division. However, no building permits shall be issued by the City and no buildings intended for human occupancy shall be constructed and no lot shall be sold until the Final PUD Plan has been approved by the Planning Director.

(D) Approval Criteria for Final PUD Plan.

A Final PUD Plan shall be approved by the Planning Director if the Director concludes that it complies with each of the following criteria:

(1) Provisions for the establishment and maintenance of elements to be held in common ownership, if any, have or will comply with the standards in Section 10.192(C).

(2) The Final PUD Plan is substantially consistent with the Preliminary PUD Plan and with any and all conditions imposed by the Planning Commission which were attached to the approval of the Preliminary PUD Plan.

(E) The Planning Director in their discretion may forward a Final PUD Plan to the Planning Commission for written clarification regarding whether the Final PUD Plan is substantially consistent with the Preliminary PUD Plan. When forwarded by the Planning Director, the Planning Commission shall have authority to review the PUD plans and advise the Planning Director.

(F) Modification of a phasing plan shall be considered substantially consistent with the Preliminary PUD Plan unless the revised phasing plan affects the provision of essential services such as public streets, sewer or storm drain to serve the successive phases.

(G) A Final PUD Plan shall be found to be inconsistent with the Preliminary PUD Plan when any of the following apply. If such inconsistencies are identified, an application for revision to the Preliminary PUD Plan shall be required:

(1) The exterior boundaries of the PUD have changed except for slight deviations which

result from the resolution of boundary errors or inconsistencies discovered when the PUD property was surveyed,

(2) The number of housing units has increased,

(3) The number of housing units has decreased by more than five percent,

(4) Modifications to the provisions of this Code have been included which were not approved as part of the Preliminary PUD Plan under Section 10.192(B).

SECTION 75. Section 10.197 of the Medford Code is hereby repealed:

~~10.197 Annexation Criteria.~~

~~The City Council must find that the following State requirements are met in order to approve an annexation:~~

~~1. The land is within the City's Urban Growth Boundary,~~

~~2. The land is contiguous to the current city limits, and~~

~~3. Unless the land being considered for annexation is enclaved by the City or the City chooses to hold an election, a majority of the land owners and/or electors have consented in writing to the annexation per ORS 222.125 or ORS 222.170.~~

SECTION 76. Section 10.198 of the Medford Code is hereby repealed and replaced to read as follows:

~~10.198 Zoning of Annexed Property.~~

~~At the time of annexation, the City will apply a City zoning designation comparable to the previous County zoning designation. Where no comparable City zoning designation exists, the SFR-00 (Single Family Residential – one dwelling unit per existing lot) zone will be applied.~~

10.198 Revision or Termination of a PUD.

(A) Revision of a Preliminary or Final PUD Plan.

The expansion or modification of a PUD approved under earlier PUD ordinances of the City or the revision of a Preliminary or Final PUD Plan shall follow the same procedures required for initial approval of a Preliminary PUD Plan in this Section, provided:

(1) Applicant for Revision; Filing Materials; Procedures.

An application to revise an approved PUD Plan shall be on forms supplied by the Planning Department. The application form shall bear the signature of the owner(s) who control a majority interest in more than 50% of the vacant land covered by the approved PUD and who are also the owner(s) of land and improvements within the PUD which constitute more than 50% of the total assessed value of vacant portion of the PUD. For changes deemed by the Planning Director to be minor but not de minimis, the Planning Director shall exercise appropriate discretion under Section 10.190(C)(1) to limit or waive the submittal of filing materials deemed to be excessive, repetitive or unnecessary based upon the scope and nature of the proposed PUD revisions. PUD revisions shall follow the same procedures used for initial approval of a Preliminary PUD Plan.

(2) Consolidated Procedure.

At the discretion of the Planning Director, revisions to an approved PUD Plan may be consolidated into a single procedure, the effect of which will be the approval of both a Preliminary PUD Plan and Final PUD Plan by the Planning Commission.

(3) Burden of Proof; Criteria for Revisions.

The burden of proof and supporting findings of fact and conclusions of law for the criteria in Sections 10.190(D) or 10.196(D), as applicable, shall be strictly limited to the specific nature and magnitude of the proposed revision. However, it is further provided that the design and development aspects of the whole PUD may be relied upon in reaching findings of fact and conclusions of law for the criterion at Section 10.190(D)(5). It is further provided that before the Planning Commission can approve a PUD Plan revision, it must determine that the proposed revision is compatible with existing developed portions of the whole PUD.

(4) De Minimis Revisions.

Notwithstanding Section 10.192(E), the Planning Director may approve revisions to an approved Preliminary or Final PUD Plan that they determine is de minimis. Proposed revisions shall be considered de minimis if the Planning Director determines the changes to be slight and inconsequential and will not violate any substantive provision of this Code. The Planning Director's written approval of a de minimis revision(s) shall be appended to the Final Order of the Planning Commission or Final Approval of the Final PUD Plan. Revisions that are de minimis shall not require public notice, public hearing or an opportunity to provide written testimony. However, if, while the record is open, any party requests in writing to be notified of future de minimis revisions of a Preliminary PUD Plan, then all de minimis revisions of a Preliminary PUD Plan shall be subject to review as a Type III land use action or such other procedure as may be permitted by law.

(B) Termination of a PUD.

A PUD may be terminated by action of the Planning Commission subject to the following procedures:

(1) If issuance of building permits for vertical construction has not occurred or if no lots or units therein have been sold, the PUD may be terminated as provided in this Subsection. Termination proceedings may be initiated by filing with the City a written petition signed by the owner(s) who control a majority interest in more than 50% of the land covered by the approved PUD and which also constitutes more than 50% of the total assessed value of land and improvements of the PUD. Upon receipt of a valid petition, the Planning Commission shall consider the matter in an open meeting and shall declare the PUD terminated. The Planning Commission's termination of a PUD shall be evidenced by a Final Order declaring the same. When the Final Order is signed the PUD shall be terminated and previous PUD Plan approvals shall be considered void and of no further effect. Termination of a PUD shall not affect other land use actions taken by the City which concern the PUD property.

(2) If issuance of building permits for vertical construction has occurred or if lots or units within the PUD have been sold, the PUD may be terminated as provided in this Subsection. Termination proceedings may be initiated by filing with the City a written petition signed by the owner(s) who control a majority interest in more than 50% of the vacant land covered by the approved PUD which also constitutes more than 50% of the total assessed value of vacant land within the PUD. If there is an association of owners established within the boundaries of the whole PUD, the owner(s) petitioning for termination of the PUD shall also supply the City with the correct mailing address of the association which shall be notified along with others entitled to notice under this Subsection. Upon receipt of the petition, the Planning Commission shall provide notification of the proposed PUD termination and conduct a public hearing on the matter. The Notice and public hearing shall be subject to Type III procedures. The Planning Commission shall declare the PUD terminated if it concludes that the termination will not produce greater than minimal harm to the public health, safety or general welfare. The Planning Commission's termination of a PUD shall be evidenced by a Final Order declaring the same and after the Final Order is signed the PUD shall be terminated and previous PUD Plan approvals shall be considered void and of no further effect. Termination of a PUD shall not affect other land use actions taken by the City which concern the PUD property.

SECTION 77. Section 10.199 of the Medford Code is hereby repealed:

~~10.199 Annexation of Territory Surrounded by the City.~~
~~(1) As authorized in ORS 222.750, the City Council may, by ordinance, annex territory surrounded by the corporate boundaries of Medford with or without the consent of any owner of property within the territory or resident of the territory.~~
~~(2) Such annexation may be initiated at the request of the Planning Department or City Council and shall not be subject to the requirements of Sections 10.122, 10.146, 10.150, 10.157, 10.158, 10.185 to 10.187, or 10.196 to 10.198.~~
~~(3) A public hearing shall be held prior to the Council's adoption of an ordinance for annexation.~~
~~(4) Notification shall be mailed to owners of property within the area proposed for annexation no later than twenty (20) days prior to the public hearing.~~

SECTION 78. Section 10.200 of the Medford Code is repealed and replaced to read as follows:

~~10.200 **Application, Vacation**.~~
~~A request to vacate a public street, alley, easement, plat, or public place shall, in addition to the requirements contained herein, be subject to ORS Chapter 271. Vacation shall be initiated either by petition under ORS 271.080 or by City Council under ORS 271.130.~~
10.200 Site Plan and Architectural Review.

(A) Purpose of Site Plan and Architectural Review.

The Site Plan and Architectural Review process is established in order to provide for review of the functional and aesthetic adequacy of commercial, industrial and multi-family development and to assure compliance with the standards and criteria set forth in this chapter for the development of property as applied to the improvement of individual lots or parcels of land as required by this code. Site Plan and Architectural Review considers consistency in the aesthetic design, site planning and general placement of related facilities such as street improvements, off-street parking, loading and unloading areas, points of ingress and egress as related to bordering traffic flow patterns, the design, placement and arrangement of buildings as well as any other subjects included in the code which are essential to the best utilization of land in order to preserve the public safety and general welfare, and which will encourage development and use of lands in harmony with the character of the neighborhood within which the development is proposed.

(B) Site Plan and Architectural Review Required.

Projects which are not exempt from Site Plan and Architectural Commission Review pursuant to Subsection (C) below, except that exterior alterations to a building or site and new construction in a Historic Overlay shall require Historic Review pursuant to Section 10.188, but shall not require Site Plan and Architectural Review.

(C) Exemptions from the Site Plan and Architectural Commission Review Requirement.

(1) An exemption from Site Plan and Architectural Commission (SPAC) review does not exempt the use or development from compliance with the applicable standards of this chapter, including but not limited to access, parking, riparian protection, and landscaping.

(2) The following uses or developments do not require SPAC review.

(a) Parking lots and parking lot additions, when not associated with building construction required to be reviewed by the Site Plan and Architectural Commission, except any parking lot or parking lot additions located within a Historic Overlay requires Historic Review. (Effective Dec. 1, 2013.)

(b) Construction of a new building if it does not increase motor vehicle trip generation by more than 10 average daily trips, unless within a Historic Overlay, in which case, Historic Review is required for all new construction. (Effective Dec. 1, 2013.)

(c) A building addition similar to the existing building in architectural style and exterior building materials and that is no more than a 20 percent or 2,500 square-foot increase in gross floor area, whichever is less, unless within a Historic Overlay, in which case, Historic Review is required for all building additions and exterior alterations. (Effective Dec. 1, 2013.)

(d) Detached single-family residential development on a lot within a final platted land division or on an otherwise legally created lot, unless within a Historic Overlay, in which case, Historic Review is required for all single-family residential development. (Effective Dec. 1, 2013.)

(e) Solar Photovoltaic/Solarvoltaic energy systems, as defined in ORS 757.360, except when located on historic landmarks or within historic districts, in which case the review authority shall be the Landmarks and Historic Preservation Commission.

(f) One duplex dwelling divided by a lot-line or on a single, vacant lot within a final platted land division or on an otherwise legally created lot, unless within a Historic Overlay, in which case, Historic Review is required.

(g) Airport accessory structure(s) including hangars, aircraft storage, maintenance facilities, warehouse storage, and office buildings to be located on airport property within the secured fence area (as shown on the Medford Zoning Map) not intended for public use.

(D) Site Plan and Architectural Review approval and a development permit shall be required prior to the application for a building permit.

(E) Site Plan and Architectural Review Approval Criteria.

The Site Plan and Architectural Commission shall approve a site plan and architectural review application if it can find that the proposed development conforms, or can be made to conform through the imposition of conditions, with the following criteria:

(1) The proposed development is compatible with uses and development that exist on adjacent land, and

(2) The proposed development complies with the applicable provisions of all city ordinances or the Site Plan and Architectural Commission has approved (an) exception(s) as provided in Section 10.186.

(F) Site Plan and Architectural Review Conditions of Approval. In approving a site plan and architectural review application, the Site Plan and Architectural Commission may impose, in addition to those standards expressly specified in this code, conditions determined to be reasonably necessary to ensure compliance with the standards of the code and the criteria in Subsection (E) above, and to otherwise protect the health, safety and general welfare of the surrounding area and community as a whole. These conditions may include, but are not limited to the following:

(1) Limiting the number, height, location and size of signs;

(2) Requiring the installation of appropriate public facilities and services and dedication of land to accommodate public facilities when needed;

(3) Limiting the visibility of mechanical equipment through screening or other appropriate measures;

(4) Requiring the installation or modification of irrigated landscaping, walls, fences or other methods of screening and buffering;

(5) Limiting or altering the location, height, bulk, configuration or setback of buildings, structures and improvements.

(6) Requiring the improvement of an existing, dedicated alley which will be used for ingress or egress for a development;

(7) Controlling the number and location of parking and loading facilities, points of ingress and egress and providing for the internal circulation of motorized vehicles, bicycles, public transit and pedestrians;

(8) Requiring the retention of existing natural features;

(9) Modifying architectural design elements including exterior construction materials and their colors, roofline, fenestration and restricting openings in the exterior walls of

structures;

(10) Restricting the height, directional orientation and intensity of exterior lighting

(G) Expiration of a Site Plan and Architectural Review Approval.

(1) Approval of a Site Plan and Architectural Commission application shall take effect on the date the final order for approval is signed, unless appealed and shall expire two years from the effective date. Within two years following the effective date, issuance of building permit for vertical construction must have occurred or an extension of the approval will be necessary. If a request for an extension is filed with the Planning Department within two years from approval of the final order, the Site Plan and Architectural Commission shall grant an extension not to exceed one additional year. Extensions shall be based on findings that the facts upon which the Site Plan and Architectural Commission application was first approved have not changed to an extent sufficient to warrant re-filing of the application.

(2) When it is the developer's intent to complete an approved project in phases, the approving authority may authorize a time schedule for the issuance of building permits for a period exceeding one year, but in no case shall the total time period for the issuance of building permits be greater than five years without having to resubmit a new application for Site Plan and Architectural Commission review. Phases developed after the passage of one year from approval of the Site Plan and Architectural Commission application will be required to modify the plans as necessary to avoid conflicts with changes in the Comprehensive Plan or this chapter.

(H) Modifications of an Approved Site Plan and Architectural Review.

(1) Major Modification. Any modification that is not a minor modification is a major modification. When modification to an approved plan is determined to be a Major Modification, the plan shall be processed as a Type III application for Site Plan and Architectural Review. The Planning Director may waive submittal requirements deemed unnecessary or inapplicable to the proposal.

(2) Minor Modification. A minor modification to an approved plan may be made by the Planning Director provided the Planning Director can make the determination that the modification does not constitute a major modification. A minor modification shall meet all of the following standards:

- **(a) Meets the exemption standards of Subsection (C) above.**
- **(b) No increase in the number of dwelling units.**
- **(c) The amount of open space or landscaping is decreased by no more than 10% of the previously approved area, provided the resulting area does not drop below the minimum standards as required by the code.**
- **(d) No relocation of vehicle access points and parking areas where the change will generate an impact that would adversely affect off-site or on-site traffic circulation.**
- **(e) No reduction or elimination of any project amenities such as recreational facilities, significant natural resources (streams, creeks, landforms), fencing**

and other screening material.

(f) Modifications to facilities and utilities conform to the adopted facility plans.

(g) Modifications to any other components of the plan conform to standards of the Code.

(h) No modification to any condition of approval.

(I) Issuance of Building Permits, Consistent with Site Plan and Architectural Review Approval.

All applications for a building permit, wherein Site Plan and Architectural Review has been required, shall be consistent with the plans as approved and all conditions of approval imposed thereon and shall be accompanied by an accurate and correct site plan.

(1) Security for Completion of Public Improvements. If all required public improvements, as specified in the conditions of site plan and architectural review approval, have not been satisfactorily completed before issuance of a building permit, the developer shall enter into a written agreement (provided by the City) to secure full and faithful performance thereof, according to Sections 10.666 and 10.667(A) respectively.

(2) Agreement for Completion of Private Improvements (for projects with signed agreements prior to January 1, 2015). The following regulations shall apply to all Building Site Improvement Agreements (BSIA) signed prior to January 1, 2015. After said date, the provisions of Building Site Improvement Agreements (BSIA) shall no longer be used as a means to ensure the completion of private improvements. If all required private improvements, as specified in the conditions of site plan and architectural review approval, have not been satisfactorily completed before issuance of a building permit, the permit shall not be issued unless the owner and all other parties having an interest in the property enter into a written and recorded agreement, called a Building Site Improvement Agreement (BSIA), (provided by the City) with the City. The agreement shall be in a form acceptable to the City Attorney and shall specify that, within six months after signing the agreement or such longer time period as specified by the Site Plan and Architectural Commission, all improvement work shall be completed according to the approved plans. The Planning Director or other person designated by the City Manager shall sign the agreement on behalf of the City.

(a) Extension. If a request for an extension of a Building Site Improvement Agreement is filed with the Planning Department within six months after signing the agreement, the Planning Director may grant an extension not to exceed six additional months. Extensions shall be based on findings that the extension is necessary for good cause, such as: circumstances beyond the developer's control that are causing delay in completing private improvements (i.e., ODOT work, weather-related delays, building permit delays), so long as no applicable development standards have changed.

(b) Procedure and Enforcement. The agreement shall be recorded in the Official Records of Jackson County, and once recorded the burdens of the agreement shall run with the title of the affected property. The property affected by the

agreement shall be the property depicted on the approved site plan. The agreement shall provide that, if the work is not completed in accordance with its terms within the allotted time, the property may not thereafter be occupied or used until all deficiencies are corrected. The agreement shall provide for enforcement by the City through a civil suit for injunction and provide that the prevailing party shall be awarded costs and reasonable attorney's fees. When made in substantial compliance with this section, such an agreement shall be enforceable according to its terms, regardless of whether it would be enforceable as a covenant at common law.

(c) Satisfaction. Once improvements have been satisfactorily completed according to the approved plans, a Satisfaction of Building Site Improvement Agreement shall be signed by the Planning Director or other person designated by the City Manager. The agreement shall be recorded in the Official Records of Jackson County.

(J) Site Plan and Architectural Review Application Form

The application for Site Plan and Architectural Review (SPAR) shall contain the following plans, submitted in the quantity and sizes specified on the Site Plan and Architectural Review application form, including legible reduced copies of all plan documents.

(1) Landscape Plan meeting the specifications and requirements in Section 10.780.

(2) Building Construction Plans: A site plan and architectural plan which are clearly and legibly drawn to scale shall be provided. Building construction plans shall include north arrow, orientation of building elevations indicating full dimensions and providing the following information:

(a) Site Plan:

(i) Lot dimensions.

(ii) All proposed and existing buildings and structures: location, size, height, proposed use.

(iii) Public and private yards and open space between buildings.

(iv) Walls and fences: location, height and material.

(v) Existing and proposed off-street parking: location, number, type and dimensions of spaces, parking area, internal circulation pattern.

(vi) Access: pedestrian, vehicular, service, points of ingress and egress.

(vii) Loading: location, dimension, number of spaces, type of space (A or B), internal circulation.

(viii) Lighting: location and general nature, hooding devices.

(ix) Street dedication and improvements.

(x) Drainage plan.

(xi) Location of existing public improvements including streets, curbs, sidewalks, street trees, utility poles, light fixtures, traffic signs and signals, and such other data as may be required to permit the Site Plan and Architectural Commission to make the required findings.

(xii) Location and screening of mechanical equipment.
(xiii) Location and screening of outdoor trash bins.

(b) Architectural Plans:
(i) Roof plan.
(ii) Floor plan.
(iii) Architectural elevations.
(iv) Materials and Colors.

(c) A conceptual stormwater facility plan with associated landscape plan, if applicable, pursuant to Sections 10.486(B) or 10.729(B).

SECTION 79. Section 10.201 of the Medford Code is hereby repealed:

~~10.201 Application Form.~~
~~Petitioners or persons requesting a vacation shall file an application containing the following items:~~
~~(1) Vicinity Map drawn at a scale of 1" = 1,000' identifying the proposed area of vacation.~~
~~(2) Legal description of area proposed to be vacated in electronic form per the instructions of the City of Medford Planning Department.~~
~~(3) A letter requesting City Council initiation, or, if initiated by petition rather than by Council, consent to vacate forms completed and signed by owners of all abutting property and of not less than two-thirds in area of the real property affected as defined in ORS 271.080~~
~~(4) Assessor's maps of the proposed vacation area identifying abutting and affected properties. The assessor's maps shall identify those parcels for which consents to vacate have been acquired.~~
~~(5) Names and addresses of property owners within the area of a plat vacation or all abutting property and all attached real property within 200 feet laterally and 400 feet beyond the terminus of each right-of-way to be vacated, including map and tax lot numbers typed on mailing labels.~~
~~(6) Findings that address the approval criteria in Section 10.202, Vacation Criteria.~~

SECTION 80. Section 10.202 of the Medford Code is hereby repealed and replaced to read as follows:

~~10.202 Vacation Criteria.~~
~~A request to vacate shall only be approved by the approving authority (City Council) when the following criteria have been met:~~
~~(1) Compliance with the Public Facilities Element of the Comprehensive Plan, including the Transportation System Plan.~~
~~(2) If initiated by petition under ORS 271.080, the findings required by ORS 271.120.~~
~~(3) If initiated by the Council, the applicable criteria found in ORS 271.130.~~

10.202 Subdivision Tentative Plat.

(A) Application.

The subdividing of land shall be subject to the application requirements as herein set forth and shall include both the tentative and final platting requirements. The approval of a tentative

plat is a Type III procedure, with the Planning Commission being the approving authority. Final plat approval is a Type I ministerial procedure which relies on compliance with the requirements established at the time of tentative plat approval, and on the requirements set forth in Section 10.162.

(B) Application for Tentative Plat.

The tentative plat for each proposed land division shall be filed with the Planning Department.

(C) Form of Tentative Plat and Accompanying Data.

All tentative plats shall be clearly and legibly drawn on tracing paper of good quality and prepared by a civil engineer or land surveyor registered in the State of Oregon. It shall have a dimension of not less than 18 inches by 24 inches, and the scale shall be as follows: One inch shall be equal to 50 feet for 20 acres or less, and one inch shall be equal to 100 feet for all divisions of land over 20 acres in area. The tentative plat shall contain the following data:

(1) Proposed land division name (if a subdivision), date, north arrow, scale, total acreage, and sufficient legal information to define the boundaries of the proposed development.

(2) A key map located in the upper right hand corner identifying the location of the development relative to section and township lines and to adjacent property and major physical features such as streets, railroads, and waterways.

(3) Names of abutting property owners on all sides, names and widths of adjoining rights-of-way, topographic features and all public improvements on adjacent property located within 200 feet of the project boundary.

(4) Name and address of the owner(s) of record, developer, and engineer or land surveyor registered in the State of Oregon who prepared the tentative plat.

(5) Locations, names, widths, approximate intersection angle, centerline radii, center line slopes, and improvement section of all streets, highways and other ways in the proposed project.

(6) Number of lots, dimensions of lots (to the nearest foot), including frontage, width, and area (to the nearest 50 square feet).

(7) Location and height of all existing structures to remain on property and distance from proposed property lines.

(8) Location and character of all easements existing and proposed by the developer for drainage, sewage and public utilities.

(9) Five foot topographic contours describing the area. Where the grade of any part of the proposed land division exceeds 10%, or where the development abuts existing developed lots, an overall conceptual grading plan shall be required showing features adjacent to the development within a reasonable distance therefrom which could affect said project. Where a conceptual grading plan is required it shall show how runoff of surface water from individual lots will be achieved and the ultimate disposal of all development surface waters. All topographic information shall be based on city data.

(10) A conceptual stormwater facility plan with associated landscape plan, if applicable, pursuant to Sections 10.486(B) or 10.729(B).

(11) Location of all creeks, streams and other watercourses, showing top of existing bank

and areas subject to inundation as shown on the latest Federal Flood Rate Insurance Maps.

(12) Existing wells and irrigation canals, active or abandoned, and proposed disposition.

(13) Public or common area proposed, if any.

(14) The approximate distance to, and location of, the nearest sanitary sewer main.

(15) Name of the irrigation district, if any, within which the project is located and whether it is currently being assessed.

(16) Name of the school district within which the project is located.

(D) Expiration of Tentative Plat Approval.

(1) Approval of a tentative plat application shall take effect on the date the final order for approval is signed, unless appealed, and shall expire two years from the effective date unless the final plat has been approved by the Planning Director pursuant to Section 10.158. If a request for an extension of a tentative plat application approval is filed with the Planning Department within two years from the date of the final order, the Planning Commission shall grant an extension not to exceed one additional year. Extensions shall be based on findings that the facts upon which the tentative plat application was first approved have not changed to an extent sufficient to warrant re-filing of the application.

(2) When it is the developer's intent to record and develop a tentatively platted land division in phases, the Planning Commission may authorize a time schedule for platting the various phases in periods exceeding one year, but in no case shall the total time period for platting all phases be greater than five years without having to re-submit the tentative plan. Phases platted after the passage of one year from approval of the tentative plat will be required to modify the tentative plat as necessary to avoid conflicts with changes in the Comprehensive Plan or this chapter.

(E) Land Division Approval Criteria.

The Planning Commission shall not approve any tentative plat unless it first finds that the proposed land division, together with the provisions for its design and improvement:

(1) Is consistent with the Comprehensive Plan, any other applicable specific plans thereto, including Neighborhood Circulation Plans, and all applicable design standards set forth in Articles IV and V;

(2) Will not prevent development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this chapter;

(3) Bears a name that has been approved by the approving authority and does not use a word which is the same as, similar to, or pronounced the same as a word in the name of any other subdivision in the City of Medford; except for the words "town", "city", "place", "court", "addition", or similar words; unless the land platted is contiguous to and platted by the same applicant that platted the land division bearing that name; or unless the applicant files and records the consent of the party who platted the land division bearing that name and the block numbers continue those of the plat of the

same name last filed;

(4) If it includes the creation of streets or alleys, that such streets or alleys are laid out to be consistent with existing and planned streets and alleys and with the plats of land divisions already approved for adjoining property, unless the Planning Commission determines it is in the public interest to modify the street pattern;

(5) If it has streets or alleys that are proposed to be held for private use, that they are distinguished from the public streets or alleys on the tentative plat, and reservations or restrictions relating to the private streets or alleys are set forth;

(6) Will not cause an unmitigated land use conflict between the land division and adjoining agricultural lands within the EFU (Exclusive Farm Use) zoning district.

SECTION 81. Section 10.204 of the Medford Code is added to read as follows:

10.204 Zone Change.

(A) Zone Change Initiation.

A zoning district boundary change may be initiated by the Planning Commission either on its own motion or at the request of the City Council, or by application of the property owner(s) in the area subject to the zone change.

(B) Zone Change Approval Criteria.

The Planning Commission shall approve a quasi-judicial, minor zone change if it finds that the zone change complies with subsections (1) and (2) below:

(1) The proposed zone is consistent with the Transportation System Plan (TSP) and the General Land Use Plan Map designation. A demonstration of consistency with the acknowledged TSP will assure compliance with the Oregon Transportation Planning Rule.

(2) Where applicable, the proposed zone shall also be consistent with the additional locational standards of the below sections (2)(a), (2)(b), (2)(c), or (2)(d). Where a special area plan requires a specific zone, any conflicting or additional requirements of the plan shall take precedence over the locational criteria below.

(a) For zone changes to SFR-2, the zoning shall be approved under either of the following circumstances:

(i) if at least 70% of the area proposed to be re-zoned exceeds a slope of 15%,

(ii) if other environmental constraints, such as soils, geology, wetlands, and flooding, restrict the capacity of the land to support higher densities.

(b) For zone changes to SFR-6 or SFR-10 where the permitted density is proposed to increase, one of the following conditions must exist:

(i) At least one parcel that abuts the subject property is zoned the same as the proposed zone, either SFR-6 or SFR-10 respectively; or

(ii) The area to be re-zoned is five acres or larger; or

(iii) The subject property, and any abutting parcel(s) that is(are) in the same General Land Use Plan Map designation and is(are) vacant, when combined, total at least five acres.

(c) For zone changes to any commercial zoning district, the following criteria shall be met

for the applicable zoning sought:
(i) The overall area of the C-N zoning district shall be three acres or less in size and within, or abutting on at least one boundary, with residential zoning. In determining the overall area, all abutting property(s) zoned C-N shall be included in the size of the district.
(ii) The overall area of the C-C zoning district shall be over three acres in size and shall front upon a collector or arterial street or state highway. In determining the overall area, all abutting property(s) zoned C-C shall be included in the size of the district.
(iii) The overall area of the C-R zoning district shall be over three acres in size, shall front upon an arterial street or state highway, and shall be in a centralized location that does not otherwise constitute a neighborhood shopping center or portion thereof. In determining the overall area, all abutting property(s) zoned C-R shall be included in the size of the district. The C-R zone is ordinarily considered to be unsuitable if abutting any residential zones, unless the applicant can show it would be suitable pursuant to (2)(e) below.
(iv) The C-H zone shall front upon an arterial street or state highway. The C-H zone may abut the General Industrial (I-G), Light Industrial (I-L), and/or any commercial zone. The C-H zone is ordinarily considered to be unsuitable if abutting any residential or I-H zones, unless the applicant can show it would be suitable pursuant to (2)(e) below.
(d) For zone changes to any industrial zoning district, the following criteria shall be met for the applicable zoning sought:
(i) The I-L zone may abut residential and commercial zones, and the General Industrial (I-G) zone. The I-L zone is ordinarily considered to be unsuitable when abutting the Heavy Industrial (I-H) zone, unless the applicant can show it would be suitable pursuant to (2)(e) below.
(ii) The I-G zone may abut the Heavy Commercial (C-H), Light Industrial (I-L), and the Heavy Industrial (I-H) zones. The I-G zone is ordinarily considered to be unsuitable when abutting the other commercial and residential zones, unless the applicant can show it would be suitable pursuant to (2)(e) below.
(iii) The I-H zone may abut the General Industrial (I-G) zone. The I-H zone is ordinarily considered to be unsuitable when abutting other zones, unless the applicant can show it would be suitable pursuant to (2)(e) below.
(e) For purposes of (2)(c) and (2)(d) above, a zone change may be found to be suitable where compliance is demonstrated with one or more of the following criteria:
(i) The subject property has been sited on the General Land Use Plan Map with a GLUP Map designation that allows only one zone;
(ii) At least 50% of the subject property's boundaries abut zones that are expressly allowed under the criteria in (2)(c) or (2)(d) above;
(iii) At least 50% of the subject property's boundaries abut properties that contain one or more existing use(s) which are permitted or conditional use(s) in the zone sought by the applicant, regardless of whether the abutting properties are actually zoned for such existing use(s); or
(iv) Notwithstanding the definition of "abutting" in Section 10.012 and for purposes of

determining suitability under Subsection (2) (e), the subject property is separated from the "unsuitable" zone by a public right-of-way of at least 60 feet in width.
(f) For zone changes to apply or to remove an overlay zone (Limited Industrial, Exclusive Agricultural, Freeway, Southeast, Historic) the criteria can be found in the applicable overlay section (Sections 10.345 through 10.413).
(3) It shall be demonstrated that Category A urban services and facilities are available or can and will be provided, as described below, to adequately serve the subject property with the permitted uses allowed under the proposed zoning, except as provided in subsection (c) below. The minimum standards for Category A services and facilities are contained in Section 10.462 as well as the Public Facilities Element and Transportation System Plan in the Comprehensive Plan.
(a) Storm drainage, sanitary sewer, and water facilities must already be adequate in condition, capacity, and location to serve the property or be extended or otherwise improved to adequately serve the property at the time of issuance of a building permit for vertical construction.
(b) Adequate streets and street capacity must be provided in one of the following ways:
(i) Streets which serve the subject property, as defined in Section 10.461(2), presently exist and have adequate capacity; or
(ii) Existing and new streets that will serve the subject property will be improved and/or constructed, sufficient to meet the required condition and capacity, at the time building permits for vertical construction are issued; or
(iii) If it is determined that a street must be constructed or improved in order to provide adequate capacity for more than one proposed or anticipated land use, the Planning Commission may find the street to be adequate when the improvements needed to make the street adequate are fully funded. A street project is deemed to be fully funded when one of the following occurs:

a. the project is in the City's adopted capital improvement plan budget, or is a programmed project in the first two years of the State's current STIP (State Transportation Improvement Plan), or any other public agencies adopted capital improvement plan budget; or

b. an applicant funds the improvement through a reimbursement district pursuant to the Section 10.432. The cost of the improvements will be either the actual cost of construction, if constructed by the applicant, or the estimated cost. The "estimated cost" shall be 125% of a professional engineer's estimated cost that has been approved by the City, including the cost of any right-of-way acquisition. The method described in this paragraph shall not be used if the Public Works Department determines, for reasons of public safety, that the improvement

must be constructed prior to issuance of building permits.

(iv) When a street must be improved under (b)(ii) or (b)(iii) above, the specific street improvement(s) needed to make the street adequate must be identified, and it must be demonstrated by the applicant that the improvement(s) will make the street adequate in condition and capacity.

(c) In determining the adequacy of Category A facilities, the Planning Commission may mitigate potential impacts through the imposition of special development conditions, stipulations, or restrictions attached to the zone change request. Special development conditions, stipulations, or restrictions shall be established by deed restriction or covenant, and must be recorded at the County Recorder's office with proof of recordation returned to the Planning Department. Such special development conditions shall include, but are not limited to the following:

(i) Restricted Zoning is a restriction of uses by type or intensity. In cases where such a restriction is proposed, the Planning Commission must find that the resulting development pattern will not preclude future development, or intensification of development on the subject property or adjacent parcels. In no case shall residential densities be approved that do not meet minimum density standards;

(ii) Mixed-use, pedestrian-friendly design which qualifies for the trip reduction percentage allowed by the Transportation Planning Rule;

(iii) Transportation Demand Management (TDM) measures which can be reasonably quantified, monitored, and enforced, such as mandatory car/van pools.

(C) Removal of Special Development Conditions on Zone Changes and General Land Use Plan (GLUP) Map Amendments.

Deed restrictions, covenants, or conditions of approval on zone changes established in order to comply with Section 10.204, or General Land Use Plan (GLUP) Map amendments established in order to comply with Section 10.220, shall only be removed by the following actions:

(1) If an improvement is made to any facility that was lacking adequacy, or if a level of service standard is changed so that the facility is now determined to be adequate, the property owner(s) may submit a letter to the Planning Department requesting that development conditions be removed. If the Planning Director agrees that the facility is adequate and the condition(s) is no longer necessary, the special development condition can be removed. The letter signed by the Planning Director, shall be appended to the original approval resolution or ordinance. In making the determination of facility adequacy, the Planning Director may ask the property owner(s) for information to demonstrate facility adequacy.

(2) For Zone Change: If the development condition is not removed through the method described in (1) above, the condition may be removed pursuant to a Type III minor zone change procedure.

(3) For GLUP Map Amendments: If the development condition is not removed through the method described in (1) above, the condition may be removed pursuant to a Type IV

Comprehensive Plan Map Amendment procedure.
(D) Zone Change Application Form
A zone change application shall contain the following items:
(1) Vicinity map drawn at a scale of 1" = 1,000' identifying the proposed area of change.
(2) Assessor's map with proposed zone change area identified.
(3) Legal description of area to be changed. Legal description shall be prepared by a licensed surveyor or title company.
(4) Property owner's names, addresses, and map and tax lot numbers within 200 feet of the subject site, typed on mailing labels.
(5) Findings prepared by the applicant or his representative addressing the criteria for zone changes as per Section 10.204(B) Zone Change Criteria.

SECTION 82. Section 10.205 of the Medford Code is hereby repealed:

~~10.205 Application, Transportation Facility Development.~~
~~Where the City intends to improve a new or existing street and the improvement is to be built with public funds, the improvement standards set forth in this code are not binding on the City and the City Council may authorize such exceptions to the standards as it deems proper in the exercise of its sole and absolute discretion without regard to the exceptions process of Section 10.251. However, the City shall follow the procedure prescribed below in Sections 10.206 through 10.208 in authorizing such projects. All transportation projects must be consistent with the adopted Transportation System Plan (TSP).~~
~~Land use issues decided at the time of approval of the TSP do not have to be reexamined at the time of project development.~~

SECTION 83. Section 10.206 of the Medford Code is hereby repealed:

~~10.206 Application Form.~~
~~Preliminary plans required for the transportation facility approval process shall show the following items.~~
~~(1) The location and alignment of the project.~~
~~(2) The number of street lanes, bike lanes or sidewalks as applicable.~~
~~(3) The extent or limits of such work.~~
~~(4) Any exceptions to the design standards established in Sections 10.437 through 10.455.~~
~~The City shall cause to be prepared six (6) copies of preliminary project plans which shall be filed with the Planning Department. Additional copies may be required for transmittal to local agencies which may be affected by the street improvement.~~

SECTION 84. Section 10.207 of the Medford Code is hereby repealed:

~~10.207 Transportation Facility Development Criteria.~~

~~Preliminary plans for transportation facility development projects shall be consistent with the following criteria:~~
~~(1) Transportation facility development projects shall be consistent with the Transportation Goals and Policies of the Comprehensive Plan.~~
~~(2) Transportation facility projects should not prevent development of the remainder of the property under the same ownership or development of adjoining land.~~
~~(3) If the project includes the creation of new streets, such streets should be laid out to conform with the plats of land divisions already approved for adjoining property.~~

SECTION 85. Section 10.208 of the Medford Code is hereby repealed:

~~10.208 City Council Action on Transportation Facility Development.~~
~~The City Council shall hold a quasi-judicial public hearing to review the preliminary project plan and the Planning Commission report and shall adopt a resolution or ordinance approving, modifying or disapproving such preliminary plan(s). The resolution or ordinance shall identify all exceptions to the design and improvement standards of this Code which are being authorized. The resolution or ordinance shall contain findings demonstrating compliance with the *Comprehensive Plan* and the *Transportation System Plan*. The City Engineer shall prepare detailed final construction plans and specifications in accordance with such resolution and solicit bids for the construction of the improvements.~~

SECTION 86. Section 10.214 of the Medford Code is added to read as follows:

10.214 Type IV Land Use Actions.
(A) Type IV Actions.
Type IV actions comprise the following land use reviews:

Type IV Land Use Application
Annexation, except as provided in Section 10.216
Land Development Code Amendment
Major Comprehensive Plan Amendment
Major General Land Use Plan Map Amendment
Major Urban Growth Boundary Amendment
Major Zoning Map Amendment
Minor Comprehensive Plan Amendment
Minor General Land Use Plan Map Amendment
Minor Urban Growth Boundary Amendment
Transportation Facility Development
Vacation of Public Right-of-Way

(B) Major Type IV land use reviews including amendments to the Land Development Code are legislative actions and may only be initiated by the Planning Commission or City Council. See Review & Amendments chapter of the Comprehensive Plan for definitions of "major" and "minor."

(C) Minor Type IV land use reviews including Annexations, Transportation Facility Developments and Vacations are quasi-judicial actions and may be initiated by the Planning Commission, City Council, or property owners representing the subject area. An exception to the preceding rule is that the Planning Commission does not initiate annexations.

(D) Type IV Approving Authorities. For Type IV actions the City Council is the approving authority and the Planning Commission acts as an advisory body to City Council. At a public hearing the Planning Commission will consider the request and make a recommendation to City Council to approve or deny the request. For annexations, the City Council makes a decision without a recommendation from the Planning Commission. Following completion of a recommendation by the Planning Commission, it shall be scheduled for a public hearing before the City Council. The decision of the City Council shall be based upon the application, the evidence, comments from referral agencies, comments from affected property owners (if any), the Planning Commission's recommendation (if applicable), compliance with the Statewide Planning Goals and Guidelines, this code and the Comprehensive Plan.

SECTION 87. Section 10.216 of the Medford Code is added to read as follows:

10.216 Annexation.

(A) Annexation is the action taken to incorporate land into a city. The state requires annexation of property that is contiguous to city limits and within the city's Urban Growth Boundary.

(B) Application for Annexation. Except for the annexation of unincorporated territory surrounded by the city as provided in Subsection (E) below, applications for annexation shall, in addition to requirements contained in the application form, be subject to the provisions of ORS 222.111 to 222.180 or 222.840 to 222.915.

(C) Annexation Approval Criteria. The City Council must find that the following State requirements are met in order to approve an annexation:

(1) The land is within the City's Urban Growth Boundary,

(2) The land is contiguous to the current city limits, and

(3) Unless the land being considered for annexation is enclaved by the City or the City chooses to hold an election, a majority of the land owners and/or electors have consented in writing to the annexation per ORS 222.125 or ORS 222.170.

(D) Zoning of Annexed Property.

At the time of annexation, the City shall apply a City zoning designation comparable to the previous County zoning designation. Where no comparable City zoning designation exists, the SFR-00 (Single-Family Residential – one dwelling unit per existing lot) zone or the I-OO (Limited Industrial Overlay) shall be applied.

(E) Annexation of Territory Surrounded by the City.

(1) As authorized in ORS 222.750, the City Council may, by ordinance, annex territory surrounded by the corporate boundaries of Medford with or without the consent of any owner of property within the territory or resident of the territory.

(2) Such annexation may be initiated at the request of the Planning Department or City Council and shall not be subject to the requirements of Sections 10.106, 10.110(D), 10.112, 10.124, 10.214, and 10.216.

(3) A public hearing shall be held prior to the Council's adoption of an ordinance for annexation.

(4) Prior to the public hearing, notification shall be mailed to all owners of property within the area proposed for annexation.

(5) For property that is zoned for, and in, residential use when annexation is initiated by the City, the City shall specify an effective date for the annexation that is at least three years and not more than 10 years after the date the City proclaims the annexation approved.

(6) The City shall notify the Jackson County Clerk of the territory subject to delayed annexation not sooner than 120 days and not later than 90 days before the annexation takes effect.

(F) Annexation Application Form

An application for annexation shall contain the following information:

(1) Vicinity Map drawn at a scale of 1" = 1,000' identifying the proposed area of annexation and existing city limits.

(2) Assessor's Maps of the proposed annexation area. The assessor's maps shall have identified those parcels for which consents to annex have been acquired and adjacent right-of-way to be annexed.

(3) Consent to annex forms completed and signed by all consenting property owners within the proposed annexation area.

(4) Legal metes and bounds or lot and block description of the annexation area including to the centerline of the adjacent right-of-way in electronic form per the instructions of the City of Medford Planning Department.

(5) Specific information on each parcel within the proposed annexation area:

(a) Current assessed valuation shown on County Assessor's tax rolls.

(b) Acreage of both public and private property to be annexed.

(c) Map and tax lot number.

(6) Addresses of all dwelling units and businesses located within the annexation area and names of all residents and whether they are registered voters.

(7) The following information shall be supplied by the applicant:

(a) Existing land uses within annexation area.

(b) Existing zoning within the annexation area.

(c) Existing improvements:

-water system

- streets

- sanitary sewer
- storm drainage
(d) Special Districts within the area:
- water district
- irrigation district
- fire district
- school district
- Rogue Valley Sewer Services
- other
(e) A completed Census Information Sheet for all parcels being considered for annexation.
(f) Written findings indicating compliance with all of the annexation criteria 1 through 3 contained in Section 10.216(C) Annexation Approval Criteria.
(8) Property owners' (and agents') names, addresses and map and tax lot numbers within 200 feet of the subject site, typed on mailing labels.

SECTION 88. Section 10.218 of the Medford Code is added to read as follows:

10.218 Land Development Code Amendment Approval Criteria.
The Planning Commission shall base its recommendation and the City Council its decision on the following criteria:
(A) Explanation of the public benefit of the amendment.
(B) The justification for the amendment with respect to the following factors:
(1) Conformity with goals and policies of the Comprehensive Plan considered relevant to the decision.
(2) Comments from applicable referral agencies regarding applicable statutes or regulations.
(3) Public comments.
(4) Applicable governmental agreements.

SECTION 89. Section 10.220 of the Medford Code is hereby repealed and replaced to read as follows:

~~10.220 Class "C" Actions.~~
~~Class "C" actions are comprised of the following plan authorizations:~~
~~(1) Zone Changes~~
~~(2) Planned Unit Development, Preliminary PUD Plan~~
~~(3) Conditional Use Permit~~
~~(4) Exceptions~~
~~(5) Site Plan and Architectural Review~~
~~(6) Land Divisions, Tentative Plats~~
~~(7) Historic Review~~

10.220 Major Type IV Amendments.

(A) Major Type IV Amendments are those land use changes that have widespread and significant impact beyond the immediate area, such as changes capable of producing large volumes of traffic, changes to the character of the land use itself, or changes that affect large areas or involve many different ownerships. Major Type IV Amendments include:

(1) Major Comprehensive Plan, including separate plans adopted by reference;

(2) Major General Land Use Plan Map;

(3) Major Urban Growth Boundary;

(4) Major Zoning Map Amendment;

(5) Urban Reserves;

(6) Urban Growth Management Agreement; or

(7) Urban Reserve Management Agreement.

(B) Major Type IV Amendment Approval Criteria.

Refer to the Review and Amendment section of the Comprehensive Plan, except in the case of the following three actions:

(1) Major Zoning Map Amendment. Refer to the approval criteria for Land Development Code Amendments in Section 10.218.

(2) Urban Growth Boundary Amendment. Refer to Urbanization Element of the Comprehensive Plan.

(3) Urban Reserve Adoption/Amendment. Refer to ORS 195.137–145 and OAR 660-021.

SECTION 90. Section 10.221 of the Medford Code is hereby repealed:

~~10.221 Application, General.~~

~~Applications for Class "C" plan authorizations may be initiated by City Council, Planning Commission, or property owners representing the subject area. Class "C" applications shall be submitted to the Planning Department and shall consist of the materials specified for each type Class "C" procedural application.~~

~~Upon submittal of the application to the Planning Department, the date of receipt shall be indicated on each copy of the materials submitted. Within thirty (30) days of receipt, the Planning Department shall determine whether the application as submitted, along with the required information, is complete as per this chapter. If the Planning Department fails to provide notice to the applicant in writing within thirty (30) days of receipt, the application shall be deemed complete. For purposes of this section, the date of notice to the applicant shall be the date of mailing.~~

~~If it is determined that the application is incomplete or otherwise does not conform to the provisions of this chapter, the Planning Department shall notify the applicant in writing to submit the missing material. The application shall be deemed complete upon receipt of (a) all of the missing information; (b) some of the missing information and written notice from the applicant that no other information will be provided; or (c) written notice from the applicant that none of the missing information will be provided.~~

~~If the application is deemed complete when first submitted, or the applicant submits the requested~~

~~additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria applicable at the time the application was submitted.~~

~~On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information and has not submitted (a) all of the missing information; (b) some of the missing information and written notice that no other information will be provided; or (c) written notice that none of the missing information will be provided. Any applications that are resubmitted to the Planning Department shall be subject to the standards and criteria in effect at the time the application is resubmitted.~~

~~At the time an application is deemed complete, the Planning Department shall indicate on the application the date of completion.~~

SECTION 91. Section 10.222 of the Medford Code is hereby repealed and replaced to read as follows:

~~10.222 Class "C", Referral and Review.~~

~~Within five (5) working days of a Class "C" application being deemed complete, the Planning Department shall transmit one (1) copy of the application, or appropriate sections thereof, to each referral agency for review and comment as specifically required of each type of Class "C" application.~~

~~If the referral agency does not comment within ten (10) working days from the date of acceptance, then the referral agency is assumed to have no comment, and standard conditions of development will be applied. If requested in writing, by a referral agency or the applicant, an extension of ten (10) working days may be granted.~~

10.222 Minor Type IV Amendments.

(A) Minor Type IV Amendments typically focus on specific individual properties and are therefore considered quasi-judicial. Minor Type IV Amendments include:

(1) Minor Comprehensive Plan Amendment;

(2) Minor General Land Use Plan Map Amendment;

(3) Minor Urban Growth Boundary Amendment;

(4) Transportation Facility Development; or

(5) Vacation of Public Right-of-Way.

(B) Minor Type IV Amendment Approval Criteria. For minor amendments to the Comprehensive Plan, General Land Use Plan Map, or Urban Growth Boundary refer to the Review and Amendment section of the Comprehensive Plan. For Transportation Facility Development approval criteria refer to Section 10.226 (B). For the approval criteria for Vacation of Public Right-of-Way refer to Section 10. 228 (D).

SECTION 92. Section 10.223 of the Medford Code is hereby repealed:

~~10.223 Reports.~~

~~Upon receipt of a Class "C" plan authorization and necessary accompanying data, each referral agency shall make an investigation and submit a written report within fifteen (15) working days, and forward same to the Planning Department clearly specifying any recommended conditions for development approval.~~

~~(1) City Departments, Affected Agencies and Utility Company Reports. The public works department, water commission and affected public utilities, school districts and other affected agencies having jurisdiction, shall report to the Planning Department as to any recommendations or provisions which in their determination are required for the approval of the development consistent with this code.~~

~~(2) City Engineer's Report. The city engineer shall investigate and report on existing facilities and make a recommendation on the manner in which the development is to be provided city services. The city engineer shall appropriately condition the development to adequately provide for the drainage of surface water from the land constituting and surrounding the intended land division.~~

~~(3) Fire Department/Water Commission. The fire department/water commission shall investigate and report on existing facilities and make a recommendation concerning the number and placement of fire hydrants and other fire protection requirements for the proposed development.~~

~~(4) Staff Report. The Planning Department shall review the design and improvement of the proposed development in relation to the *Comprehensive Plan*, any applicable specific plans prescribed by law which affects the proposed development and in relation to any and all applicable criteria and standards as set forth in this chapter. The staff report shall either summarize, or incorporate by reference, all departmental, affected agency and utility reports received as specified herein, and shall itemize such conditions as it deems appropriate to be imposed by the approving authority if approval is to be recommended.~~

SECTION 93. Section 10.224 of the Medford Code is hereby repealed and replaced to read as follows:

~~10.224 Resubmission of Class "C" Application.~~

~~After sixty (60) working days of the final determination denying a Class "C" action, the applicant may make appropriate alterations to a proposal and resubmit along with the payment of any additional fees as required by Article I, Section 10.070, Fees.~~

10.224 Minor Comprehensive Plan Application Form

An application for a minor Comprehensive Plan amendment shall contain the following items:

(1) Vicinity map drawn at a scale of 1" = 1,000' identifying the proposed area to be changed on the General Land Use Map.

(2) Written findings which address the following:

(a) Consistency with applicable Statewide Planning Goals.

(b) Consistency with the goals and policies of the Comprehensive Plan.

(c) Consistency with the applicable provisions of the Land Development Code.

SECTION 94. Section 10.225 of the Medford Code is hereby repealed:

~~10.225 Application, Zone Change~~
~~A zoning district boundary change may be initiated by the Planning Commission either on its own motion or at the request of the City Council, or by application of the property owner(s) in the area subject to the zone change.~~

SECTION 95. Section 10.226 of the Medford Code is hereby repealed and replaced to read as follows:

~~10.226 Application Form.~~
~~A zone change application shall contain the following items:~~
~~(1) Vicinity map drawn at a scale of 1" = 1,000' identifying the proposed area of change.~~
~~(2) Assessor's map with proposed zone change area identified.~~
~~(3) Legal description of area to be changed. Legal description shall be prepared by a licensed surveyor or title company.~~
~~(4) Property owner's names, addresses, and map and tax lot numbers within 200 feet of the subject site, typed on mailing labels.~~
~~(5) Findings prepared by the applicant or his representative addressing the criteria for zone changes as per Section 10.227, Zone Change Criteria.~~

10.226 Transportation Facility Development.

(A) Where the City intends to improve a new or existing street and the improvement is to be built with public funds, the improvement standards set forth in this code are not binding on the City and the City Council may authorize such exceptions to the standards as it deems proper in the exercise of its sole and absolute discretion without regard to the exceptions process of Section 10.186. However, the City shall follow the procedure prescribed through this Subsection in authorizing such projects. Land use issues decided at the time of approval of the Transportation System Plan (TSP) do not have to be reexamined at the time of project development.

(B) Transportation Facility Development Approval Criteria.

Preliminary plans for transportation facility development projects shall be consistent with the following criteria:

(1) Transportation facility development projects shall be consistent with the Transportation Goals and Policies of the Comprehensive Plan.

(2) Transportation facility projects should not prevent development of the remainder of the property under the same ownership or development of adjoining land.

(3) If the project includes the creation of new streets, such streets should be laid out to conform to the plats of land divisions already approved for adjoining property.

(4) All transportation projects must be consistent with the adopted Transportation System Plan (TSP).

(C) City Council Action on Transportation Facility Development.

The resolution or ordinance approving, modifying or disapproving such development shall identify all exceptions to the design and improvement standards of this Code which are being authorized. The City Engineer shall prepare detailed final construction plans and specifications in accordance with such resolution and solicit bids for the construction of the improvements.

(D) Transportation Facility Development Application Form

Preliminary plans required for the transportation facility approval process shall show the following items:

(1) The location and alignment of the project.

(2) The number of street lanes, bike lanes or sidewalks as applicable.

(3) The extent or limits of such work.

(4) Any exceptions to the design standards established in Sections 10.437 through 10.455.

The City shall cause to be prepared six (6) copies of preliminary project plans which shall be filed with the Planning Department. Additional copies may be required for transmittal to local agencies which may be affected by the street improvement.

SECTION 96. Section 10.227 of the Medford Code is hereby repealed:

~~10.227 Zone Change Criteria.~~

~~The approving authority (Planning Commission) shall approve a quasi-judicial zone change if it finds that the zone change complies with subsections (1) and (2) below:~~

~~(1) The proposed zone is consistent with the Transportation System Plan (TSP) and the General Land Use Plan Map designation. A demonstration of consistency with the acknowledged TSP will assure compliance with the Oregon Transportation Planning Rule. Where applicable, the proposed zone shall also be consistent with the additional locational standards of the below sections (1)(a), (1)(b), (1)(c), or (1)(d). Where a special area plan requires a specific zone, any conflicting or additional requirements of the plan shall take precedence over the locational criteria below.~~

~~(a) For zone changes to SFR-2, the zoning shall be approved under either of the following circumstances:~~

~~(i) if at least seventy percent (70%) of the area proposed to be rezoned exceeds a slope of fifteen percent (15%),~~

~~(ii) if other environmental constraints, such as soils, geology, wetlands, and flooding, restrict the capacity of the land to support higher densities.~~

~~(b) For zone changes to SFR-6 or SFR-10 where the permitted density is proposed to increase, one (1) of the following conditions must exist:~~

~~(i) At least one (1) parcel that abuts the subject property is zoned the same as the proposed zone, either SFR-6 or SFR-10 respectively; or~~

~~(ii) The area to be rezoned is five (5) acres or larger; or~~

~~(iii) The subject property, and any abutting parcel(s) that is(are) in the same General Land Use Plan Map designation and is(are) vacant, when combined, total at least five (5) acres.~~

~~(c) For zone changes to any commercial zoning district, the following criteria shall be met for the~~

~~applicable zoning sought:~~

~~(i) The overall area of the C-N zoning district shall be three (3) acres or less in size and within, or abutting on at least one (1) boundary, residential zoning. In determining the overall area, all abutting property(s) zoned C-N shall be included in the size of the district.~~

~~(ii) The overall area of the C-C zoning district shall be over three (3) acres in size and shall front upon a collector or arterial street or state highway. In determining the overall area, all abutting property(s) zoned C-C shall be included in the size of the district.~~

~~(iii) The overall area of the C-R zoning district shall be over three (3) acres in size, shall front upon an arterial street or state highway, and shall be in a centralized location that does not otherwise constitute a neighborhood shopping center or portion thereof. In determining the overall area, all abutting property(s) zoned C-R shall be included in the size of the district. The C-R zone is ordinarily considered to be unsuitable if abutting any residential zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.~~

~~(iv) The C-H zone shall front upon an arterial street or state highway. The C-H zone may abut the General Industrial (I-G), Light Industrial (I-L), and/or any commercial zone. The C-H zone is ordinarily considered to be unsuitable if abutting any residential and I-H zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.~~

~~(d) For zone changes to any industrial zoning district, the following criteria shall be met for the applicable zoning sought:~~

~~(i) The I-L zone may abut residential and commercial zones, and the General Industrial (I-G) zone. The I-L zone is ordinarily considered to be unsuitable when abutting the Heavy Industrial (I-H) zone, unless the applicant can show it would be suitable pursuant to (1)(e) below.~~

~~(ii) The I-G zone may abut the Heavy Commercial (C-H), Light Industrial (I-L), and the Heavy Industrial (I-H) zones. The I-G zone is ordinarily considered to be unsuitable when abutting the other commercial and residential zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.~~

~~(iii) The I-H zone may abut the General Industrial (I-G) zone. The I-H zone is ordinarily considered to be unsuitable when abutting other zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.~~

~~(e) For purposes of (1)(c) and (1)(d) above, a zone change may be found to be "suitable" where compliance is demonstrated with one (1) or more of the following criteria:~~

~~(i) The subject property has been sited on the General Land Use Plan Map with a GLUP Map designation that allows only one (1) zone;~~

~~(ii) At least fifty percent (50%) of the subject property's boundaries abut zones that are expressly allowed under the criteria in (1)(c) or (1)(d) above;~~

~~(iii) At least fifty percent (50%) of the subject property's boundaries abut properties that contain one(1) or more existing uses which are permitted or conditional uses in the zone sought by the applicant, regardless of whether the abutting properties are actually zoned for such existing uses; or~~

~~(iv) Notwithstanding the definition of "abutting" in Section 10.012 and for purposes of determining suitability under Section (1) (e), the subject property is separated from the "unsuitable" zone by a public right-of-way of at least sixty (60) feet in width.~~

~~(f) For zone changes to apply or remove the overlay zones (Limited Industrial, Exclusive Agricultural, Freeway, Southeast, Historic) the criteria can be found in the applicable overlay section (Sections 10.345 through 10.413).~~

~~(2) It shall be demonstrated that Category A urban services and facilities are available or can and will be provided, as described below, to adequately serve the subject property with the permitted uses allowed under the proposed zoning, except as provided in subsection (c) below. The minimum standards for Category A services and facilities are contained in Section 10.462 and Goal 2 of the Comprehensive Plan "Public Facilities Element" and Transportation System Plan.~~

~~(a) Storm drainage, sanitary sewer, and water facilities must already be adequate in condition, capacity, and location to serve the property or be extended or otherwise improved to adequately serve the property at the time of issuance of a building permit for vertical construction.~~

~~(b) Adequate streets and street capacity must be provided in one (1) of the following ways:~~

~~(i) Streets which serve the subject property, as defined in Section 10.461(2), presently exist and have adequate capacity; or~~

~~(ii) Existing and new streets that will serve the subject property will be improved and/or constructed, sufficient to meet the required condition and capacity, at the time building permits for vertical construction are issued; or~~

~~(iii) If it is determined that a street must be constructed or improved in order to provide adequate capacity for more than one (1) proposed or anticipated development, the Planning Commission may find the street to be adequate when the improvements needed to make the street adequate are fully funded. A street project is deemed to be fully funded when one (1) of the following occurs:~~

~~(a) the project is in the City's adopted capital improvement plan budget, or is a programmed project in the first two (2) years of the State's current STIP (State Transportation Improvement Plan), or any other public agencies adopted capital improvement plan budget; or~~

~~(b) when an applicant funds the improvement through a reimbursement district pursuant to the MLDC. The cost of the improvements will be either the actual cost of construction, if constructed by the applicant, or the estimated cost. The "estimated cost" shall be 125% of a professional engineer's estimated cost that has been approved by the City, including the cost of any right-of-way acquisition. The method described in this paragraph shall not be used if the Public Works Department determines, for reasons of public safety, that the improvement must be constructed prior to issuance of building permits.~~

~~(iv) When a street must be improved under (b)(ii) or (b)(iii) above, the specific street improvement(s) needed to make the street adequate must be identified, and it must be demonstrated by the applicant that the improvement(s) will make the street adequate in condition and capacity.~~

~~(c) In determining the adequacy of Category A facilities, the approving authority (Planning Commission) may evaluate potential impacts based upon the imposition of special development conditions attached to the zone change request. Special development conditions shall be established by deed restriction or covenant, which must be recorded with proof of recordation returned to the Planning Department, and may include, but are not limited to the following:~~

~~(i) Restriction of uses by type or intensity; however, in cases where such a restriction is proposed, the Planning Commission must find that the resulting development pattern will not preclude future~~

~~development, or intensification of development, on the subject property or adjacent parcels. In no case shall residential densities be approved which do not meet minimum density standards,~~
~~(ii) Mixed-use, pedestrian-friendly design which qualifies for the trip reduction percentage allowed by the Transportation Planning Rule,~~
~~(iii) Transportation Demand Management (TDM) measures which can be reasonably quantified, monitored, and enforced, such as mandatory car/van pools.~~

SECTION 97. Section 10.228 of the Medford Code is hereby repealed and replaced to read as follows:

~~10.228 Removal of Special Development Conditions on Zone Changes and General Land Use Plan (GLUP) Map Amendments.~~
~~Deed restrictions, covenants, or conditions of approval on zone changes established in order to comply with Section 10.227, or General Land Use Plan (GLUP) Map amendments established in order to comply with Section 10.184, shall only be removed by the following actions:~~
~~(1) If an improvement is made to any facility that was lacking adequacy, or if a level of service standard is changed so that the facility is now determined to be adequate, the property owner(s) may submit a letter to the Planning Department requesting that development conditions be removed. If the department director agrees that the facility is adequate and the condition(s) is no longer necessary, the special development condition can be removed. The letter, with the approval signature of the department director, shall be appended to the original approval resolution or ordinance. In making the determination of facility adequacy, the department director may ask the property owner(s) for information to demonstrate facility adequacy.~~
~~(2) For Zone Change: If the development condition is not removed through the method described in (1) above, the condition may be removed pursuant to a zone change procedure.~~
~~(3) For GLUP Map Amendments: If the development condition is not removed through the method described in (1) above, the condition may be removed pursuant to a Comprehensive Plan Map Amendment procedure.~~

10.228 Vacation of Public Right-of-Way.

(A) Vacations of public rights-of-way are a means of returning ownership of unneeded public streets and alleys to adjacent property owners. Vacations of plats and public utility easements (PUEs) are a means of removing unnecessary easements or plat designations from a parcel of land.

(B) Vacation of Public Right-of-Way Application. A request to vacate a public street, alley, easement, plat, or public place shall, in addition to the requirements contained herein, be subject to ORS Chapter 271.

(C) Vacation of Public Right-of-Way Initiation.

Vacations of public rights-of-way shall be initiated either by petition under ORS 271.080 or by City Council under ORS 271.130.

(D) Vacation of Public Right-of-Way Approval Criteria. A request to vacate shall only be approved by City Council when the following criteria have been met:

(1) Compliance with the Public Facilities Element of the Comprehensive Plan, including the Transportation System Plan.
(2) If initiated by petition under ORS 271.080, the findings required by ORS 271.120.
(3) If initiated by the Council, the applicable criteria found in ORS 271.130.
(E) Vacation Application Form
Petitioners or persons requesting a vacation shall file an application containing the following items:
(1) Vicinity Map drawn at a scale of 1" = 1,000' identifying the proposed area of vacation.
(2) Legal description of area proposed to be vacated in electronic form per the instructions of the City of Medford Planning Department.
(3) A letter requesting City Council initiation, or, if initiated by petition rather than by Council, consent to vacate forms completed and signed by owners of all abutting property and of not less than two-thirds in area of the real property affected as defined in ORS 271.080
(4) Assessor's maps of the proposed vacation area identifying abutting and affected properties. The assessor's maps shall identify those parcels for which consents to vacate have been acquired.
(5) Names and addresses of property owners within the area of a plat vacation or all abutting property and all attached real property within 200 feet laterally and 400 feet beyond the terminus of each right-of-way to be vacated, including map and tax lot numbers typed on mailing labels.
(6) Findings that address the approval criteria in Section 10. 228(D), Vacation Criteria.

SECTION 98. Section 10.230 of the Medford Code is hereby repealed:

~~10.230 Planned Unit Development (PUD) - General Provisions.~~
~~A. Purpose and Intent: The PUD approach permits flexibility to allow creative and imaginative urban development that would otherwise not be possible under the strict requirements of this Code. The intent is to promote more efficient use of urban land and urban services while protecting natural features, creating common open space, promoting the development of transit-oriented design along designated transit corridors and within designated transit-oriented development (TOD) areas, and encouraging a mixture of land uses and housing types that are thoughtfully planned and integrated.~~
~~B. Acreage Limitation: PUDs must contain one (1) acre or more at the time of application filing.~~
~~C. Stepped Process; Consolidated Applications Authorized: Approval of a PUD shall be a two-step process involving approval of a Preliminary PUD Plan by the Planning Commission as the first step and approval of a Final PUD Plan by the Planning Director as the second step. As used in MLDC 10.230 through 10.245, the Planning Director shall mean the Director of the Medford Planning Department or his/her designee. Except applications for annexations and comprehensive plan amendments, applications authorized in Article II may be consolidated with an application for a Preliminary PUD Plan.~~

~~D. Modified Application of Standards Authorized: To fulfill the purpose and intents of the standards set forth in Section 10.230(A), authority is herewith granted for the approval of PUDs which vary from the strict standards of this Code. The nature and extent of potential modifications shall be limited to the categories below described, provided that the City, in approving such modifications, shall not violate substantive provisions of the Oregon Transportation Planning Rule:~~

~~1. Lots and Parcels: Limitations, restrictions and design standards pertaining to the size, dimension, location, position and coverage of lots, and restrictions related to through lots.~~

~~2. Yards, Setbacks and Building Height: Limitations, restrictions and design standards pertaining to the location, size, height, yards and setbacks for buildings and other structures.~~

~~3. Parking, Bicycle and Pedestrian Standards: Limitations, restrictions and design standards pertaining to off-street vehicle and bicycle parking and loading, and standards related to pedestrian access.~~

~~4. Frontage, Access, Landscaping and Signs: Limitations, restrictions and design standards pertaining to lot frontage, access, required landscaping, signs and bufferyards.~~

~~5. Streets Generally: Streets within PUDs may be either city streets dedicated for public use or private streets owned and maintained by an association of owners, and may exceed maximum block length and perimeter standards provided in Section 10.426 C.1. Streets within or adjacent to a PUD shall comply with the following:~~

~~a. Collector and arterial streets shall be dedicated city streets, the existence and general location of which shall be determined by the comprehensive plan.~~

~~b. City streets shall comply fully with the strict requirements of this Code, provided that the City in approving a PUD may permit the width of parking lanes for city streets to be less than the Code otherwise requires.~~

~~c. The City may require any proposed PUD street or segment thereof to be constructed and dedicated as a city street.~~

~~6. Private Streets: Private streets may vary from the limitations, restrictions and design standards pertaining to streets with respect to length, width, position, aspect, intersection standards, grades, curve radii, cul-de-sac turnarounds, street lights, easements, sidewalks, curbs and driveway approaches for streets within the PUD, provided:~~

~~a. With respect to the amount, quality and installation of construction materials, private streets shall be structurally equivalent to or better than city standard streets.~~

~~b. The City Fire Marshall shall approve the design of all private streets for access by emergency vehicles before approval of the Preliminary PUD.~~

~~c. Private streets shall be posted as private streets and shall connect to the public street system. The applicant shall convey to the City and all appropriate utility companies a perpetual easement over the private street(s) for use by emergency vehicles and employees of the City and utility company(s) in the maintenance of public facilities and utilities.~~

~~7. Allowed Uses; Housing Types: The following uses and housing types shall be permitted as part of a PUD subject to the following:~~

~~a. In addition to permitted uses, any portion of a PUD may contain any housing type listed in~~

~~Subsection 10.314(1-3). In approving housing types, the Planning Commission may waive or reduce any of the special use regulations or standards contained in Sections 10.811 through 10.838 ("Special Use Regulations").~~

~~b. Any conditional use listed for the underlying zone may be permitted without addressing the Conditional Use Permit criteria except when the conditional use is within 200 feet of the perimeter of the PUD. This exemption does not apply to conditional uses within Riparian Corridors pursuant to 10.925 "Conditional uses within Riparian Corridors".~~

~~c. Use(s) not permitted in the underlying zone may, nevertheless, be permitted and approved to occupy up to 20% of the gross area of the PUD provided that no portion of the use(s), including its parking, is located nearer than 200 feet from the exterior boundary of the PUD. If any portion of the use(s) is nearer than 200 feet from the exterior PUD boundary, then said use(s) shall be considered to be a conditional use and may be approved subject to compliance with the conditional use permit criteria in Section 10.248. However, this provision shall not apply where the land outside the PUD which is nearer than 200 feet from proposed use(s) is inside a zone in which the proposed use(s) is permitted.~~

~~8. Mixed Land Use Designations. Unless otherwise prohibited, PUDs that have more than one General Land Use Plan designation or Southeast Plan land use category shall have the flexibility to mix or relocate such designations within the boundaries of the PUD in any manner and/or location as may be approved by the Planning Commission.~~

~~E. Common Elements: A multi-family residential PUD must include a minimum of 20% of the land area as common area unless otherwise modified by the Planning Commission. This common area shall be for the purpose of providing protection for natural features, common recreational space, landscaped area, or commonly enjoyed amenities other than parking areas or private streets. Where a PUD has open spaces, private streets, parking or other elements to be owned or maintained in common by the owners or future owners of land or improvements within the PUD, the Final PUD Plan shall not be approved and no unit shall be sold or conveyed until the PUD has been found to comply with the following requirements, as applicable:~~

~~1. If the PUD is a planned community under ORS Chapter 94, the declaration and tentative plat for the planned community shall be submitted with the Final PUD Plan for approval by the Planning Director before recording in the official records of Jackson County.~~

~~2. If the PUD is a condominium under ORS Chapter 100, a copy of the recorded declaration and plat shall be submitted to the City after it has been approved by the Oregon Real Estate Commissioner and recorded in the official records of Jackson County. A condominium declaration and plat shall not be reviewed and approved by the Planning Director and the Planning Director shall have no authority under this Subsection to require changes thereto.~~

~~3. If the PUD contains elements intended for common ownership but ORS Chapters 94 and 100 do not apply, there shall be appropriate legal documents which assure that the common elements will be improved and perpetually maintained for their intended purposes. The legal documents in such instance shall be submitted to the Planning~~

Director for approval as part of the Final PUD Plan before recording in the official records of Jackson County.

4. When a PUD is proposed to be developed in phases, the phased provision of improved common elements shall be roughly proportional with the development of housing and other elements intended for private ownership. Unless approved by the Planning Commission as part of a phasing plan pursuant to Subsection 10.235(A)(3)(c) or which was approved by the Planning Commission prior to the adoption of this ordinance, no significant common element shall be postponed to the final phase of a PUD. Nothing in this Subsection shall prevent the provision of improved common elements at a rate that is proportionally greater than the development of housing and other elements intended for private ownership.

5. Land shown on the Final Development Plan as a common element or which is intended for public dedication shall be conveyed under one of the following options:

a. To a public entity which shall agree in writing to perpetually maintain the common element(s) being conveyed.

b. To an association of owners created pursuant to ORS Chapters 94 or 100 or as otherwise created under Subsection 10.230(E)(3) in which instance the legal document which establishes the association shall provide that the association cannot be terminated or discontinued without the City's prior consent.

6. If the PUD will have private streets, the legal document which establishes the association of owners shall provide that the City may enforce the maintenance or protection of its easements or public facilities.

F. PUDs exempt from Site Plan and Architectural Review: PUDs approved under this Section shall be exempt and there shall be no requirement to apply separately for Site Plan and Architectural Review or to demonstrate compliance with the criteria in Section 10.290. However, the Planning Director in his/her discretion may forward a Preliminary PUD Plan or proposed revisions thereto to the Site Plan and Architectural Commission for review. When forwarded by the Planning Director, the Site Plan and Architectural Commission shall have authority to review the PUD plans and make recommendations to the Planning Commission.

G. Delegation of Authority: The Planning Commission may delegate authority to the Site Plan and Architectural Commission or to the Planning Director to approve in its name the plans for buildings or any other element of a PUD or revisions thereto after the Planning Commission has approved the Preliminary PUD Plan. The authority delegated by the Planning Commission under this Subsection shall be delimited in conditions attached to the approval. Notwithstanding any other provision of this Code and subject to an applicant's written request, the approval of delegated matters, where eligible, shall be procedurally treated as an Expedited Land Division pursuant to ORS 197.360 through 197.380, as amended. Lacking a written request from the applicant, approval of delegated matters shall be subject to a Class "C" Procedure as set forth in Article II.

H. Building Permits: Development and Operation of a PUD: All building and construction plans submitted to the City for the purpose of obtaining building and other site improvement

~~permits shall be consistent with the approved Final PUD Plan. The development and operation of the PUD shall conform in all respects with the approved Final PUD Plan.~~

~~I. Residential Density:~~

~~(1) Residential Density Calculation. Minimum and maximum permitted residential densities in PUDs shall be calculated pursuant to Section 10.708, except, in PUDs having residential and non-residential land uses within a residential zoning district, including mixed-use buildings as defined herein, the minimum and maximum number of dwelling units shall be calculated using the gross area of the residentially zoned land including any to be occupied by non-residential uses. "Natural unbuildable areas" may be excluded at the developer's option as provided in Section 10.708.~~

~~(2) Residential Density Bonus. In PUDs larger than five (5) acres, the residential density may be increased by up to twenty percent (20%) more than the maximum density permitted by (1) above.~~

SECTION 99. Section 10.235 of the Medford Code is hereby repealed:

~~10.235 Preliminary PUD Plan – Application Procedures.~~

~~A. Neighborhood Meeting Requirement. To ensure neighborhood knowledge of proposed development and to provide an opportunity for direct communication, the applicant shall present the development proposal at a neighborhood meeting prior to submitting the land use application to the City Planning Department. The applicant shall arrange and conduct the neighborhood meeting. City staff need not attend. Attendees shall be asked to sign a signature sheet and provide their mailing address. Attendance at the neighborhood meeting does not give an attendee legal standing for appeal.~~

~~1. The presentation at the neighborhood meeting shall include at a minimum the following:~~

~~a. A map depicting the location of the subject property proposed for development; and,~~

~~b. A visual description of the project including a tentative site plan, tentative subdivision plan and elevation drawings of any structures, if applicable; and,~~

~~c. A description of the nature of the proposed uses and physical characteristics, including but not limited to, sizes and heights of structures, proposed lot sizes, density,; and,~~

~~d. A description of requested modifications to code standards.~~

~~e. Notification that attendance at the neighborhood meeting does not give legal standing to appeal to the City Council, the Land Use Board of Appeals, or Circuit Court.~~

~~2. It shall be the responsibility of the applicant to schedule the neighborhood meeting and provide adequate notification of the meeting. The applicant shall send mailed notice of the neighborhood meeting to the owners of no less than seventy-five (75) of the nearest tax lots regarding the neighborhood meeting. If seventy-five (75) tax lots are not located within two-hundred (200) feet of the exterior boundary of the PUD, the notification area shall be extended~~

by successive fifty (50) foot increments, until a minimum of seventy-five (75) tax lots are included in the notification area. The owners of all tax lots within the extended notification shall receive written notice; therefore, noticing of more than seventy-five (75) tax lots may be required. In addition to the affected property owners, the applicant shall also provide notice to the City Planning Department. The applicant shall use the Jackson County Tax Assessor's property owner list from the most recent property tax assessment roll. The notice shall be mailed a minimum of fifteen (15) days prior to the neighborhood meeting which shall be held in Medford on a weekday evening. A certificate of mailing attesting to the date of mailing and the name and signature of the agent responsible for mailing said notices shall be prepared and submitted to the Planning Department in accordance with the materials identified in Section 10.235 (B)(7). The notice for PUD neighborhood meeting shall include:

a. Date, time and location of the neighborhood meeting; and,

b. A brief written description of the proposal; and,

c. The location of the subject property, including address (if applicable), nearest cross streets and any other easily understood geographical reference, and a map (such as a tax assessor's map) which depicts the subject property.

B. Application for a Preliminary PUD Plan: An application for Preliminary PUD Plan shall be on forms supplied by the City. A complete application shall include the materials and information listed in this Subsection. However, the Planning Director, in his/her discretion, may waive the submittal of any of the materials or information that are deemed to be excessive, repetitive or unnecessary based upon the size and nature of the PUD. If an application for a PUD is accepted by the City as complete under ORS 227.178 but the application does not contain all of the items listed below, the missing items shall be deemed to have been waived by the Planning Director. Unless waived by the Planning Director, the following items shall be required to constitute a complete application for a Preliminary PUD Plan:

1. Current assessor map with the boundaries of the proposed PUD identified.

2. Preliminary PUD Plan (16 copies) and supplemental materials conforming to the Site Plan and Architectural Review application requirements in Section 10.287. Additionally, such plans shall include preliminary plans for providing public water and sanitary sewer service. The Preliminary PUD Plan shall indicate boundaries within the property which distinguish areas devoted to different land uses pursuant to Subsections 10.235(B)(3)(f), 10.230(D)(7) and 10.230(D)(8). Where different land uses are separated by streets, railroad rights-of-way, drainage channels or other water courses, the centerlines of such features shall be their boundaries. One copy of the Preliminary PUD Plan shall be a reduced size suitable for photocopy. If a tentative plat for a land division is submitted concurrently with a Preliminary PUD Plan, the Preliminary PUD Plan and tentative plat shall be on separate sheets. It is further provided that:

a. Unless otherwise required in this Code, architectural plans for single family detached dwellings and landscaping plans for lots occupied by single family detached dwellings are not subject to review or approval as part of a PUD. However, nothing shall prevent an applicant from supplying architectural or

landscaping plans for single family detached housing as a means to comply with one or more approval criteria.

b. If private or non-city standard street lighting is proposed, a street lighting plan shall be provided which provides a detail of the proposed lighting fixture(s). The Preliminary PUD Plan shall indicate the location of proposed private or non-city standard light fixtures.

c. An applicant may postpone the submission and approval of architectural plans for proposed buildings and to have such plans approved later as a separate matter under Subsection 10.235(G) after the Preliminary PUD Plan has been approved. When the approval of architectural plans has been postponed, the Preliminary PUD Plan shall show a conceptual footprint for each planned building and each building footprint shall be separately enclosed by a dashed line which shall be called and labeled a building envelope. Building envelopes shall reasonably anticipate and define the maximum extent of the footprint for each building in the PUD.

3. A narrative description of the PUD which shall cover:

a. The rationale for planning this development as a PUD.

b. The nature, planned use, future ownership and method of perpetual maintenance of land to be left in natural or developed open space or which will be held in common ownership.

c. A listing of all modified applications of the Code that are proposed, followed by a brief explanation which covers the nature of, extent of, and reason for each modification.

d. If one or more signs are intended to vary from the provisions of this Code, then a detailed plan for all signs which require a sign permit shall be submitted. The sign plan shall specify the size, number, type, height and location of all signs which require a sign permit and shall clearly indicate all proposed modifications.

e. A proposed development schedule. If the PUD will be constructed in phases, the development schedule for each phase shall be keyed to a plan that indicates the boundaries of each phase.

f. The gross acreage devoted to the various proposed land uses and housing types.

4. Written findings of fact and conclusions of law which address the approval criteria in Subsection 10.235(D).

5. The names and mailing addresses of the owners of record of tax lots, obtained by the latest tax rolls of the Jackson County Assessor's Office, located within 200 feet of the exterior boundary of the whole PUD. The owners of no less than seventy-five (75) tax lots shall be notified of the pending land use hearing. If seventy-five (75) tax lots are not located within two-hundred (200) feet of the exterior boundary of the PUD, the notification area shall be extended by successive fifty (50) foot increments, until a minimum of seventy-five (75) tax lots are included in the notification area. The owners of all tax lots within the extended notification area shall receive written notice; therefore, noticing of more than seventy-five (75) tax lots may be

~~required. The names and mailing addresses shall be typed on mailing labels and shall include the assessor map and tax lot numbers for each parcel.~~

~~6. A conceptual stormwater facility plan with associated landscape plan, if applicable, pursuant to Sections 10.486(B) or 10.729(B).~~

~~7. Documentation of pre-submittal PUD Neighborhood Meeting. Documentation shall include:~~

~~a. A copy of a Certificate of Mailing for the neighborhood meeting notification mailing pursuant to Section 10.235(2);~~

~~b. A completed Verification of Neighborhood Meeting form attesting to the contents of the materials provided or reviewed at the meeting;~~

~~c. A set of the notification materials listed in Section 10.235(A)(2); and,~~

~~d. The signature sheet(s) from the Neighborhood Meeting.~~

~~C. Action on an Application for a Preliminary PUD Plan: The Planning Commission may approve, approve with conditions or deny a Preliminary PUD Plan.~~

~~D. Approval Criteria for Preliminary PUD Plan: The Planning Commission shall approve a Preliminary PUD if it concludes that compliance exists with each of the following criteria:~~

~~1. The proposed PUD:~~

~~a. preserves an important natural feature of the land, or~~

~~b. includes a mixture of residential and commercial land uses, or~~

~~c. includes a mixture of housing types in residential areas, or~~

~~d. includes open space, common areas, or other elements intended for common use or ownership, or~~

~~e. is otherwise required by the Medford Land Development Code.~~

~~2. The proposed PUD complies with the applicable requirements of this Code, or~~

~~a. the proposed modified applications of the Code are related specifically to the implementation of the rationale for the PUD as described in Section 10.235(B)(3)(a), and~~

~~b. the proposed modifications enhance the development as a whole resulting in a more creative and desirable project, and~~

~~c. the proposed modifications to the limitations, restrictions, and design standards of this Code will not materially impair the function, safety, or efficiency of the circulation system or the development as a whole.~~

~~3. The property is not subject to any of the following measures or if subject thereto the PUD can be approved under the standards and criteria thereunder:~~

~~a. Moratorium on Construction or Land Development pursuant to ORS 197.505 through 197.540, as amended.~~

~~b. Public Facilities Strategy pursuant to ORS 197.768 as amended.~~

~~c. Limited Service Area adopted as part of the Medford Comprehensive Plan.~~

~~4. The location, size, shape and character of all common elements in the PUD are appropriate for their intended use and function.~~

~~5. If the Preliminary PUD Plan includes uses not allowed in the underlying zone~~

~~pursuant to Subsection 10.230(D)(7)(c), the applicant shall alternatively demonstrate that either: 1) demands for the Category "A" public facilities listed below are equivalent to or less than for one or more permitted uses listed for the underlying zone, or 2) the property can be supplied by the time of development with the following Category "A" public facilities which can be supplied in sufficient condition and capacity to support development of the proposed use:~~

~~a. Public sanitary sewerage collection and treatment facilities.~~

~~b. Public domestic water distribution and treatment facilities.~~

~~c. Storm drainage facilities.~~

~~d. Public streets.~~

~~Determinations of compliance with this criterion shall be based upon standards of public facility adequacy as set forth in this Code and in goals and policies of the comprehensive plan which by their language and context function as approval criteria for comprehensive plan amendments, zone changes or new development. In instances where the Planning Commission determines that there is insufficient public facility capacity to support the development of a particular use, nothing in this criterion shall prevent the approval of early phases of a phased PUD which can be supplied with adequate public facilities.~~

~~6. If the Preliminary PUD Plan includes uses proposed under Subsection 10.230(D)(7)(c), approval of the PUD shall also be subject to compliance with the conditional use permit criteria in Section 10.248.~~

~~7. If approval of the PUD application includes the division of land or the approval of other concurrent development permits applications as authorized in Subsection 10.230(C), approval of the PUD shall also be subject to compliance with the substantive approval criteria in Article II for each of the additional development applications.~~

~~E. Conditions: If the Planning Commission approves a Preliminary PUD Plan, in addition to conditions authorized under Section 10.291, it may attach conditions to the approval which are determined to be reasonably necessary to ensure:~~

~~1. The Final PUD Plan will be substantially consistent with the approved Preliminary PUD Plan and specifications related thereto.~~

~~2. Development of the PUD will be consistent with the approved Final PUD Plan and specifications related thereto. To ensure satisfactory completion of a PUD in compliance with the approved plans, the Planning Commission may require the developer to enter into an agreement with the City as specified under Section 10.296.~~

~~3. The PUD will comply with the Comprehensive Plan, the Medford Municipal Code and all provisions of this Code except the specific provisions for which there are approved modifications.~~

~~4. There are appropriate safeguards to protect the public health, safety and general welfare.~~

~~5. There will be ongoing compliance with the standards and criteria in this Section.~~

~~6. To guarantee that streets, public facilities and utilities can be appropriately extended~~

~~from one PUD phase to each successive future phase in accordance with the approved Preliminary PUD Plan, the City may require the conveyance of easements or other assurances.~~

~~F. Revised Plans: In instances where approval conditions result in substantial, complex or unpredictable changes to a proposed Preliminary PUD Plan, the Planning Commission, as a condition of Preliminary PUD Plan approval, may require an applicant to incorporate the changes into a revised Preliminary PUD Plan. When required, the revised plans shall be approved by the Planning Commission and when approved, the revised plans shall become the approved Preliminary PUD Plan and any conditions satisfied by the revised plans shall be stricken or appropriately altered.~~

~~G. Postponed Preliminary PUD Plan Approval for Building Architecture: When the approval of architectural plans for buildings in the PUD has been postponed under Subsection 10.235(B)(2)(c), no Final PUD Plan shall be approved until the architecture of buildings has been approved by the Planning Commission, or by the Site Plan and Architectural Commission pursuant to MLDC 10.230(G), and the Final Order for such approval has been appended to the earlier approval of the Preliminary PUD Plan.~~

~~H. Engineering Construction Plans: Engineering construction plans, profiles, details and specifications for all public facility and utility improvements shall be prepared by a qualified engineer registered in Oregon. The engineering plans shall be approved by the City before the start of construction. Unless specifically authorized by the Planning Commission in the Preliminary PUD Plan approval, all public facilities and utilities shall be designed and constructed in accordance with the standards and procedures of the City or other public entity to which ownership will be conveyed.~~

~~The procedures for engineering design, plan approval and inspection shall in all respects be the same as for land divisions under this Code.~~

SECTION 100. Section 10.240 of the Medford Code is hereby repealed:

~~10.240 Final PUD Plan – Application Procedures.~~

~~A. Application for a Final PUD Plan: Application for a Final PUD Plan shall be on forms supplied by the City. The Final PUD Plan shall contain in final form all information and materials required by Subsection 10.235(B) unless certain items are or have been waived by the Planning Director as therein provided. However, there shall be no burden to demonstrate compliance with the criteria in Subsection 10.235(D). As appropriate, the Final PUD Plan shall incorporate all conditions imposed in the Preliminary PUD Plan approval. The application for a Final PUD Plan shall include a written narrative explaining how the Final PUD Plan complies with 10.240(G), Approval Criteria for Final PUD Plan, including compliance with the conditions of approval.~~

~~B. Time Limit for Preliminary PUD Plan Approval: Preliminary PUD Plan approval shall be valid for three (3) years and may not be extended. The three-year period shall be the date the Final Order approving the Preliminary PUD Plan was signed by the Planning Commission Chairperson. If a Preliminary PUD Plan is appealed, the three-year period shall begin on the date on which all appeals~~

were resolved, including the resolution of all issues on remand. Within the three-year time period, an application for a Final PUD Plan must be filed for the entire site or for the first phase if the PUD has been approved for phased development.

C. Phased PUD: The Final PUD Plan may be submitted for the entire project or for each phase consistent with the approved Preliminary PUD Plan. If a Preliminary PUD Plan was not approved as a phased project, nothing in this Subsection shall prevent the Planning Director from approving a Final PUD Plan in phases provided that the Planning Director approves a phasing plan pursuant to Subsections 10.235(B)(3)(c) and 10.230(E)(4) as part of the Final PUD Plan approval, and provided further that the phasing plan ensure that essential services such as roads, fire access, storm drain, and sewer are available to serve each successive phase. After Final PUD Plan approval for the first phase, Final PUD Plans must be filed with the City for any subsequent phases.

D. Time Limit Between Phases: After Final PUD Plan approval for the first phase of a PUD having approved multiple phases, and for each successive phase thereafter, no more than five (5) years shall lapse between the approval of phases. If more than five (5) years pass between the Final PUD Plan approval of any two (2) PUD phases after the first phase, the Planning Commission may, without the consent of the owners of the PUD, initiate action to terminate undeveloped portions of the PUD under Subsection 10.245(B).

E. Binding Effect; Previously Approved PUDs: A PUD Plan approval shall run with the land and shall be binding upon all successors in interest in all land within the whole PUD. It is further provided that a Preliminary PUD Plan approval shall remain in full force and effect unless the approval expires or is terminated by action of the City pursuant to Subsection 10.245(B). Preliminary plans submitted prior to the adoption date of this ordinance, and final plans resulting from those preliminary plans, are subject to the regulations for PUDs in effect at the time the preliminary plan application was submitted.

F. Final Plat for Land Division: Application for the approval of a Final PUD Plan may occur before or concurrent with the approval of a final plat for a land division. However, no building permits shall be issued by the City and no buildings intended for human occupancy shall be constructed and no lot shall be sold until the Final PUD Plan has been approved by the Planning Director.

G. Approval Criteria for Final PUD Plan: A Final PUD Plan shall be approved by the Planning Director if the Director concludes that compliance exists with each of the following criteria:

1. Provisions for the establishment and maintenance of elements to be held in common ownership, if any, have or will comply with the standards in Subsection 10.230(E).

2. The Final PUD Plan is substantially consistent with the Preliminary PUD Plan and with any and all conditions imposed by the Planning Commission which were attached to h approval of the Preliminary PUD Plan.

The Planning Director in his/her discretion may forward a Final PUD Plan to the Planning Commission for written clarification regarding whether the Final PUD Plan is substantially consistent with the Preliminary PUD Plan. When forwarded by the Planning Director, the Planning Commission shall have authority to review the PUD plans and advise the Planning Director.

Modification of a phasing plan shall be considered substantially consistent with the Preliminary PUD Plan unless the revised phasing plan affects the provision of essential services such as public streets,

~~sewer or storm drain to serve the successive phases.~~

~~A Final PUD Plan shall be found to be inconsistent with the Preliminary PUD Plan when any of the following are found to apply. If such inconsistencies are identified, an application for revision to the Preliminary PUD Plan shall be required:~~

~~a. The exterior boundaries of the PUD have changed except for slight deviations which result from the resolution of boundary errors or inconsistencies discovered when the PUD property was surveyed,~~

~~b. The number of housing units has increased,~~

~~c. The number of housing units has decreased by more than five percent (5%),~~

~~d. Modifications to the provisions of this Code have been included which were not approved as part of the Preliminary PUD Plan under Section 10.230(D).~~

SECTION 101. Section 10.241 of the Medford Code is hereby repealed:

~~10.241 Action and Decision Time; Appeal Rights; Final PUD Plan.~~

~~A. Upon submittal of the Final PUD Plan application to the Planning Director, the date of receipt shall be indicated on each copy of the materials submitted. Within thirty (30) days of receipt, the Planning Director shall determine whether the application as submitted, along with the required information, is complete as per this chapter. If the Planning Director fails to provide notice to the applicant in writing within thirty (30) days of receipt, the application shall be deemed complete. For purposes of this section, the date of notice to the applicant shall be the date of mailing.~~

~~B. If it is determined that the application is incomplete or otherwise does not conform to the provisions of this chapter, the Planning Director shall notify the applicant in writing to submit the missing material. The application shall be deemed complete upon receipt of (a) all of the missing information; (b) some of the missing information and written notice from the applicant that no other information will be provided; or (c) written notice from the applicant that none of the missing information will be provided.~~

~~C. Within twenty five (25) working days after an application is deemed complete, the Planning Director shall approve or disapprove the Final PUD Plan and acknowledge compliance with all conditions of the Preliminary PUD Plan. If the Final PUD Plan is not substantially consistent with the Preliminary PUD Plan and all conditions thereto, the Planning Director may disapprove the Final PUD Plan, and require the applicant to apply for a revision to the Preliminary PUD Plan. Upon disapproval of any Final PUD Plan, the Planning Director shall return the Final PUD Plan to the applicant together with a final order of denial setting forth the reasons for such denial and advising the applicant of the applicant's appeal rights pursuant to Section 10.241(E).~~

~~D. Upon approval by the Planning Director, the Planning Director shall prepare and sign a final order of approval.~~

~~E. Within fourteen (14) days of the date of the final order for denial, an applicant may submit a written notice of appeal to the Planning Department. The notice of appeal shall be signed by the appellant or his agent and shall contain:~~

~~(1) An identification of the decision sought to be reviewed, including the date of~~

~~decision; and~~

~~(2) A statement of the specific grounds upon which the appellant relies as a basis for appeal. Within thirty (30) days of the Planning Department receiving the notice of appeal, the Planning Department shall set the appeal as a written communication before the Planning Commission. The Planning Commission, on appeal, shall review the application for Final PUD Plan approval de novo, pursuant to the provisions of Section 10.240(G) and shall approve or deny said application. Appellant shall not have the right to a public hearing on appeal. The decision of the Planning Commission upon appeal is final.~~

SECTION 102. Section 10.245 of the Medford Code is hereby repealed:

~~10.245 Revision or Termination of a PUD.~~

~~A. Revision of a Preliminary or Final PUD Plan: The expansion or modification of a PUD approved under earlier PUD ordinances of the City or the revision of a Preliminary or Final PUD Plan shall follow the same procedures required for initial approval of a Preliminary PUD Plan in this Section, provided:~~

~~1. Applicant for Revision; Filing Materials; Procedures: An application to revise an approved PUD Plan shall be on forms supplied by the City. The application form shall bear the signature of the owner(s) who control a majority interest in more than fifty percent (50%) of the vacant land covered by the approved PUD and who are also the owner(s) of land and improvements within the PUD which constitute more than fifty percent (50%) of the total assessed value of vacant portion of the PUD. For changes deemed by the Planning Director to be minor but not de minimis, the Planning Director shall exercise appropriate discretion under Section 10.235(B) to limit or waive the submittal of filing materials deemed to be excessive, repetitive or unnecessary based upon the scope and nature of the proposed PUD revisions. PUD revisions shall follow the same procedures used for initial approval of a Preliminary PUD Plan.~~

~~2. Consolidated Procedure: At the discretion of the Planning Director, revisions to an approved PUD Plan may be consolidated into a single procedure, the effect of which will be the approval of both a Preliminary PUD Plan and Final PUD Plan by the Planning Commission.~~

~~3. Burden of Proof; Criteria for Revisions: The burden of proof and supporting findings of fact and conclusions of law for the criteria in Subsections 10.235(D) or 10.240(G), as applicable, shall be strictly limited to the specific nature and magnitude of the proposed revision. However, it is further provided that the design and development aspects of the whole PUD may be relied upon in reaching findings of fact and conclusions of law for the criterion at Subsection 10.235(D)(5). It is further provided that before the Planning Commission can approve a PUD Plan revision, it must determine that the proposed revision is compatible with existing developed portions of the whole PUD.~~

~~4. De minimis Revisions: Notwithstanding Subsection 10.230(G), the Planning Director may approve revisions to an approved Preliminary or Final PUD Plan that he/she determines are de minimis. Proposed revisions shall be considered de minimis if the Planning Director determines the changes to be slight and inconsequential and will not violate any substantive provision of this Code.~~

~~The Planning Director's written approval of a de minimis revision(s) shall be appended to the Final Order of the Planning Commission or Final Approval of the Planning Director of the Final PUD Plan. Revisions that are de minimis shall not require public notice, public hearing or an opportunity to provide written testimony. However, if, while the record is open, any party requests in writing to be notified of future de minimis revisions of a Preliminary PUD Plan, then all de minimis revisions of a Preliminary PUD Plan shall be subject to review as a Class 'C' Procedure or such other procedure as may be permitted by law.~~

~~B. Termination of a PUD: A PUD may be terminated by action of the Planning Commission subject to the following procedures:~~

~~1. If substantial development of the PUD has not occurred or if no lots or units therein have been sold, the PUD may be terminated as provided in this Subsection 10.245(B)(1). Termination proceedings may be initiated by filing with the City a written petition signed by the owner(s) who control a majority interest in more than fifty percent (50%) of the land covered by the approved PUD and which also constitutes more than fifty percent (50%) of the total assessed value of land and improvements of the PUD. Upon receipt of a valid petition, the Planning Commission shall consider the matter in open meeting and shall declare the PUD terminated. The Planning Commission's termination of a PUD shall be evidenced by a Final Order declaring the same. When the Final Order is signed the PUD shall be terminated and previous PUD Plan approvals shall be considered void and of no further effect. Termination of a PUD shall not affect other land use actions taken by the City which concern the PUD property.~~

~~2. If substantial development of the PUD has occurred or if lots or units within the PUD have been sold, the PUD may be terminated as provided in this Subsection 10.245(B)(2). Termination proceedings may be initiated by filing with the City a written petition signed by the owner(s) who control a majority interest in more than fifty percent (50%) of the vacant land covered by the approved PUD which also constitutes more than fifty percent (50%) of the total assessed value of vacant land within the PUD. If there is an association of owners established within the boundaries of the whole PUD, the owner(s) petitioning for termination of the PUD shall also supply the City with the correct mailing address of the association which shall be notified along with others entitled to notice under this Subsection. Upon receipt of the petition, the Planning Commission shall give public notice of the proposed PUD termination and conduct a public hearing on the matter. Notice and public hearing shall be subject to Class "C" Procedure. The Planning Commission shall declare the PUD terminated if it concludes that the termination will not produce greater than minimal harm to the public health, safety or general welfare. The Planning Commission's termination of a PUD shall be evidenced by a Final Order declaring the same and after the Final Order is signed the PUD shall be terminated and previous PUD Plan approvals shall be considered void and of no further effect. Termination of a PUD shall not affect other land use actions taken by the City which concern the PUD property.~~

SECTION 103. Section 10.246 of the Medford Code is hereby repealed:

~~10.246 Application, Conditional Use Permit.~~

~~A development classified as a conditional use shall be given special review via this process in order to assure its appropriateness for the site and allow for adjustment to be made to assure its compatibility with adjacent land uses.~~

SECTION 104. Section 10.247 of the Medford Code is hereby repealed:

~~10.247 Application Form.~~
~~An application for a conditional use permit shall contain the following:~~
~~(1) Vicinity map drawn at a scale of 1" = 1,000' identifying the location of the proposed site.~~
~~(2) Assessor's map with subject site identified.~~
~~(3) Site plan drawn to scale on an eighteen inch by twenty four inch (18" x 24") sheet. Site plan shall identify all existing and proposed buildings, parking, drives, vegetation or landscaping, adjacent development.~~
~~(4) Property owner's (and agent's) names, addresses, and map and tax lot numbers within 200 feet of the subject site, typed on mailing labels.~~
~~(5) Findings prepared by the applicant or his/her representative addressing the criteria set forth in Section 10.248, Conditional Use Permit Criteria.~~
~~(6) A conceptual stormwater facility plan with associated landscape plan, if applicable, pursuant to Sections 10.486(B) or 10.729(B).~~
~~(7) A Landscape Plan, meeting the specifications and requirements in Section 10.780, if applicable.~~

SECTION 105. Section 10.247a of the Medford Code is hereby repealed:

~~10.247a CUPs Exempt from Site Plan and Architectural Commission Review.~~
~~CUPs approved under this Section shall be exempt and there shall be no requirement to apply separately for Site Plan and Architectural Commission review or to demonstrate compliance with the criteria in Section 10.290. However, the Planning Director in his/her discretion may forward a CUP proposal or proposed revisions thereto to the Site Plan and Architectural Commission for review. When forwarded by the Planning Director, the Site Plan and Architectural Commission shall have authority to review the CUP plans and make recommendations to the Planning Commission.~~
~~(1) Delegation of Authority: The Planning Commission may delegate authority to the Site Plan and Architectural Commission or to the Planning Director to approve in its name the plans for buildings or any other element of a CUP or revisions thereto after the Planning Commission has approved the CUP. The authority delegated by the Planning Commission under this Subsection shall be delimited in conditions attached to the approval. Notwithstanding any other provision of this Code, the approval of delegated matters shall be subject to a Class "C" Procedure as set forth in Article II.~~

SECTION 106. Section 10.248 of the Medford Code is hereby repealed:

~~10.248 Conditional Use Permit Criteria.~~
~~The approving authority (Planning Commission) must determine that the development proposal~~

~~complies with either of the following criteria before approval can be granted.~~
~~(1) The development proposal will cause no significant adverse impact on the livability, value, or appropriate development of abutting property, or the surrounding area when compared to the impacts of permitted development that is not classified as conditional.~~
~~(2) The development proposal is in the public interest, and although the development proposal may cause some adverse impacts, conditions have been imposed by the approving authority (Planning Commission) to produce a balance between the conflicting interests.~~
~~In authorizing a conditional use permit the approving authority (Planning Commission) may impose any of the following conditions:~~
~~(1) Limit the manner in which the use is conducted, including restricting the time an activity may take place, and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.~~
~~(2) Establish a special yard or other open space or lot area or dimension requirement.~~
~~(3) Limit the height, size, or location of a building or other structure.~~
~~(4) Designate the size, number, location, or nature of vehicle access points.~~
~~(5) Increase the amount of street dedication, roadway width, or improvements within the street right-of-way.~~
~~(6) Designate the size, location, screening, drainage, surfacing, or other improvement of parking or truck loading area.~~
~~(7) Limit or otherwise designate the number, size, location, height, or lighting of signs.~~
~~(8) Limit the location and intensity of outdoor lighting, or require its shielding.~~
~~(9) Require screening, landscaping, or other facilities to protect adjacent or nearby property, and designate standards for installation or maintenance thereof.~~
~~(10) Designate the size, height, location, or materials for a fence.~~
~~(11) Protect existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources.~~

SECTION 107. Section 10.249 of the Medford Code is hereby repealed:

~~10.249 Conditional Use Permits, Mitigation of Impacts.~~
~~Development requiring the mitigation of impacts under Section 10.248(2), Conditional Use Permit Criteria, must do one (1) of the following:~~
~~(1) Preserve unique assets of interest to the community.~~
~~(2) Provide a public facility or public nonprofit service to the immediate area or community.~~
~~(3) Otherwise provide a use or improvement that is consistent with the overall needs of the community in a location that is reasonably suitable for its purpose.~~

SECTION 108. Section 10.250 of the Medford Code is hereby repealed:

~~10.250 Modifications and Expiration of a Conditional Use Permit.~~
~~A. Modifications.~~

~~1. Major Modification.~~

~~Any modification that is not a minor modification is a major modification. A request to substantially modify a conditional use permit shall be processed in the same manner as a request for a conditional use permit in 10.246. The Planning Director may waive submittal requirements deemed unnecessary or inapplicable to the proposal.~~

~~2. Minor Modification.~~

~~A minor modification to an approved permit may be approved by the Planning Director provided the Planning Director determines that the modification does not constitute a major modification. The purpose of the determination is to assure that a modification does not significantly affect other property or uses; will not cause any deterioration or loss of any natural feature, process or open space; nor significantly affect any public facility. A minor modification shall meet all of the following standards:~~

~~(a) Meets all requirements of the Land Development Code and other legal requirements.~~

~~(b) The amount of open space and landscaping is not decreased.~~

~~(c) No relocation of vehicle access points and parking areas where the change will generate an impact that would adversely affect off-site or on-site traffic circulation.~~

~~(d) No reduction or elimination of any project amenities such as recreational facilities, significant natural resources (streams, creeks, landform), fencing and other screening material.~~

~~(e) Modifications to facilities and utilities conform to the adopted facility plans.~~

~~(f) Modifications to any other components of the plan conform to standards of the Land Development Code.~~

~~(g) No modification to any condition of approval.~~

~~B. Expiration: Within one (1) year following the final order date, substantial construction on the development shall be completed, or if a use, the use shall have commenced operation. If a request for an extension is filed with the planning department within one (1) year from the approval date of the final order, the approving authority (Planning Commission), may, upon written request by the applicant, grant a single extension of the expiration date for a period not to exceed one (1) year from the expiration date of the final order. An extension shall be based on findings that the facts upon which the conditional use permit was first approved have not changed to an extent sufficient to warrant refiling of the conditional use permit.~~

SECTION 109. Section 10.251 of the Medford Code is hereby repealed:

~~10.251 Application, Exception.~~

~~The purpose of Sections 10.251 to 10.253 is to empower the approving authority to vary or adapt the strict application of the public improvement and site development standards as contained in Article III, Sections 10.349 through 10.361, and 10.370 through 10.385, as well as Articles IV and V of this chapter. Exceptions may be appropriate for reasons of exceptional narrowness or~~

~~shape of a parcel; for reasons of exceptional topographic conditions, extraordinary and exceptional building restrictions on a piece of property; or if strict applications of the public improvement or site development standards in the above-referenced Articles would result in peculiar, exceptional, and undue hardship on the owner.~~

SECTION 110. Section 10.252 of the Medford Code is hereby repealed:

~~10.252 Application Form.~~
~~An application for an exception shall be made by the owner of the property for which the exception is requested to the approving authority for the plan authorization involving the exception. An exception application shall include the following:~~
~~(1) A list of the specific standard(s) for which an exception is being requested and a description of the degree of exception(s) being requested, including findings prepared by the applicant or applicant's representative addressing the criteria as set forth in Section 10.253, Criteria for an Exception.~~
~~(2) Vicinity map drawn at a scale of 1" = 1000' identifying the location of the site of the variance.~~
~~(3) Assessor's map with the subject site identified.~~
~~(4) Site plan showing in detail the circumstance(s) which justifies each exception.~~

SECTION 111. Section 10.253 of the Medford Code is hereby repealed:

~~10.253 Criteria for an Exception.~~
~~No exception, in the strict application of the provisions of this chapter, shall be granted by the approving authority having jurisdiction over the plan authorization unless it finds that all of the following criteria and standards are satisfied. The power to authorize an exception from the terms of this code shall be sparingly exercised. Findings must indicate that:~~
~~(1) The granting of the exception shall be in harmony with the general purpose and intent of the regulations imposed by this code for the zoning district in which the exception request is located, and shall not be injurious to the general area or otherwise detrimental to the health, safety, and general welfare or adjacent natural resources. The approving authority shall have the authority to impose conditions to assure that this criterion is met.~~
~~(2) The granting of an exception will not permit the establishment of a use which is not permitted in the zoning district within which the exception is located.~~
~~(3) There are unique or unusual circumstances which apply to this site which do not typically apply elsewhere in the City, and that the strict application of the standard(s) for which an exception is being requested would result in peculiar, exceptional, and undue hardship on the owner.~~
~~(4) The need for the exception is not the result of an illegal act nor can it be established on this basis by one who purchases the land or building with or without knowledge of the standards of this code. It must result from the application of this chapter, and it must be suffered directly by the property in question. It is not sufficient proof in granting an exception to show that greater profit would result.~~

SECTION 112. Section 10.254 of the Medford Code is hereby repealed:

~~10.254 Expiration of an Exception.~~
~~Within one (1) year following the final order date, substantial construction on the development shall be completed, or if a use, the use shall have commenced operation. If a request for an extension is filed with the Planning Department within one (1) year from the approval date of the final order, the approving authority may, upon written request by the applicant, grant a single extension of the expiration date for a period not to exceed one (1) year from the expiration date of the final order. An extension shall be based on findings that the facts upon which the exception was first approved have not changed to an extent sufficient to warrant refiling of the exception. An exception directly related to another plan authorization, such as an exception which was filed concurrently with the other plan authorization, and/or an exception which is integrally intertwined with and necessary to the development or use authorized by the other plan authorization, shall expire when the related plan authorization expires.~~

SECTION 113. Section 10.256 of the Medford Code is hereby repealed:

~~10.256 Historic Review.~~
~~The Historic Review process is hereby established to assure compliance with the Historic Preservation Overlay, Sections 10.401 through 10.407, the Oregon Administrative Rules, Oregon Revised Statutes, and to achieve consistency with The Secretary of the Interior's Standards for the Treatment of Historic Properties.~~
~~(1) An application for Historic Review is required in the following instances:~~
~~(a) To request addition to or removal from the Historic Preservation Overlay for any area, parcel, or portion thereof. The property owner, Planning Director, Landmarks and Historic Preservation Commission, or City Council may request initiation of proceedings to change the extent of the Historic Preservation Overlay.~~
~~(b) For proposed exterior alteration and/or new construction within an Historic Preservation Overlay.~~
~~(c) Prior to application for a demolition or relocation permit for all or part of a building, structure, object or site in an Historic Preservation Overlay.~~
~~(2) Historic Review of proposed exterior alteration and/or new construction is required irrespective of whether a building permit or a development permit is required. Historic Review final actions shall be taken prior to application for a building permit or proceeding with work that does not require a permit.~~

SECTION 114. Section 10.257 of the Medford Code is hereby repealed:

~~10.257 Historic Review, Application Content.~~
~~An application for Historic Review shall include the information and materials listed below:~~
~~(1) Application form.~~

~~(2) All information requested on the application form.~~
~~(3) Findings of fact demonstrating compliance with the approval criteria in Section 10.258, Historic Review, Approval Criteria.~~
~~(4) Appropriate fee.~~
~~In addition to that listed, the City may require the applicant to submit additional information deemed necessary to take action on an application in accordance with this Code and applicable State laws.~~

SECTION 115. Section 10.258 of the Medford Code is hereby repealed:

~~10.258 Historic Review, Approval Criteria.~~
~~Approval of Historic Review applications shall require findings that the proposal is consistent with the indicated approval criteria:~~
~~(1) Changes to the Historic Preservation Overlay. The extent of the Historic Preservation Overlay may be changed to include an historic resource other than those specified in Section 10.402 (1), (2), and (3) through a Class 'C' Historic Review process if findings can be made substantiating that the proposal is consistent with the criteria below:~~
~~(a) It has been demonstrated that the designation of the historic resource is consistent with the purposes of the Historic Preservation Overlay in Section 10.401; and,~~
~~(b) It has been demonstrated that the designation of the historic resource is appropriate, considering the historic value of the resource and any other conflicting values, and will not result in a loss of substantial beneficial use of the property; and,~~
~~(c) It has been demonstrated that the historic resource has a significance rank of "primary" or "secondary" on an historical survey conducted in conformance with the standards of the Oregon State Historic Preservation Office; or, the historic value of the resource has sufficient local significance to merit designation as a Local Historic Resource.~~
~~(2) Exterior Alteration and/or New Construction. The approving authority (Landmarks and Historic Preservation Commission) shall approve an Historic Review application for exterior alteration and/or new construction within an Historic Preservation Overlay after consideration during a public hearing, if findings can be made substantiating that the proposal is consistent, or can be made consistent through the imposition of conditions, with all of the following criteria:~~
~~(a) It has been demonstrated that the proposed exterior alteration and/or new construction is consistent with the purposes of the Historic Preservation Overlay in Section 10.401; and,~~
~~(b) It has been demonstrated that the proposed exterior alteration and/or new construction will preserve the historic character, form, and integrity of the historic resource; and,~~
~~(c) It has been demonstrated that the proposed exterior alteration and/or new construction is consistent with the most current version of the *The Secretary of the Interior's Standards for the Treatment of Historic Properties*; and,~~

(d) It has been demonstrated that the proposed exterior alteration and/or new construction is compatible with the historical and architectural style of the historic resource, of adjacent historic properties, and of the historic district within which it is located, if any. Assessment of compatibility may include consideration of the design, arrangement, proportion, detail, scale, color, texture, and materials, and the way new features will be differentiated from the old; and,

(e) It has been demonstrated that the proposed exterior alteration and/or new construction is consistent with all other applicable provisions of this Code.

(3) Minor Historic Review. Minor Historic Review of certain exterior alterations may be conducted by the Planning Director, according to standards adopted by the Landmarks and Historic Preservation Commission. The Planning Director shall approve a Minor Historic Review application if the proposal conforms to approval criteria adopted by the Landmarks and Historic Preservation Commission. These approval criteria are available at the Planning Department.

Minor Historic Review shall be limited to the review of:

A. Changes in roofing materials and exterior paint colors in residentially zoned Historic Preservation Overlay Districts as per the *Paint and Roofing Approval Criteria* adopted in December 2007;

B. Changes in exterior paint colors in commercially zoned Historic Preservation Overlay Districts, when new paint colors are chosen from the adopted color palette;

C. Changes in awning fabric materials without a change in the shape of the awning frame, in Historic Preservation Overlay Districts, if the new fabric is either solid or striped and the fabric colors are chosen from the adopted color palette;

D. Change of sign face/copy as defined in Section 10.1010.

(4) Demolition and Relocation. The Landmarks and Historic Preservation Commission shall temporarily delay issuance of a demolition or relocation permit for all or part of a building, structure, object or site in an Historic Preservation Overlay, unless, during a public hearing:

(a) It is demonstrated that a temporary suspension of the demolition or relocation permit would not aid in avoiding the demolition or relocation of the historic resource; in informing the owner of the benefits of renovation; nor in pursuing public or private acquisition or restoration; and,

(b) In the case of a demolition, it is demonstrated that there is no practical opportunity to relocate the historic resource to another site, nor to salvage historic or architectural elements; and,

(c) It is demonstrated that the proposed demolition or relocation would not adversely affect the protection, enhancement, perpetuation, improvement, or use of any historic district or other historic resource; and,

(d) It is demonstrated that the benefits of protecting the historic resource no longer outweigh the benefits of allowing the demolition or relocation.

(5) Temporary Suspension of a Demolition or Relocation Permit.

(a) In the case of temporary suspension of a demolition or relocation permit by the Landmarks and Historic Preservation Commission, issuance of the permit shall be

~~delayed for a period of 120 days from the date of application for Historic Review or for the demolition or relocation permit, whichever is earlier.~~

~~(b) The Landmarks and Historic Preservation Commission may invoke an extension of the suspension period for an additional period not exceeding ninety (90) days if it determines during a subsequent public hearing that there is a program underway that could result in public or private acquisition, or preservation or restoration of such building, structure, object, or site, and that there are reasonable grounds to believe that such a program will be successful.~~

~~(c) During the period of suspension, no permit shall be issued for demolition or relocation, nor shall any person demolish or move the building, structure, object, or site.~~

~~(d) At the end of the suspension period, if all such programs have been unsuccessful, the Medford Building Safety Director shall issue a demolition or relocation permit as long as the application otherwise complies with all other city ordinances.~~

SECTION 116. Section 10.259 of the Medford Code is hereby repealed:

~~10.259 Historic Review, Conditions of Approval.~~

~~In approving an Historic Review application, the Landmarks and Historic Preservation Commission may impose conditions necessary to ensure compliance with the standards of this Code and the criteria in Section 10.258, and to otherwise protect the health, safety and general welfare of the surrounding area and community as a whole. These conditions may include, but are not limited to the following:~~

~~(1) Limiting the number, height, location and size of signs;~~

~~(2) Requiring the installation of appropriate public facilities and services and dedication of land to accommodate public facilities when needed;~~

~~(3) Limiting the visibility of mechanical equipment through screening or other appropriate measures;~~

~~(4) Requiring the installation or modification of irrigated landscaping, walls, fences or other methods of screening and buffering;~~

~~(5) Limiting or altering the location, height, bulk, configuration or setback of buildings, structures and improvements;~~

~~(6) Requiring the improvement of an existing, dedicated alley which will be used for ingress or egress for a development;~~

~~(7) Controlling the number and location of parking and loading facilities, points of ingress and egress and providing for the internal circulation of motorized vehicles, bicycles, public transit and pedestrians;~~

~~(8) Requiring the retention of existing natural features;~~

~~(9) Modifying architectural design elements including exterior construction materials and their colors, roofline, fenestration and restricting openings in the exterior walls of structures;~~

~~(10) Restricting the height, directional orientation and intensity of exterior lighting.~~

SECTION 117. Section 10.260 of the Medford Code is hereby repealed:

~~10.260 Historic Review, Appeal.~~
~~Final Historic Review decisions by the Landmarks and Historic Preservation Commission may be appealed to the City Council pursuant to Sections 10.051 through 10.056. Minor Historic Review decisions by the Planning Director may be appealed to the Landmarks and Historic Preservation Commission.~~

SECTION 118. Section 10.261 of the Medford Code is hereby repealed:

~~10.261 Historic Review Approval, Expiration.~~
~~A. Approval of a Historic Review application shall take effect on the date the final order for approval is signed, unless appealed, and shall expire two (2) years from the effective date. Within two (2) years following the effective date, substantial construction must have occurred or an extension of the approval shall be necessary. If a request for an extension of a Historic Review application approval is filed with the Planning Department within two (2) years from the effective date, the Landmarks and Historic Preservation Commission may grant an extension not to exceed one (1) additional year if based upon findings that the facts upon which the Historic Review application was first approved have not changed to an extent sufficient to warrant re-filing of the application.~~
~~B. When it is the developer's intent to complete an approved project in phases, the approving authority may authorize a time schedule for the issuance of building permits for a period exceeding two (2) years, but in no case shall the total time period for the issuance of building permits be greater than five (5) years without having to re-submit a new application for Historic Review. Phases developed after the passage of two (2) years from approval of the Historic Review application shall be required to modify the plans if necessary to avoid conflicts with changes in the *Comprehensive Plan* or this chapter.~~

SECTION 119. Section 10.262 of the Medford Code is hereby repealed:

~~10.262 Major Revisions or Amendments to Historic Review Approval.~~
~~Major revisions or amendments to plans approved through Historic Review shall require re-application.~~

SECTION 120. Section 10.263 of the Medford Code is hereby repealed:

~~10.263 Issuance of Building Permits, Consistent with Historic Review Approval.~~
~~A. All applications for a building permit, wherein Historic Review has been required, shall be consistent with the plans as approved and all conditions of approval imposed thereon and shall be accompanied by an accurate and correct plan.~~

~~B. Security for Completion of Public Improvements: If all required public improvements, as specified in the conditions of Historic Review approval, have not been satisfactorily completed before issuance of a building permit, the developer shall enter into a written agreement (provided by the City) to secure full and faithful performance thereof, according to Sections 10.666 and 10.667(A) respectively.~~

SECTION 121. Section 10.265 of the Medford Code is hereby repealed:

~~10.265 Application, Land Divisions.~~
~~The partitioning or subdividing of land shall be subject to the application requirements as herein set forth and shall include both the tentative and final platting requirements. The approval of a tentative plat is a procedural Class "C" quasi-judicial decision, with the Planning Commission being the approving authority. Final plat approval is a ministerial action which relies on compliance with the requirements established at the time of tentative plat approval, and on the requirements set forth in Code Sections 10.273, Final Plat Approval Required, through 10.280, Action and Decision Time: Final Plat.~~

SECTION 122. Section 10.266 of the Medford Code is hereby repealed:

~~10.266 Application for Tentative Plat.~~
~~Twenty-five (25) copies of the tentative plat for each proposed land division shall be filed with the Planning Department. Additional copies may be requested for the transmittal to the designated official of any affected local agency which has requested the same as provided in ORS 92.044.~~

SECTION 123. Section 10.267 of the Medford Code is hereby repealed:

~~10.267 Form of Tentative Plat and Accompanying Data.~~
~~All tentative plats shall be clearly and legibly drawn on tracing paper of good quality and prepared by a civil engineer or land surveyor registered in the State of Oregon. It shall have a dimension of not less than eighteen (18) inches by twenty-four (24) inches, and the scale shall be as follows: One (1) inch shall be equal to fifty (50) feet for twenty (20) acres or less, and one (1) inch shall be equal to one hundred (100) feet for all divisions of land over twenty (20) acres in area. The tentative plat shall contain the following data:~~
~~(1) Proposed land division name (if a subdivision), date, north arrow, scale, total acreage, and sufficient legal information to define the boundaries of the proposed development.~~
~~(2) A key map located in the upper right hand corner identifying the location of the development relative to section and township lines and to adjacent property and major physical features such as streets, railroads, and waterways.~~
~~(3) Names of abutting property owners on all sides, names and widths of adjoining rights-of-way, topographic features and all public improvements on adjacent property located within 200 feet of the project boundary.~~

~~(4) Name and address of the owner(s) of record, developer, and engineer or land surveyor registered in the State of Oregon who prepared the tentative plat.~~
~~(5) Locations, names, widths, approximate intersection angle, centerline radii, center line slopes, and improvement section of all streets, highways and other ways in the proposed project.~~
~~(6) Number of lots, dimensions of lots (to the nearest foot), including frontage, width, and area (to the nearest fifty [50] square feet).~~
~~(7) Location and height of all existing structures to remain on property and distance from proposed property lines.~~
~~(8) Location and character of all easements existing and proposed by the developer for drainage, sewage and public utilities.~~
~~(9) Five (5) foot topographic contours describing the area. Where the grade of any part of the proposed land division exceeds ten percent (10%), or where the development abuts existing developed lots, an overall conceptual grading plan shall be required showing features adjacent to the development within a reasonable distance therefrom which could affect said project.~~
~~Where a conceptual grading plan is required it shall show how runoff of surface water from individual lots will be achieved and the ultimate disposal of all development surface waters. All topographic information shall be based on city data.~~
~~(10) A conceptual stormwater facility plan with associated landscape plan, if applicable, pursuant to Sections 10.486(B) or 10.729(B).~~
~~(11) Location of all creeks, streams and other watercourses, showing top of existing bank and areas subject to inundation as shown on the latest Federal Flood Rate Insurance Maps.~~
~~(12) Existing wells and irrigation canals, active or abandoned, and proposed disposition.~~
~~(13) Public or common area proposed, if any.~~
~~(14) The approximate distance to, and location of, the nearest sanitary sewer main.~~
~~(15) Name of the irrigation district, if any, within which the project is located and whether it is currently being assessed.~~
~~(16) Name of the school district within which the project is located.~~

SECTION 124. Section 10.268 of the Medford Code is hereby repealed:

~~10.268 Reports.~~
~~Upon receipt of a tentative plat and necessary accompanying data, each referral agency shall make an investigation and submit a written report within ten (10) working days, and forward same to the Planning Department clearly specifying any recommended conditions for development approval.~~
~~(1) City Departments, Affected Agencies and Utility Company Reports. The Public Works Department, water commission, affected public utilities, school districts and other affected agencies having jurisdiction, shall report to the Planning Department as to any recommendations or provisions which in their determination are required for the approval of the development consistent with this code.~~
~~(2) City Engineer's Report. The City Engineer shall investigate and make a recommendation on the manner in which development is to be provided city services. The City Engineer shall appropriately~~

~~condition the development to adequately provide for the drainage of surface water from the land constituting and surrounding the intended land division.~~

~~(3) Fire Department/Water Commission. The Fire Department/Water Commission shall investigate and make a recommendation concerning the number and placement of fire hydrants and other fire protection requirements for the proposed development.~~

~~(4) Staff Report. The Planning Department shall review the design and improvement of the proposed development in relation to the Comprehensive Plan, any applicable specific plans prescribed by law which affect the proposed development, and in relation to any and all applicable criteria and standards as set forth in this chapter. The staff report shall either summarize, or incorporate by reference, all departmental, affected agency, and utility reports received as specified herein, and shall itemize such conditions as it deems appropriate to be imposed by the approving agency if approval is to be recommended.~~

SECTION 125. Section 10.269 of the Medford Code is hereby repealed:

~~10.269 Expiration of Tentative Plat approval.~~

~~(1) Approval of a tentative plat application shall take effect on the date the final order for approval is signed, unless appealed, and shall expire two (2) years from the effective date unless the final plat has been approved by the Planning Director pursuant to Sections 10.276 - 10.280. If a request for an extension of a tentative plat application approval is filed with the Planning Department within two (2) years from the date of the final order, the Planning Commission shall grant an extension not to exceed one (1) additional year. Extensions shall be based on findings that the facts upon which the tentative plat application was first approved have not changed to an extent sufficient to warrant refiling of the application. All approvals made prior to the adoption of this ordinance shall expire one (1) year from the date of adoption of this ordinance, notwithstanding permitted extensions and previous phasing authorizations.~~

~~(2) When it is the developer's intent to record and develop a tentatively platted land division in phases, the approving authority may authorize a time schedule for platting the various phases in periods exceeding one (1) year, but in no case shall the total time period for platting all phases be greater than five (5) years without having to resubmit the tentative plan. Phases platted after the passage of one (1) year from approval of the tentative plat will be required to modify the tentative plat as necessary to avoid conflicts with changes in the Comprehensive Plan or this chapter.~~

SECTION 126. Section 10.270 of the Medford Code is hereby repealed:

~~10.270 Land Division Criteria.~~

~~The approving authority (Planning Commission) shall not approve any tentative plat unless it first finds that the proposed land division, together with the provisions for its design and improvement:~~

~~(1) Is consistent with the Comprehensive Plan, any other applicable specific plans thereto, including Neighborhood Circulation Plans, and all applicable design standards set forth in Article IV and V;~~

~~(2) Will not prevent development of the remainder of the property under the same ownership, if any,~~

~~or of adjoining land or of access thereto, in accordance with this chapter;~~
~~(3) Bears a name that has been approved by the approving authority and does not use a word which is the same as, similar to, or pronounced the same as a word in the name of any other subdivision in the City of Medford; except for the words "town", "city", "place", "court", "addition", or similar words; unless the land platted is contiguous to and platted by the same applicant that platted the land division bearing that name; or unless the applicant files and records the consent of the party who platted the land division bearing that name and the block numbers continue those of the plat of the same name last filed;~~
~~(4) If it includes the creation of streets or alleys, that such streets or alleys are laid out to be consistent with existing and planned streets and alleys and with the plats of land divisions already approved for adjoining property, unless the approving authority determines it is in the public interest to modify the street pattern;~~
~~(5) If it has streets or alleys that are proposed to be held for private use, that they are distinguished from the public streets or alleys on the tentative plat, and reservations or restrictions relating to the private streets or alleys are set forth;~~
~~(6) Will not cause an unmitigated land use conflict between the land division and adjoining agricultural lands within the EFU (Exclusive Farm Use) zoning district.~~

SECTION 127. Section 10.273 of the Medford Code is hereby repealed:

~~10.273 Final Plat Approval Required. No person shall cause or permit the sale or development of any real property under his ownership or control, nor shall any development permit be issued for such development, until final approval therefor has been granted by the approving authority (Planning Director) in accord with this chapter, and an approved final plat has been recorded with the Jackson County Recorder. The requirements of this section shall not be applicable to any of the following which are exempt from such provisions:~~
~~(1) Where final plat approval for the identical lot or site has been previously obtained from the City within ten (10) years prior to the date of application for a building permit, in accord with such ordinance requiring plat approval which was in effect at that time, and such final plat is of record evidencing such plat approval;~~
~~(2) Developments made solely for the purpose of opening or widening a public street or alley, or those involving conveyance, transfer, access, sewer, water, or public utility, provided that no divisions or parcels of land are created other than those directly caused by such action.~~
~~(3) Developments made solely because of the acquisition of lands by government agencies for freeways, parks, public buildings, flood control channels, or other public purposes, or for the sale of minor remnant parcels by such agencies to adjacent property owners where such land involved in the sale is not designated in the City's Comprehensive Plan as a recreational facility. In connection with the sale of any such minor remnant parcel, the person acquiring the property shall consolidate the acquired remnant parcel with his existing contiguous ownership;~~
~~(4) Developments involving land dedicated for cemetery purposes; or~~
~~(5) Developments caused by a conveyance for the purpose of adding land to one parcel by deducting~~

~~it from another contiguous parcel, where such does not reduce the area of the parcel from which such portion is taken below the minimum area, frontage, width or depth prescribed for the zoning district in which said parcel is located, nor reduce any of the required yard spaces surrounding any structure or use on such parcel below the minimum prescribed for such zoning district.~~

SECTION 128. Section 10.276 of the Medford Code is hereby repealed:

~~10.276 Final Plats, General.~~
~~The form and content of a final plat shall be in accord with the provisions of ORS 92.050 through 92.080, and in addition shall comply with all the provisions of this code. Final plats not submitted in accord with this code shall not be considered for approval.~~

SECTION 129. Section 10.277 of the Medford Code is hereby repealed:

~~10.277 Form of Final Plat and Data to Appear Thereon.~~
~~Where identified by an "X", the final plat of subdivisions and partitions shall conform with the following provisions:~~

~~SUBD PART~~

~~X 1. Title and subtitle of plat. The title sheet shall contain the name as approved by the Planning Commission. Below the title sheet shall appear a subtitle giving a general location of the property being developed by reference to the plats which have previously been recorded. In case the property included within the subdivision lies wholly in the city of Medford, the following words shall appear below the title, "In the City of Medford".~~

~~X X 2. Distances and bearings. Sufficient data to determine readily the bearing and length of every lot line, block line, and boundary line. Dimensions of lots shall be given as total dimensions, corner to corner and shall be shown in feet and hundredths of a foot. The plat shall show the basis of bearings and lengths of straight lines and radii, and all arc lengths, central angle, or other data as necessary to define all curves within the subdivision.~~

~~X X 3. Boundary references and monuments. The plat shall show clearly what monuments (type and size) or other evidence is found on the ground to determine boundaries of the subdivision. The adjoining corners of all adjoining subdivisions shall be identified by lot and block number, and subdivision name. The plat shall show the location and description of monuments found or placed in making the survey for proper reference and data sufficient for relocation and retracing of any and all exterior boundary lines and lot and block lines. Whenever the city or county engineer has established the centerline of a street adjacent to or in the~~

~~proposed subdivision, the data shall be shown on the plat.~~

~~SUBD_PART~~

~~4. Additional information.~~

~~X Xa. The plat shall note whether the subdivision or portion thereof are subject to periodic inundation by water as determined from the Federal Flood Insurance Rate Maps.~~

~~X X b. The centerlines and sidelines of all streets, and total width thereof, and the widths of each side of the centerline and widths of any portion of a street being dedicated, the width of existing dedications, and the widths of any railway, drainage channel, or other rights-of-way shall be shown.~~

~~X Xc. The plat shall show all easements of record, or easements to be recorded, to which the lots will be subject. Such easements must be clearly labeled and identified if already of record, and record reference given. If any easement is not definitely located of record, a statement of such easement must appear on the plat. All easements other than for streets shall be denoted by fine broken lines and designated as to type. Easement widths and the lengths and bearings of the lines thereof, together with sufficient ties thereto, shall be set forth to definitely locate the easement with respect to the development.~~

~~X Xd. City boundary lines which bound, adjoin or cross the development, shall be clearly designated and referenced.~~

~~X Xe. Lot numbers shall begin with the number "1" and shall continue consecutively throughout the development with no omission or duplications, except that lot numbers in subsequent contiguous development units may expand the numbering sequence of the previous unit providing the commercial name of the development remains unchanged. Each block shall be shown on one (1) sheet when possible. Where adjoining blocks appear on separate sheets, the street adjoining both blocks shall be shown on both sheets, complete with centerline and property line data.~~
~~All letters and figures within the development shall be conspicuous and solid.~~

~~X Xf. The plat shall particularly define and designate all lots and parcels, including those reserved for private purposes, all parcels and easements offered for dedication for any purpose, with all the dimensions, boundaries, and courses clearly shown and defined in each case. Ditto (" ") marks shall not be used.~~

~~X Xg. All street names, including those designated by numbers, and including the words "Avenue", Boulevard", "Place", etc., shall be spelled out in full.~~

~~SUBD_PART~~

~~X Xh. The plat shall also show and delineate all other data that is or may be required by other provisions of this chapter or otherwise by law.~~

~~5. Certificates on final plat.~~

~~X a. Areas dedicated to public use shall be free and clear of all encumbrances, except public utility easements which the City Engineer determines will not interfere with the use contemplated by the dedication. All mortgages, trust deeds, and other liens shall be released as to public use areas.~~

~~b. Each final plat shall contain the requisite owner's certificate or dedication, release of liens, City Recorder's certificate, Surveyor's certificate, City Engineer's certificate, City Surveyor's certificate, County Recorder's certificate, and such other certificates as may hereafter be required by law. The form of each said certificate shall be prescribed by the City Attorney.~~

~~X Xc. The owner's dedication statement shall include offers of dedication of all streets and other easements shown on the final plat intended for any public use, except those parcels of land which are intended for the exclusive use of the lot owners in the development, their licensees, visitors, tenants and employees, which private streets and other private easements shall be specifically designated as such on the plat.~~

~~X Xd. The approving authority (Planning Director) certificate shall contain a statement that acknowledges compliance with all conditions of the development permit and recognition of same.~~

SECTION 130. Section 10.278 of the Medford Code is hereby repealed:

~~10.278 Filing of Final Plat with City Engineer.~~
~~Prior to filing a final plat with the Planning Department, the applicant shall:~~
~~(1) Cause the proposed land division to be accurately surveyed and a final plat to be prepared substantially in accord with the approved tentative plat;~~
~~(2) Cause a minimum of five (5) copies of the final plat, with any and all alterations and changes required thereto, to be filed with the City Engineer for his approval. At the time of filing of the final plat with the City Engineer, the developer shall also file concurrently therewith the following:~~
~~(a) A traverse sheet, giving the latitude and departures, or computer print-out, showing the mathematical closure, within allowable limits of error, of the exterior boundaries of the tract in all cases in which said boundaries are irregular or in which the tract is laid out in irregular blocks, and of the exterior boundaries of all irregular lots and blocks.~~
~~(b) Plans, profiles, details, and specifications for improvements conforming to all ordinances~~

~~of the city and to the standards of this code which must show full details of all improvements and shall be to a scale of forty (40) or fifty (50) feet to the inch horizontal and four (4) or five (5) feet to the inch vertical.~~

~~(c) A detailed estimate of quantities and costs of the proposed improvements for approval by the City Engineer.~~

~~(d) A title report or subdivision guarantee by a title company doing business in Jackson County, showing names of all persons whose consent is necessary for the preparation of said plat and for any dedication to public use, and their interest therein, certified for the benefit and protection of the City that the persons therein named are all of the persons necessary to give clear title to the streets and other easements therein to be offered for dedication. Said title report shall be dated no later than fifteen (15) days from the date of submittal.~~

~~(e) Two (2) copies of all proposed covenants, conditions, and restrictions or a statement in writing signed by the developer that no such restrictions will be established.~~

~~(f) Instruments prohibiting traffic over the side or rear lines of any street or other public way when and if the same is required by this chapter.~~

~~(g) Such streets, offers of dedication or other instruments affecting or conveying title or any interest in land as are required under the conditions of approval of the tentative plat.~~

~~(h) A statement that all applicable fees required by the city code have been paid.~~

~~(i) Two (2) copies of the city's standard (or deferred) form of improvement agreement executed by the developer, together with two (2) executed copies of each labor and material and improvement bond guaranteeing payment of the cost of setting monuments (ORS 92.065) and county certification that the requisite tax bond has been posted (ORS 92.095) and such other agreements and bonds as may from time to time be required by law.~~

~~The City Engineer shall examine the final plat and accompanying data and shall within fifteen (15) working days determine:~~

~~(1) Whether all engineering conditions of tentative plat approval have been satisfactorily completed, or if incomplete, are matters which can be included in a regular or deferred improvement agreement with the city;~~

~~(2) Whether said plat is technically correct.~~

~~Upon the City Engineer's determination that conformity with the foregoing has been made, he shall execute the City Engineer's certificate on said final plat and cause said plat to be forwarded to the Planning Department for action by the approving authority.~~

SECTION 131. Section 10.279 of the Medford Code is hereby repealed:

~~10.279 Filing of the Final Plat with Planning Department.~~

~~No final plat shall be accepted for filing by the planning department unless, in addition to the above, the following is complied with:~~

~~(1) An accepted final plat shall be considered by the approving authority (Planning Director) ten~~

~~(10) or more working days following acceptance.~~
~~(2) The final plat is accompanied by:~~
~~(a) A blue or black line print thereof;~~
~~(b) The approved improvement plans signed by the City Engineer;~~
~~(c) All documents and matters previously submitted to the City Engineer under Section 10.278, Filing of Final Plat with City Engineer.~~
~~(3) All required fees by the developer have been paid.~~
~~(4) A print of the final plat signed off by all affected referral agencies and involved agencies.~~
~~The Planning Department shall examine the final plat and accompanying data and shall within five (5) working days determine:~~
~~(a) Whether the land division is substantially the same as shown on the tentative plat with only approved alterations thereof;~~
~~(b) Whether bonds and agreements guaranteeing improvement of all conditions of tentative plat approval have been completed pursuant to Section 10.666, Improvement Agreements, and Section 10.667, Faithful Performance Bond.~~

SECTION 132. Section 10.280 of the Medford Code is hereby repealed:

~~10.280 Action and Decision Time: Final Plat.~~
~~The approving authority (Planning Director) shall within a period of not more than twenty-five (25) working days after filing with the Planning Department, approve or disapprove the final plat and acknowledge compliance with all conditions of the tentative plat. If the final plat does not conform with all local code requirements applicable at the time of approval of the tentative plat and all rulings made thereunder, the approving authority (Planning Director) may disapprove said plat, or approve it; said approval to become unconditional at such time as said plat is made to comply with the approved tentative plat and such code requirements.~~
~~Upon disapproval of any final plat, the approving authority (Planning Director) shall return said plat to the applicant together with a written statement setting forth the reasons for such disapproval.~~
~~Upon approval by the approving authority (Planning Director) becoming unconditional, the Planning Director shall sign and have affixed the city seal to the approving authority certificate attached to said plat. No land division will be recognized as complete until final plat is unconditionally approved by the approving authority (Planning Director) and no title to or interest in any property described in any offer of dedication on the final plat which is accepted by the approving authority (Planning Director) shall pass until recordation of said plat.~~
~~Within ten (10) days after recordation of the final plat, the applicant at his own expense shall furnish to the Planning Department one (1) mylar transparency and one (1) blue line print.~~

SECTION 133. Section 10.285 of the Medford Code is hereby repealed:

~~10.285 Application, Site Plan and Architectural Review.~~
~~A. Purpose. The Site Plan and Architectural Review process is established in order to provide for~~

~~review of the functional and aesthetic adequacy of development and to assure compliance with the standards and criteria set forth in this chapter for the development of property as applied to the improvement of individual lots or parcels of land as required by this code. Site Plan and Architectural Review considers consistency in the aesthetic design, site planning and general placement of related facilities such as street improvements, off-street parking, loading and unloading areas, points of ingress and egress as related to bordering traffic flow patterns, the design, placement and arrangement of buildings as well as any other subjects included in the code which are essential to the best utilization of land in order to preserve the public safety and general welfare, and which will encourage development and use of lands in harmony with the character of the neighborhood within which the development is proposed.~~

~~B. Site Plan and Architectural Review is required for:~~

~~Projects which are not exempt from a Development Permit pursuant to Section 10.031, except that exterior alterations to a building or site and new construction in a Historic Overlay shall require Historic Review pursuant to Section 10.256, but shall not require Site Plan and Architectural Review.~~

~~C. Site Plan and Architectural Review applications shall be submitted to the Planning Department prior to the application for a building permit.~~

SECTION 134. Section 10.287 of the Medford Code is hereby repealed:

~~10.287 Site Plan and Architectural Review Application Form.~~

~~The application for Site Plan and Architectural Review (SPAR) shall contain the following plans, submitted in the quantity and sizes specified on the Site Plan and Architectural Review application form, including legible reduced copies of all plan documents.~~

~~A. Landscape Plan meeting the specifications and requirements in Section 10.780.~~

~~B. Building Construction Plans: A site plan and architectural plan which are clearly and legibly drawn to scale shall be provided. Building construction plans shall include north arrow, orientation of building elevations indicating full dimensions and providing the following information:~~

~~(1) Site Plan:~~

~~(a) Lot dimensions.~~

~~(b) All proposed and existing buildings and structures: location, size, height, proposed use.~~

~~(c) Public and private yards and open space between buildings.~~

~~(d) Walls and fences: location, height and material.~~

~~(e) Existing and proposed off-street parking: location, number, type and dimensions of spaces, parking area, internal circulation pattern.~~

~~(f) Access: pedestrian, vehicular, service, points of ingress and egress.~~

~~(g) Loading: location, dimension, number of spaces, type of space (A or B), internal circulation.~~

~~(h) Lighting: location and general nature, hooding devices.~~

~~(i) Street dedication and improvements.~~

~~(j) Drainage plan.~~

~~(k) Location of existing public improvements including streets, curbs, sidewalks, street trees, utility poles, light fixtures, traffic signs and signals, and such other data as may be required to permit the Site Plan and Architectural Commission to make the required findings.~~

~~(l) Location and screening of mechanical equipment.~~

~~(m) Location and screening of outdoor trash bins.~~

~~(2) Architectural Plans:~~

~~(a) Roof plan.~~

~~(b) Floor plan.~~

~~(c) Architectural elevations.~~

~~(d) Materials and Colors.~~

~~(3) A conceptual stormwater facility plan with associated landscape plan, if applicable, pursuant to Sections 10.486(B) or 10.729(B).~~

SECTION 135. Section 10.290 of the Medford Code is hereby repealed:

~~10.290 Site Plan and Architectural Review Criteria.~~

~~The Site Plan and Architectural Commission shall approve a site plan and architectural review application if it can find that the proposed development conforms, or can be made to conform through the imposition of conditions, with the following criteria:~~

~~(1) The proposed development is compatible with uses and development that exist on adjacent land, and~~

~~(2) The proposed development complies with the applicable provisions of all city ordinances or the Site Plan and Architectural Commission has approved (an) exception(s) as provided in MLDC Section 10.253.~~

SECTION 136. Section 10.291 of the Medford Code is hereby repealed:

~~10.291 Conditions of Approval.~~

~~In approving a site plan and architectural review application, the Site Plan and Architectural Commission may impose, in addition to those standards expressly specified in this code, conditions determined to be reasonably necessary to ensure compliance with the standards of the code and the criteria in Section 10.290, and to otherwise protect the health, safety and general welfare of the surrounding area and community as a whole. These conditions may include, but are not limited to the following:~~

~~(1) Limiting the number, height, location and size of signs;~~

~~(2) Requiring the installation of appropriate public facilities and services and dedication of land to accommodate public facilities when needed;~~

~~(3) Limiting the visibility of mechanical equipment through screening or other appropriate measures;~~

~~(4) Requiring the installation or modification of irrigated landscaping, walls, fences or other methods of screening and buffering;~~
~~(5) Limiting or altering the location, height, bulk, configuration or setback of buildings, structures and improvements.~~
~~(6) Requiring the improvement of an existing, dedicated alley which will be used for ingress or egress for a development;~~
~~(7) Controlling the number and location of parking and loading facilities, points of ingress and egress and providing for the internal circulation of motorized vehicles, bicycles, public transit and pedestrians;~~
~~(8) Requiring the retention of existing natural features;~~
~~(9) Modifying architectural design elements including exterior construction materials and their colors, roofline, fenestration and restricting openings in the exterior walls of structures;~~
~~(10) Restricting the height, directional orientation and intensity of exterior lighting.~~

SECTION 137. Section 10.292 of the Medford Code is hereby repealed:

~~10.292 Expiration of a Site Plan and Architectural Commission approval.~~
~~(1) Approval of a Site Plan and Architectural Commission application shall take effect on the date the final order for approval is signed, unless appealed and shall expire two (2) years from the effective date. Within two (2) years following the effective date, substantial construction must have occurred or an extension of the approval will be necessary. If a request for an extension of a Site Plan and Architectural Commission application approval is filed with the Planning Department within two (2) years from approval of the final order, the Site Plan and Architectural Commission shall grant an extension not to exceed one (1) additional year. Extensions shall be based on findings that the facts upon which the Site Plan and Architectural Commission application was first approved have not changed to an extent sufficient to warrant refiling of the application. All approvals made prior to the adoption of this ordinance shall expire one (1) year from the date of adoption of this ordinance, notwithstanding permitted extensions and previous phasing authorizations.~~
~~(2) When it is the developer's intent to complete an approved project in phases, the approving authority may authorize a time schedule for the issuance of building permits for a period exceeding one (1) year, but in no case shall the total time period for the issuance of building permits be greater than five (5) years without having to resubmit a new application for Site Plan and Architectural Commission review. Phases developed after the passage of one (1) year from approval of the Site Plan and Architectural Commission application will be required to modify the plans as necessary to avoid conflicts with changes in the *Comprehensive Plan* or this chapter.~~

SECTION 138. Section 10.294 of the Medford Code is hereby repealed:

~~10.294 Modification of a Site Plan and Architectural Review.~~
~~A. Major Modification.~~
~~Any modification that is not a minor modification is a major modification. When~~

~~modification to an approved plan is determined to be a Major Modification, the plan shall be processed in the same manner as a request for a site plan and architectural review in 10.285. The Planning Director may waive submittal requirements deemed unnecessary or inapplicable to the proposal.~~

~~B. Minor Modification.~~

~~A minor modification to an approved plan may be made by the Planning Director provided the Planning Director determines that the modification does not constitute a major modification. A minor modification shall meet all of the following standards:~~

~~(1) Meets the exemption standards of 10.031.~~

~~(2) No increase in the number of dwelling units.~~

~~(3) The amount of open space or landscaping is decreased by no more than 10% of the previously approved area, provided the resulting area does not drop below the minimum standards as required by the code.~~

~~(4) No relocation of vehicle access points and parking areas where the change will generate an impact that would adversely affect off-site or on-site traffic circulation.~~

~~(5) No reduction or elimination of any project amenities such as recreational facilities, significant natural resources (streams, creeks, landform), fencing and other screening material.~~

~~(6) Modifications to facilities and utilities conform to the adopted facility plans.~~

~~(7) Modifications to any other components of the plan conform to standards of the Land Development Code.~~

~~(8) No modification to any condition of approval.~~

SECTION 139. Section 10.296 of the Medford Code is hereby repealed:

~~10.296 Issuance of Building Permits, Consistent with Site Plan and Architectural Review Approval. All applications for a building permit, wherein site plan and architectural review has been required, shall be consistent with the site and architectural plans as approved and all conditions of approval imposed thereon and shall be accompanied by an accurate and correct site plan.~~

~~A. Security for Completion of Public Improvements: If all required public improvements, as specified in the conditions of site plan and architectural review approval, have not been satisfactorily completed before issuance of a building permit, the developer shall enter into a written agreement (provided by the City) to secure full and faithful performance thereof, according to Sections 10.666 and 10.667(A) respectively.~~

~~B. Agreement for Completion of Private Improvements: (for projects with signed agreements prior to January 1, 2015): The following regulations shall apply to all Building Site Improvement Agreements (BSIA) signed prior to January 1, 2015. After said date, the provisions of Building Site Improvement Agreements (BSIA) shall no longer be used as a means to ensure the completion of private improvements. If all required private improvements, as specified in the conditions of site plan and architectural review approval, have not been satisfactorily completed before issuance of a~~

~~building permit, the permit shall not be issued unless the owner and all other parties having an interest in the property enter into a written and recorded agreement, called a Building Site Improvement Agreement (BSIA), (provided by the City) with the City. The agreement shall be in a form acceptable to the City Attorney and shall specify that, within six (6) months after signing the agreement or such longer time period as specified by the Site Plan and Architectural Commission, all improvement work shall be completed according to the approved plans. The Planning Director or other person designated by the City Manager shall sign the agreement on behalf of the City. If a request for an extension of a Building Site Improvement Agreement is filed with the Planning Department within six (6) months after signing the agreement, the Planning Director may grant an extension not to exceed six (6) additional months. Extensions shall be based on findings that the extension is necessary for good cause, such as: circumstances beyond the developer's control that are causing delay in completing private improvements (i.e., ODOT work, weather related delays, building permit delays), so long as no applicable development standards have changed.~~

~~The agreement shall be recorded in the Official Records of Jackson County, and once recorded, the burdens of the agreement shall run with the title of the affected property. The property affected by the agreement shall be the property depicted on the approved site plan. The agreement shall provide that, if the work is not completed in accordance with its terms within the allotted time, the property may not thereafter be occupied or used until all deficiencies are corrected. The agreement shall provide for enforcement by the City through a civil suit for injunction and provide that the prevailing party shall be awarded costs and reasonable attorney's fees. When made in substantial compliance with this section, such an agreement shall be enforceable according to its terms, regardless of whether it would be enforceable as a covenant at common law.~~

~~Once improvements have been satisfactorily completed according to the approved plans, a Satisfaction of Building Site Improvement Agreement shall be signed by the Planning Director or other person designated by the City Manager. The agreement shall be recorded in the Official Records of Jackson County.~~

SECTION 140. Section 10.297 of the Medford Code is hereby repealed:

~~10.297 Property Line Adjustments.~~

~~A. Property Line Adjustment Purpose.~~

~~The purpose of property line adjustments is to relocate or eliminate a common property line between abutting properties.~~

~~B. Property Line Adjustment Approval Criteria.~~

~~A property line adjustment shall be approved if it complies with the following:~~

~~(1) All properties were lawfully created;~~

~~(2) No new lots or parcels of land will result from the adjustment;~~

~~(3) The adjustment will not result in a unit of land that overlaps the city limit line, urban growth boundary, or zoning districts;~~

~~(4) The adjusted property configurations shall not create a substandard condition relative to the applicable standards of the Code. When one or more properties are less than~~

~~the minimum required area or width, none of the resulting units of land shall be made smaller in area or narrower in width than the original smallest existing unit of land.~~

~~C. Property Line Adjustment Application Form.~~

~~Property line adjustments shall be submitted to the Planning Department on application forms supplied by the Planning Department. The Planning Director may waive the submittal of any of the materials or information that is deemed to be excessive, repetitive, or unnecessary. The application for property line adjustment shall require the following information:~~

~~(1) A site plan drawn to scale by a land surveyor registered in the State of Oregon showing the following:~~

~~(a) Existing and proposed property lines, including dimensions and square footage, for all properties involved;~~

~~(b) Assessor's map and tax lot identification for subject properties;~~

~~(c) Location of existing wells, septic systems, sanitary sewer, storm drain laterals, and water service;~~

~~(d) Location, name, and purpose of all existing and proposed easements; If the property line adjustment will result in any portion of a utility service, lateral, driveway, or water service being located on a different parcel than the structure served by them, an easement granting continued use of the improvement will be required;~~

~~(e) The name of public and private streets that abut or lie within the subject area;~~

~~(f) Accurate location, height, ground floor area, and use of all structures on the subject properties including the distance from all proposed property lines. If the units of land are vacant, a written statement certifying the same shall be provided;~~

~~(g) Names of subject property owners as shown on the accompanying deeds;~~

~~(h) Signature of person preparing the map, attesting to the accuracy of information contained thereon;~~

~~(i) If items above are not shown on site plan, a statement is required stating the specific items do not exist on the property;~~

~~(2) A report from a title company prepared within thirty (30) days listing the vested owners, easements, encumbrances, and other matters of record for each property;~~

~~(3) The owners of all properties that will be modified by the property line adjustment must sign the application form or a letter of authorization.~~

~~D. Property Line Adjustment Procedure.~~

~~(1) Preliminary Review. Once the application has been submitted, the Planning Department shall send a copy to affected agencies and City departments for review. Within twenty-five (25) working days after the application has been submitted, the Planning Department shall send a written notification to the applicant indicating:~~

~~(a) The application is missing information required in Section 10.297. Once all of the missing information is submitted, the City will have twenty-five (25) working days to complete the review; or~~

~~(b) The application has been preliminarily approved consistent with Section 10.297; or~~

~~(c) The application has been disapproved as it is not consistent with Section 10.297.~~

~~(2) Final Review.~~

~~(a) Within one year of the preliminary approval date, the applicant shall submit to the Planning Department all of the following:~~

~~(i) Map of survey showing the adjusted property lines prepared by an Oregon licensed surveyor in accordance with the procedures of ORS 92.060(7) and 209.250. This requirement applies to all properties regardless of size.~~

~~(ii) A report from a title company prepared within fifteen (15) days listing the current vested owners, easements of record, encumbrances, and other matters of record;~~

~~(iii) A copy of proposed easements to be recorded. Proposed easements may be included as a reservation on the property line adjustment deeds;~~

~~(iv) Deeds which include a statement that identifies the associated conveyance of property as a property line adjustment and labeled as a Property Line Adjustment. If a property line is being eliminated, the deeds shall be labeled Property Line Adjustment - Lot Consolidation.~~

~~(v) Property descriptions attached to the deeds shall either describe the resultant properties or otherwise specify that the conveyed land shall be consolidated with the property of the grantee. A property line adjustment deed shall contain the names of the parties, the description of the adjusted line, references to original recorded documents, and signatures of all parties with proper acknowledgment.~~

~~(b) Within twenty-five (25) days of submittal, the City will conduct the final review for consistency with the preliminary approval and the approval criteria. Upon approval, the survey will be signed by the City Surveyor and the Planning Director.~~

~~E. Property Line Adjustment Recordation and Expiration.~~

~~Within one year of the final decision date, the property line adjustment deeds must be filed with the Jackson County Recorder's Office. If the deeds are not filed within the one year, the application approval will expire.~~

SECTION 141. Section 10.305 of the Medford Code is amended to read as follows:

10.305 Purpose of Zoning Districts.

Each zoning district represents a land use category which has common location, development, and use characteristics. Minor (~~Class 'C'~~**Type III**) zone changes shall be based upon the criteria in

Section 10.~~227~~**204**. Major (~~Class 'A'~~**Type IV**) zone changes shall be based on the criteria in Section 10.~~184~~**220**. The following sections specify the purpose of each zoning district, and the use and intensity standards applicable to land within each district.

SECTION 142. Section 10.306 of the Medford Code is amended to read as follows:

10.306 Residential Land Use Classification.

***

The maximum number of dwelling units (DU) per acre (the density factor or "gross density" as defined herein) can be increased in a Planned Unit Development per Section 10.~~230(I)~~**192(G)**. Examples of minimum and maximum residential density calculations are provided in Article 5, Section 10.708. The residential land use classification is comprised of eight (8) zoning districts as specified in the following sections of this Article.

SECTION 143. Section 10.314 of the Medford Code is amended to read as follows:

10.314 Permitted Uses in Residential Land Use Classification.

The following table sets forth the uses allowed within the residential land use classification by zoning district. Uses not identified herein are not allowed. (See Article I, Section 10.012, for the definition of each listed use.)

These symbols indicate the status of each listed use:

"P" = Permitted Use.

"C" = Conditional Use; permitted subject to approval of a Conditional Use Permit. (See Article II, Sections ~~10.246 – 10.250~~**10.184**.)

"X" = Prohibited Use .

"s" = Special Use (See Article V, Sections 10.811- 10.900, Special Use Regulations)

"EA" = Permitted only when within an EA (Exclusive Agriculture) overlay district.

"PD" = Permitted Use if in a PD (Planned Unit Development).

PERMITTED USES IN RESIDENTIAL ZONING DISTRICTS	SFR 00	SFR 2	SFR 4	SFR 6	SFR 10	MFR 15	MFR 20	MFR 30	Special Use or Other Code Section(s)
***									
3. SPECIAL RESIDENTIAL DEVELOPMENTS									
(a) Planned Unit Development	X	PD	PD	PD	PD	PD	PD	PD	10.~~230-245~~ **190-198** & 10.412

(b) Mobile Home Park	X	X	X	Cs	Cs	Cs	X	X	10.860-896

***

SECTION 144. Section 10.345 of the Medford Code is amended to read as follows:

10.345 Purpose of Overlay Districts.

***

Overlay districts address issues not addressed by the underlying zoning district. The boundaries of each overlay district are shown on the official zoning map of the City of Medford. See Section 10.~~251~~**186** regarding Exceptions to the site development standards contained in the overlay districts.

SECTION 145. Section 10.348 of the Medford Code is amended to read as follows:

10.348 Limited Industrial, I-00.

***

C. Application:

(1) Upon annexation of a parcel(s) having County industrial zoning if transportation facility adequacy has not been proven; or

(2) To approve an industrial zone if transportation facilities have been shown to be inadequate per Section 10.~~227(2)(c)~~**204(B)(3)** or facility adequacy has not been proven.

D. Removal: The Limited Industrial Overlay may be removed per zone change procedures outlined in Sections~~ 10.225 through 10.227~~**10.204 and** when transportation facilities have been shown to be adequate or have been made adequate to support the types of uses permitted by the underlying City industrial zone.

***

SECTION 146. Section 10.358 of the Medford Code is amended to read as follows:

10.358 Central Business, C-B.

***

(2) Residential Development Standards. All residential development standards contained in Article III, Zoning Districts, and Article V, Site Development Standards, shall be waived in lieu of the following:

***

(c) Residential development which results from conversion or remodel of existing structures, or new residential construction which exceeds the residential density standard of the MFR-30 zone. Such residential development shall be subject only to the off-street parking and loading requirements as provided in (a) above and shall be allowed only as a conditional use pursuant to Article II, Section **10.184** ~~10.246, Conditional Use Permit, through 10.250, Expiration of a Conditional Use~~.

(3) Streetscape Standards. All new or reconstructed streets and streetscapes within the C-B District shall be developed according to the following standards and as identified in the Street Materials

Standards List.
***

SECTION 147. Section 10.360 of the Medford Code is amended to read as follows:

10.360 Exclusive Agricultural, E-A.
***

C. Criterion for Removal of E-A. The E-A overlay may be removed utilizing ~~Class C~~ **Type III** zone change procedures. For removal of the E-A overlay, the property owner must certify that all agriculture and agriculture-related uses not otherwise permitted by the underlying zoning district have been terminated by the date of application for removal of the E-A overlay, and shall not be considered legal nonconformities.

SECTION 148. Section 10.371 of the Medford Code is amended to read as follows:

10.371 Scope and Applicability of Southeast (S-E) Overlay District Regulations.
***

B. Adjustments: The boundaries of the S-E Overlay District may be adjusted by the City Council in conjunction with amendments of the Southeast Plan Map according to Comprehensive Plan amendment procedures found in Sections~~ 10.180 – 10.~~184 **10.214-10.228**.

SECTION 149. Section 10.374 of the Medford Code is amended to read as follows:

10.374 Planned Unit Development and Master Plan Requirements, S-E.
A. Planned Unit Development.
1. Requirements.
All new developments consisting of one or more acres shall require approval of a Planned Unit Development pursuant to Sections 10.~~230~~**190** through 10.~~245~~**198** and all applicable provisions of the S-E Overlay District. Regardless of the size of the property or number of dwellings, all zone change applications for projects in the Commercial Center (Area 7B) shall be accompanied by a Preliminary PUD Plan application.
***

3. Approvals.
In approving PUD applications for projects within the S-E Overlay District, the Planning Commission shall find that the application conforms to the S-E Overlay District standards. The Planning Commission may grant modifications of City standards, including provisions of the S-E Overlay District, under Section 10.~~230(D)~~**192(B)**, except for height standards in Section 10.375(3) and the prohibited uses in Section 10.378(4).
***

SECTION 150. Section 10.384 of the Medford Code is amended to read as follows:

10.384 Greenways - Special Design and Development Standards, S-E.
***
3. Maintenance of Greenway Improvements.
Greenway improvements dedicated to the City for any purpose, whether in fee-simple or as easements, shall be maintained by the City. However, the City may relinquish the maintenance of any Greenway improvements to an association of owners established pursuant to Section 10.~~230(E)~~**192(C)**.
***

SECTION 151. Section 10.403 of the Medford Code is amended to read as follows:

10.403 Historic Preservation Overlay, Designation.
***
(4) The extent of the Historic Preservation Overlay may be changed pursuant to the review process for ~~Class 'C'~~ **Type III** Historic Review applications, to include or exclude any area, parcel, or portion thereof that was not included pursuant to paragraphs (1), (2), or (3). Decisions to change the extent of the Historic Preservation Overlay shall adhere to the criteria set forth in Section 10.~~258(1).~~**188(C)(1).**

SECTION 152. Section 10.406 of the Medford Code is amended to read as follows:

10.406 Historic Preservation Overlay, Exterior Alteration or New Construction.
No person may alter any building, structure, object, or site in an Historic Preservation Overlay in such a manner as to affect its exterior appearance, nor may any new structure be constructed, unless said exterior alteration or new construction has been approved through the process for ~~Class 'C'~~ **Type III** Historic Review applications or Minor Historic Review.
***

SECTION 153. Section 10.407 of the Medford Code is amended to read as follows:

10.407 Historic Preservation Overlay, Demolition or Relocation.
No person may demolish or relocate all or part of any building, structure, object, or site in an Historic Preservation Overlay unless said demolition or relocation has been reviewed through the process for ~~Class 'C'~~ **Type III** Historic Review applications; except in the following instances:
***

SECTION 154. Section 10.411 of the Medford Code is amended to read as follows:

10.411 Limited Service.

***

C. Inclusion or Removal: Inclusion in or removal of the Limited Service area on the Medford General Land Use Plan (GLUP) Map is according to Comprehensive Plan Amendment procedures outlined in Sections 10.~~184~~**214-10.228**.

SECTION 155. Section 10.412 of the Medford Code is amended to read as follows:

10.412 Planned Unit Development Administrative Mapping Category, P-D.
A. Purpose: For tracking and mapping of parcels that have received Preliminary Planned Unit Development (PUD) Plan approval as set forth in Section 10.~~230~~**192**.
B. Removal: Upon expiration of a Preliminary PUD Plan or if a PUD is terminated according to procedures outlined in Section 10.~~245(B)~~**198(B)**.

SECTION 156. Section 10.413 of the Medford Code is amended to read as follows:

10.413 Restricted Zoning Administrative Mapping Category, R-Z.
A. Purpose: For tracking and mapping of parcels that have received a zone change with conditions of approval or stipulations as set forth in Section 10.~~227(2)(c)~~**204(B)(3)(C)** or a General Land Use Plan (GLUP) Map amendment with conditions of approval or stipulations. The applicable conditions or stipulations are recorded by deed restriction or covenant, and may also be viewed at the Medford Planning Department.
B. Removal: Upon satisfaction of the conditions of approval or stipulations per Section 10.~~228~~**204(C)**.

SECTION 157. Section 10.414 of the Medford Code is amended to read as follows:

10.414 Airport Fence Line.
A. Purpose: For mapping of airport property that is not intended for public use.
B. Applicability: Airport accessory structures to be located within the secured fence area shall be exempt from development permit per Section 10.~~031(C)(11)~~**200(C)(2)(g)**.

SECTION 158. Section 10.431 of the Medford Code is amended to read as follows:

10.431 Street Improvement.
All new street improvements required as a condition of development shall be improved to the standards set forth in this chapter unless otherwise specified herein or excepted as per Section 10.~~251~~**186**~~, Application for Exception~~. For purposes of this section, the term new street shall be defined as an unimproved street or existing street which does not have curb and gutter.

SECTION 159. Section 10.458 of the Medford Code is amended to read as follows:

10.458 Street Renaming, Public and Private.
***
A. Procedures, Street Renaming, Public and Private.
(1) Public Streets. A public street renaming application shall be processed using ~~Class B~~ **Type IV** procedures with the City Council being the approving authority. The decision of the City Council is final. A certified copy of the approving ordinance and exhibits shall be filed with the County Recorder, Assessor, and Surveyor for the name change to become effective.
(2) Private Streets or Driveways. A private street or driveway renaming application shall be processed **according to Type II land use review procedures a Type II,** ~~as a procedural Class D decision,~~ with the Planning Director being the approving authority. The decision of the Planning Director may be appealed to the ~~City Council~~ **Planning Commission** per Section 10.~~051~~**140**.
~~(a) After an application for private street renaming has been received by the Medford Planning Department, the Planning Department shall send copies to affected agencies and City departments for review.~~
~~(b) Within 25 working days after the application is received, the Medford Planning Department shall send written notification to the applicant indicating:~~
~~(i) The application is missing information required in Section 10.458C.~~
~~(Note: Once the missing information has been received, the City will have 25 working days to complete the review); or,~~
~~(ii) The application has been approved consistent with Section 10.458; or,~~
~~(iii) The application has been disapproved because it is not consistent with Section 10.458.~~
***

SECTION 160. Section 10.463 of the Medford Code is amended to read as follows:

10.463 Traffic Control Devices and Traffic Signal Spacing.
(2) The minimum center–of–intersection to center–of–intersection spacing for new traffic signals shall be 1,320 feet for arterial streets, and 1,000 feet for collector streets.
When part of a ~~Class C Plan Authorization~~ **Type III land use review**, the Public Works Director or designee shall forward a recommendation on minimum traffic signal spacing standards to the approving authority. The recommendation shall be based on the progression analysis described below.
When not part of a ~~Class C Plan Authorization~~ **Type III land use review**, the Director of Public Works or designee may approve a variance from this minimum spacing requirement.
***

SECTION 161. Section 10.550 of the Medford Code is amended to read as follows:

10.550 Access Standards.

***

c. Alternative Access Spacing and Location

The standards set forth in Sections 10.550 (3) (a) and (b) above are the City's basic access standards. The City also recognizes that unique situations and/or complex projects may warrant alternative driveway spacing and locations.

(1) Approval of Alternative Access Locations: When part of a ~~Class C Plan Authorization~~ **Type III land use review**, the Public Works Director or designee shall forward a recommendation on alternative access spacing and locations to the approving authority. When not part of a ~~Class C Plan Authorization~~ **Type III land use review**, the Public Works Director or designee may authorize an administrative adjustment to the access spacing and locational standards in 10.550 (3.) (a) and/or (b) above under one or both of the following circumstances:

***

(2) Redevelopment: Redevelopment as used in this section means that a parcel(s) has existing legal access and physical improvements and the property owner is seeking ~~procedural Class C plan authorizations~~ **Type III use review** for new development permits. In the case of redevelopment, the approving authority may require the provision of cross-access easements and geometric/physical improvements to any and all accesses in accordance with current standards. Redevelopment applications shall propose changes to the number and/or centerline location(s) of existing driveway(s), and shall demonstrate that the proposed changes will bring the parcel into, or at a minimum, closer to compliance with existing standards.

***

(4) New Development: At an applicant's request, the approving authority will evaluate alternative access spacing and location on a project basis in conjunction with ~~procedural Class C plan authorizations~~ **Type III land use review**. Evaluation of alternative access location and spacing for projects shall be based upon a Transportation Impact Analysis (TIA) prepared by a professional engineer licensed in the State of Oregon with expertise in transportation. The Public Works Director (or designee) will provide a scope of work for the TIA and will issue a report to the approving authority stating his/her professional opinion as to the technical adequacy of the TIA and whether it demonstrates compliance with the criteria for access spacing and location for the project. The TIA will consider motorists, cyclists and pedestrians. The approving authority will evaluate the project's access spacing and location, in one of the following ways:

***

SECTION 162. Section 10.666 of the Medford Code is amended to read as follows:

10.666 Improvement Agreements.

If all of the required public improvements, as specified in the conditions of a ~~plan authorization~~ **land use approval**, have not been satisfactorily completed before the application is filed for Final Plat, or building permit, the developer may enter into a written agreement (provided by the City) with the City in a form acceptable to the City Attorney specifying that within one (1) year (or such other period of time as agreed upon by the parties) all public improvement work shall be completed in

accord with this code and the applicable approved improvement plans and specifications and that said developer shall warrant the materials and workmanship of said improvements in good condition and repair for an additional period of one (1) year from date of satisfactory completion and notification of same by the City.
***

SECTION 163. Section 10.743 of the Medford Code is amended to read as follows:

10.743 Off-Street Parking Standards.
(3) Exceptions to Required Off-Street Parking for Non-Residential Uses. The approving authority may allow exceptions to the number of parking spaces in Table 10.743-1 for specific uses without complying with Section 10.~~251~~**186** if they find that the applicant's detailed description of the proposed use demonstrates that the number of needed parking spaces is less than the minimum required or more than the maximum allowable based upon one or both of the following:

SECTION 164. Section 10.813 of the Medford Code is amended to read as follows:

10.813 Agricultural Services and Animal Services.
***
(2) A kennel or canine daycare may petition to reduce the setback requirement via the conditional use permit process in Section~~s 10.246–10.250~~**10.184**, but, in no case, shall the setback be reduced to less than fifty (50) feet. Among the conditions allowed under Section 10.~~248(2)~~**184(C)(1)(b)**, the approving authority should particularly consider the manner and hours of operation, mitigation of noise and odor, and fencing.
***

SECTION 165. Section 10.824 of the Medford Code is amended to read as follows:

10.824 Wireless Communication Facilities.
***
C. Conditional Use.
Approval of a Conditional Use Permit is required for new Wireless Communication Support Structures, subject to the Conditional Use Permit procedural requirements of Section~~s 10.246–10.250~~**10.184**.
(1) Submittals - Applications for conditional use permit approval of Wireless Communication Facility Support Structures shall include any materials necessary to demonstrate compliance with the design standards contained in Section 10.824(D), any submittals required in ~~Section 10.247~~ **the Conditional Use Permit application**, and the following:
***
D. Design Standards.
***

(2) General Requirements:
***
(h) Any proposal that has elements that deviate from the standards of (f) and/or (g) above may be approved by the Site Plan and Architectural Commission or Landmarks and Historic Preservation Commission through a ~~Class "C" plan authorization~~ **Type III land use review**, based upon evidence showing that the standards cannot otherwise be met and that the degree of relief approved by said Commission is the minimum necessary to allow for facility operation. ~~(Effective Dec. 1, 2013.)~~
(i) Each addition of a Wireless Communication Systems Antenna to an existing support structure must be in conformance with any approved Conditional Use Permit, with the exception of buildings, only requires administrative approval of a building permit, unless the additional Wireless Communication Systems Antenna increases the height of the support structure more than ten feet, in which case it must be approved by the Planning Commission as a Conditional Use Permit in accordance with Sections 10.~~248 — 10.250~~**184**.
***

SECTION 166. Section 10.827 of the Medford Code is amended to read as follows:

10.827 Mines, Quarries, Gravel Pits.
Extractions from deposits of rock, stone, gravel, sand, earth, minerals, or building or construction materials shall not be construed to be a permitted use in any district established by this code unless a conditional use permit shall first have been obtained as provided in Article II Section 10.~~246~~**184**, ~~Conditional Use Permit,~~ except for on-site improvement project. The Planning Commission shall have power to grant conditional use permits which are valid for a specified period of time, or are revocable, to permit extractions from deposits of rock, stone, gravel, sand, earth, minerals, or building or construction materials. It shall be clearly demonstrated by the applicant that odor, dust, noise, or drainage will not adversely impact adjacent properties.

SECTION 167. Section 10.840 of the Medford Code is amended to read as follows:

10.840 Temporary Uses and Structures.
***
(6) Portable Storage Containers.
(a) Applicability.
1. A temporary Portable Storage Container permit is a ~~Class D plan authorization (10.102 et seq.)~~ **Type II land use action (Section 10.168(B))** and is required for placement of any portable storage container, except for the following:
***
(d) Permit Process.
***
2. Permit applications are subject to the routing and notification procedures for ~~Class D plan authorizations~~**Type II land use review**. The approving authority shall base its decision on the

application's compliance with the standards under (6)(b) and (6)(c), above, which constitute the criteria for decision making.
3. In the event of a denial, the applicant may resubmit one time without having to pay another application fee. However, the decision time prescribed in ~~10.167~~ **10.168)(B)** will reset to the starting point.
***

SECTION 168. Section 10.873 of the Medford Code is amended to read as follows:

10.873 Application; New Parks or Extensions.
Application for a new park or modification of an existing park shall be filed with the Planning Department on forms provided by the City and accompanied by the documents required ~~by Section 10.246, Conditional Use Permits.~~ **in the Conditional Use Permit application.** No development permit shall be approved for a park unless the area for which the park is proposed is zoned to permit the same and the conditional use permit required by this chapter has been granted.

SECTION 169. Section 10.878 of the Medford Code is amended to read as follows:

10.878 Delegation of Authority, Mobile Home and Manufactured Dwelling Parks.
The Planning Commission may review and approve landscape plans and recreational area details as part of the conditional use permit review, or delegate the review of these features to the Site Plan and Architectural Commission or Landmarks and Historic Preservation Commission as applicable. Approval of any delegated review to one of these Commissions shall be subject to a ~~Class "C" procedure~~ **Type III procedures** as set forth in Article II.

SECTION 170. Section 10.897 of the Medford Code is amended to read as follows:

10.897 Conditions of Approval, Mobile Home and Manufactured Dwelling Parks.
The Planning Commission may include conditions of approval as listed for conditional use permits in Section 10.~~248~~**184**, or for Site Plan and Architectural Commission approval as listed in Section 10.~~291~~**200(F)**, or for Historic Review pursuant to Section 10.~~259~~**188**. The Commission may also require more than a single access point onto public streets. The Commission can also require a warning statement, to be a part of the lease or rental agreement, notifying prospective tenants of adjacent agricultural uses pursuant to Section 10.801 Agricultural Buffering, or other land uses that may have an impact on residential development.

SECTION 171. Section 10.922 of the Medford Code is amended to read as follows:

10.922 Riparian Corridors, Applicability.
***

(2) The provisions shall apply regardless of whether or not a building permit, development permit, or ~~plan authorization~~ **land use approval** is required, and do not provide any exemption from state or federal regulations.

***

B. Applications for ~~plan authorizations~~ **land use review** (except Annexations), development permits, or building permits, and plans for proposed public facilities on parcels containing a riparian corridor, or a portion thereof, shall contain a to-scale drawing that clearly delineates the top-of-bank and riparian corridor boundary on the entire parcel or parcels.

C. When reviewing ~~plan authorization~~ **land use applications** or development permit applications for properties containing a riparian corridor, or portion thereof, the approving authority should consider the purpose statements in section 10.920, "Riparian Corridors, Purposes" in determining the extent of the impact on the riparian corridor.

D. The Planning Commission shall be the approving authority for applications for exceptions to the provisions herein pertaining to Riparian Corridors. In addition to the provisions of Sections~~ 10.251 through 10.254 "Exception Application,"~~**10.186** such a request shall be submitted to the Oregon Department of Fish and Wildlife for a habitat mitigation recommendation pursuant to O.A.R. 635-415 "Fish and Wildlife Habitat Mitigation Policy."

E. In lieu of the provisions of this section, the significance of individual stream reaches may be determined per the provisions in OAR 660-023-0090. Such a proposal shall be pursued through a Comprehensive Plan Amendment, consistent with Sections ~~10.181-10.184~~ **10.214 through 10.228**.

SECTION 172. Section 10.923 of the Medford Code is amended to read as follows:

10.923 Riparian Corridors, Location.

***

D. In lieu of the provisions of Sections 10.924 through 10.928, the degree of protection for significant riparian corridor reaches may be determined per the provisions of OAR 660-023-0050. Such a proposal shall be pursued through a Comprehensive Plan Amendment, consistent with Sections ~~10.181-10.184~~**10.214-10.228**.

SECTION 173. Section 10.925 of the Medford Code is amended to read as follows:

10.925 Conditional Uses within Riparian Corridors.

The following activities, and maintenance thereof, are allowed within a riparian corridor if compatible with Section 10.920, "Riparian Corridors, Purposes," and if designed to minimize intrusion. Such activities shall be subject to approval of a Conditional Use Permit, which may be considered separately or in conjunction with another ~~plan authorization~~ **land use** review.

***

SECTION 174. Section 10.928 of the Medford Code is amended to read as follows:

10.928 Conservation and Maintenance of Riparian Corridors.
When approving applications for the following ~~plan authorizations~~ **land use actions**: Land Divisions, Planned Unit Developments, Conditional Use Permits, and Exceptions, or for development for properties containing a riparian corridor, or portion thereof, the approving authority shall assure long term conservation and maintenance of the riparian corridor through one of the following methods:
***

SECTION 175. Section 10.931 of the Medford Code is amended to read as follows:

10.931 General Standards.
***
(3) ~~Class 'C' applications~~ **Type III land use reviews** (except for zone changes) shall comply with Sections 10.929 to 10.933; building permit applications shall comply with Sections 10.929 to 10.931.
B. Requirement for Slope Analysis.
For parcels containing Slopes greater than fifteen percent (15%), as shown on the 2009 City of Medford Slope Map, a copy of which is maintained on file in the Planning Department, a Slope Analysis is required to be submitted with:
(1) ~~Class "C" applications~~ **Type III land use** (except for zone changes); and,
(2) Building permit applications, if a Slope Analysis of the parcel was not previously submitted with a development application.
The Slope Analysis shall be reviewed by the City Director of Public Works or designee.
C. Pre-Existing Approvals of Development on Slopes of Fifteen Percent (15%) or Greater.
(1) Unexpired ~~Class 'C'~~ **Type III Land Use** Approvals. Unexpired ~~Class 'C'~~ **Type III land use** approvals granted prior to enactment of Sections 10.929 to 10.933 ("Pre-Existing Approvals") shall not be subject to Sections 10.929 to 10.933. Subsequent ~~Class 'C'~~ **Type III land use** applications related to a Pre-Existing Approval and filed after enactment of Sections 10.929 to 10.933 shall be subject to Sections 10.929 to 10.933, provided that the application of Sections 10.929 to 10.933 to the subsequent ~~Class 'C'~~ **Type III land use** application does not result in an irreconcilable conflict with the Pre-Existing Approval. For purposes of this Section, an irreconcilable conflict includes, but is not limited to, the following:
***

SECTION 176. Section 10.932 of the Medford Code is amended to read as follows:

10.932 Pre-Application Conference Requirement.
A pre-application conference is required for all ~~Class 'C'~~ **Type III land use** applications, except for zone changes, for development on Slopes of greater than thirty-five percent (35%).

***

SECTION 177. Section 10.933 of the Medford Code is amended to read as follows:

10.933 Constraints Analysis.
Prior to submitting a ~~Class 'C'~~ **Type III land use** application (except for zone changes), a Constraints Analysis identifying physical constraints and proposing mitigation measures shall have been submitted and deemed "complete" by the City Engineer or designee within ~~ten (10) business~~ **working** days of submission. A "complete" Constraints Analysis is one that contains all items in Sections 10.933(A) (1)-(7) and 10.933(B) (1)-(4).
***
(4) A grading plan as required by Sections 10.727 and 10.~~278~~**162(D)**, including proposed grades, and cuts and fills for streets.

SECTION 178. Section 10.1200 of the Medford Code is amended to read as follows:

10.1200 Signs in Single-Family Residential Zoning Districts (SFR-00,2,4,6,10).
***
(i) Electronic message signs shall apply for and receive approval for a Conditional Use Permit pursuant to Section 10.~~250~~**184**.
a. The electronic message sign shall be considered as an element of the CUP for the use.
b. Existing conditional uses shall apply for an amendment to their existing approved CUP to request an electronic message sign, pursuant to Section 10.~~250~~**184**.
***

SECTION 179. Section 10.1300 of the Medford Code is amended to read as follows:

10.1300 Signs in Multiple-Family Residential Districts (MFR-15), (MFR-20) and (MFR-30).
***
(i) Electronic message signs shall apply for and receive approval for a Conditional Use Permit pursuant to Section 10.~~250~~**184**.
a. The electronic message sign shall be considered as an element of the CUP for the use.
b. Existing conditional uses shall apply for an amendment to their existing approved CUP to request an electronic message sign, pursuant to Section 10.~~250~~**184**.
***

SECTION 180. Section 10.1410 of the Medford Code is amended to read as follows:

10.1410 Service Commercial and Professional Office (C-S/P: Additional Special Signs.
***
(2) Hospital Signs: Signs exceeding the dimensional standards of Article VI may be approved

subject to Section 10.~~248~~**184** Conditional Use Permit ~~Criteria, through 10.250 Expiration of a Conditional Use Permit~~. In addition, such approval shall be based on review and approval of an integrated sign program for the entire facility and on a determination that the signs proposed to exceed the standards of Article VI are the minimum necessary to facilitate proper identification of hospital activities. In no case shall ground signs exceed 15 feet in height or 100 square feet in area, nor shall this provision allow an increase in the numbers of signs otherwise allowed by this section. For the purpose of this section, "hospitals" are those that are licensed for at least 150 inpatient beds, and emergency services.

SECTION 181. Section 10.1500 of the Medford Code is amended to read as follows:

10.1500 Signs In Neighborhood Commercial District (C-N): Basic Regulations.

***

(d) Electronic Message Signs are permitted subject to Sections~~ 10.248 through 10.250~~**10.184**, and the following criteria:

***

(c) Electronic Message Signs are permitted as a primary or secondary facade wall sign subject to Sections~~ 10.248 through 10.250~~**10.184**, **Conditional Use Permit,** and the following criteria:

***

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2018.

ATTEST: _____ _____
City Recorder Mayor

APPROVED _____, 2018. _____
Mayor

NOTE: Matter in **bold** is new. Matter ~~struck out~~ is existing law to be omitted. Three asterisks (* * *) indicate existing law which remains unchanged by this ordinance but was omitted for the sake of brevity.

ORDINANCE NO. 2018-77

AN ORDINANCE approving a minor amendment to the *City of Medford Comprehensive Plan* pertaining to review and amendment procedures.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

Section 1. That an amendment to the *City of Medford Comprehensive Plan* pertaining to review and amendment procedures is hereby approved.

Section 2. The approval is based upon the Commission Report dated June 14, 2018, attached as Exhibit A and incorporated herein.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2018.

ATTEST: _____ _____
City Recorder Mayor

APPROVED _____, 2018. _____
Mayor

COMMISSION REPORT

for a Class-A legislative decision: **Development Code Amendment** &
for a Class-B legislative decision: **Minor Comprehensive Plan, Review and Amendment Procedures**

Project	Reorganization of Article II of the Medford Land Development Code	
File no.	DCA-15-088 & CP-17-063	
To	City Council	*for 06/21/2018 hearing*
From	Planning Commission via Kyle Kearns, Planner II – Long Range Division	
Reviewer	Carla G. Angeli Paladino, Principal Planner – Long Range Division	
Date	June 14, 2018	

BACKGROUND

Proposal

DCA-15-088 (Exhibit C-F) is a development code amendment intended to update the language within Article II and the language referencing Article II elsewhere in the Medford Land Development Code (MLDC) and Comprehensive Plan. Concurrently, a minor comprehensive plan amendment under file number CP-17-063 (Exhibit F) is being considered for approval to update portions of the comprehensive plan pertaining to the updates from DCA-15-088. The updates of DCA-15-088 (and CP-17-063) are intended to create consistency with current land use practices while also creating more succinct and clear language for users of Article II.

History

Article II is the chapter within the MLDC that defines the procedural requirements and substantive criteria for the land use reviews and permitting processes for the Planning Department. Article II also establishes the responsibilities of the approving authorities in reviewing the aforementioned land use reviews and permitting processes. Over time, the functionality and the terminology used within Article II has become outdated and requires a substantive update to the chapter in order to create a modern and functioning Article II. Staff has worked to create a proposal that ensures compliance with state requirements while also increasing efficiency of Article II throughout the daily land use practices of staff, residents, and developers alike.

Article II, in its current form, has been a standalone chapter in the MLDC since 1987. Updates to Article II have been piecemeal at best updating specific sections as needed with

EXHIBIT A

the largest updates coming in 1987 (Ordinance No. 5820 & 5986), 1994 (Ordinance No. 7659), and 2010 (Ordinance No. 2010-160). The most comprehensive update to Article II came in 1994 with Ordinance No. 7659 that updated over 20 sections of Article II. Complete updates to Article II have not been proposed since 1994 leaving language that is outdated to current Planning practices.

Study Sessions and Hearings

October 26, 2015 Planning Commission Study Session (minutes Exhibit J): Staff presented the proposed draft highlighting the substantial changes, which included:

- Reorganization and consolidation of sections
- Changing the words "plan authorization" to either land use review or land use action.
- Changing the names of the procedural types from Class A through E to Type I through IV and reducing from five types to four.
- Removal of Section 10.146, the referral agency distribution table
- Removal of application submittal criteria
- Separation of partitions and land divisions into separate land use reviews
- Change partitions to an administrative decision

Planning Commission was largely supportive of the changes proposed. Concerns were raised regarding the removal of application submittal criteria from the Municipal Code; application submittal criteria has since been added back into the proposed code language. Planning Commission held other general discussions regarding the change of partitions to an administrative decision, the possibility of making zone changes an administrative decision, and the landscaping requirements within the MLDC.

May 8, 2017 Planning Commission Study Session (minutes Exhibit K): The majority of concerns raised were regarding the change of a partition from a quasi-judicial decision to an administrative decision; according to the Commission some of the partitions require a high level of discretion. Staff noted the Planning Director would still have the ability to defer decision making to the Planning Commission. Additionally, staff had noted to the Commission public comment received from CSA Planning, LTD (Exhibit I). The comments pertained to the need to update application procedures, particularly the conditional use permit. These comments fell outside of the scope of DCA-15-088. Direction was given to ensure two phases to updating Article II, and those phases being:

- Phase 1: Current scope (reorganization)
- Phase 2: Update specific procedures such as updates to:
    - Site Plan and Architectural Commission Review
    - Conditional use procedures
    - Other updates as needed

June 21, 2017 Land Development Committee (LDC) meeting: After the May 8, 2017 study session, it was determined that portions of the Review and Amendment Procedures element of the Comprehensive Plan also needed to be updated. CP-17-063 was drafted and provided with DCA-15-088 at a regularly scheduled LDC meeting. Minimal comments were received from the various departments sent notice of the proposed text amendment. Official "no comments" were received from the Public Works Department and from the Address Technician for Public Works (Exhibit H). The Fire Department had also submitted comments (Exhibit G) that have been reflected in the most recent proposed text for DCA-15-088 (Exhibit C-D).

July 27, 2017 Planning Commission Hearing (minutes Exhibit L): Staff presented the findings of DCA-15-088 and CP-17-063 and allowed for questions of the public and the Commission. No comments were received and the Planning Commission voted 7-0, forwarding a favorable recommendation to the City Council for adoption of both DCA-15-088 and CP-17-063.

September 7, 2017 City Council Hearing (minutes Exhibit M): Having been forwarded a favorable recommendation from the Planning Commission, City Council was to review the proposed text at the September 7, 2017 City Council Hearing. Prior to the review and consideration of adoption of the proposed code language motion was made to postpone the hearing for DCA-15-088 and CP-17-063 until further review at a Council study session was provided.

April 26, 2018 City Council study session (minutes Exhibit N): The proposed text previously considered at the September 7 public hearing was reviewed. Staff presented the substantive changes within Article II including examples of the format changes, the change of a partition to an administrative decision, and other language changes within both CP-17-063 and DCA-15-088. Discussion regarding the proposed reorganization of Article II was short, pertaining mostly to the new appeal procedures of Type II land use reviews, particularly regarding tentative land partitions.

The concerns were that tentative land partitions previously had hearings, allowing for public comment with on-site noticing and then notification of surrounding property owners. As proposed, tentative land partitions would lose the hearing notice and on-site noticing. However, surrounding property owners would still be noticed as well as given the ability to provide comment and acquire standing for the ability to appeal the Planning Director's decision, which would be appealed to Planning Commission. No direction or proposed changes were discussed, and City Council directed staff to bring CP-17-063 and DCA-15-088 forward to hearing.

Related projects

Both DCA-15-088 and CP-17-063 are related and being reviewed concurrently.

Additionally, project DCA-16-72 (Public Parks Zone) goes to a City Council hearing on June 7, 2018. If adopted by ordinance, changes to DCA-15-088 would be required to create consistency with the Public Parks Zone project. These are separate projects, but DCA-16-072 has implications for the proposed text of DCA-15-088. Changes would be incorporated accordingly, to ensure uniformity.

Authority DCA-15-088 & CP-17-063

The proposed plan authorization is a Class-A legislative amendment (DCA-15-088) of Chapter 10 of the Municipal Code and a Class-B legislative Minor Comprehensive Plan Amendment (CP-17-063). The Planning Commission is authorized to recommend, and the City Council to approve, amendments to Chapter 10 under Medford Municipal Code §§10.102–122, 10.164, and 10.184.

ANALYSIS

Planning, like many things, has changed through the course of time. Given thirty years has passed since the adoption of the original Article II, a substantive review and revision of it is needed due to the outdated nature of the Article to current planning practice. Changes to Article II have come in the form of adding language to the chapter as the need arises. In doing this, the format of the chapter, as a whole, has become fragmented; yet the various sections of the chapter still remain necessary for administrating the Land Development Code. In order to make the Article into a more functional chapter of the MLDC it requires a holistic review of the code rather than the piecemeal approach that was used in the past, as outlined above in the History subsection of the report.

The typical development code amendment is intended to update a particular use or standard such as permitting specific uses in commercial zones or changing the development standards for single-family zoned parcels. The changes within DCA-15-088 and CP-17-063 are largely updates to language, the reorganization and reduction of code sections, and the deletion of redundant information. The only change that is to a standard would be the creation of a section for tentative land partitions (Section 10.170) as an administrative review (Type II), which previously would have resided in the code section pertaining to land divisions, a quasi-judicial land use review (Type III). The types of revisions are summarized below.

Land Partition and Subdivision Tentative Plats

Current land use procedures within Article II have land partitions and subdivisions tentative plats processed as a Class C (proposed Type III) land use review. In the proposed amendment, partitions would be given a standalone review process, not currently established within Article II. Without DCA-15-088, a land partition of 3 or less lots is given the same review process as a subdivision of 50+ plus lots. The implications and discretion in review for these types of projects are far different.

In the proposal there would be two sections. One section would be for land partition tentative plats (Section 10.170), creation of 2-3 parcels, as a Type II (Class D) land use action. The second would be for a subdivision tentative plat (Section 10.202), creation of >3 parcels, as a Type III (Class C) land use action. Type III land use decisions are approved by Planning Commission, Type II decisions are made by the Planning Director, or designee. Aside from the change of the approving body and notification requirements, the criteria and submittal requirements have stayed the same. This is the most intricate change within the reorganization of Article II.

Furthermore, the Housing Advisory Committee (HAC) recommended several strategies to increasing housing affordability and availability; one being the proposed addition of the land partition tentative plat as an administrative decision. The recommended strategies were given a priority preference, the change of partitions to an administrative decision being a high priority item. City Council endorsed the evaluation of the HAC's recommendations on February 15, 2018. The proposed changes to land partitions and divisions would be consistent with the HAC recommendation and would aid in streamlining housing development, particularly affordable infill housing projects.

Additional Analysis

To quickly analyze the changes of DCA-15-088 further one would want to reference (Exhibit B), a summary of the proposed text changes. The intent of the summary is to provide a resource that condenses the bulk of the changes into an easy to read format. In reviewing this one can see how the reorganization of Article II has condensed sections, removed redundancy, and created a more efficient code chapter in comparison to what is currently used.

Currently, there exist multiple sections for each of the land use reviews and their applicable criteria; with the proposed changes these types of inefficiencies will disappear as the various sections, for say a conditional use permit, have been reduced to one section for a majority of the land use applications/reviews. For an example that aids in clarifying the need for DCA-15-088 one could look to the model development code available through the Department of Land Conservation and Development (specifically Article 4)[1] or to other municipalities within the Rogue Valley. A comparison of the model code to the current Article II of the MLDC will highlight the disjointed and convoluted sections that currently exist within the code.

Another example of the inconsistencies in Article II is that Medford is the only City in the Rogue Valley that refers to land use applications as a Class A, B, C, etc. land use actions, where other cities in the Rogue Valley call them a Type I, II, III, etc. land use action. This kind of inconsistency with other municipalities causes two problems. The first being that

[1] "Model Development Code for Small Cities." ARTICLE 4 – APPLICATION REVIEW PROCEDURES AND APPROVAL CRITERIA 4-3 3.1.4 (2015): 1-58. Print.

when developers and land owners decide to undertake a certain land use action they may struggle to understand Medford's code. The second issue this inconsistency causes is that when staff that interface with the MLDC come to Medford it creates a learning curve that otherwise need not exist. Both DCA-15-088 and CP-17-063 have reflected these changes (i.e. Class to Type).

In large part it is the intent of DCA-15-088 to create an Article II that is consistent with current land use practices, language, and format while also increasing the efficiency of the code by removing redundancy and unnecessary code language. The proposed code amendment is better classified as reorganization or reformatting of Article II leaving changes to procedures, criteria, or specific land use reviews for another code amendment. Furthermore, the overall functionality of Article II will remain largely unchanged as there are no substantial proposals to change the processes and criteria of the various land use reviews in Article II, simply just changes to the structure and formatting.

RECOMMENDED ACTION

The Planning Commission recommends adopting the proposed amendments based on the analyzes, findings, and conclusions in the Commission Report dated June 14, 2018 including Exhibits A through N.

EXHIBITS

A	Findings and Conclusions
B	Summary of Proposed Changes Within Article II
C	Proposed Amendment – Article II (DCA-15-088) without Track Changes
D	Proposed Amendment – Article II (DCA-15-088) with Track Changes
E	Proposed Amendment – Affected Sections (DCA-15-088)
F	Proposed Amendment – Comprehensive Plan (CP-17-063)
G	Agency Comment – Medford Fire Department - June 12, 2107
H	Agency Comment – Public Works and Public Works Addressing - June 21, 2017
I	Public Comment – CSA Planning, LTD. - May 8, 2017
J	Minutes – Planning Commission Study Session October 26, 2015
K	Minutes – Planning Commission Study Session May 8, 2017
L	Minutes – Planning Commission Hearing July 27, 2017
M	Minutes – City Council Hearing September 7, 2017
N	Minutes – City Council Study Session April 26, 2018

CITY COUNCIL AGENDA: **JUNE 21, 2018**

Exhibit A
Findings and Conclusions

FINDINGS AND CONCLUSIONS – DCA-15-088

The criteria that apply to code amendments are in Medford Municipal Code §10.184(2). The criteria are rendered in italics; findings and conclusions in roman type.

Land Development Code Amendment. The Planning Commission shall base its recommendation and the City Council its decision on the following criteria:

10.184 (2) (a). Explanation of the public benefit of the amendment.

Findings

Typically code amendments have tangible outcomes that can be measured or viewed over the course of time. For example, a code amendment to the site standards for single-family zoning districts could be easily observed through development. Whereas the changes proposed to Article II are broader than a specific development or land use standard largely only impacting the internal workings of Medford's planning procedures and their display to the public and staff alike. Updates to formatting and language will create a more functional Article II that is also easier to read and follow.

The need for DCA-15-088 came out of frustrations that staff had found over time with the function of the Article II. One could deduct that if professionals are stating frustrations with the code pertaining to their procedural requirements that the residents and developers also using Article II would be equally, if not more, frustrated with the formatting of the chapter. Equally concerning would be the inconsistencies that exist in the current Article II between other municipalities within the State and more specifically the Rogue Valley. The functionality and the inconsistent language of Article II is largely the driving force behind the development of DCA-15-088. Additionally, the changes to the tentative land partition and subdivision plat land use reviews will allow for an expedited review process. Tentative plats, for land partitions

creating three or less parcels, will no longer be required to go to a public hearing allowing for an expedited process when developing infill projects and small residential and commercial developments.

Conclusions

Ultimately the effects of DCA-15-088 won't be immediately seen, but they will be immediately available. By reformatting the language within Article II and creating consistency with modern Planning practices the public and staff will be able to navigate Medford's code with far more ease. This will cut down on staff time spent aiding customers (residents, developers, etc.) and in turn enable customers to better navigate the code without assistance. Article II will now be easier to read and more consistent with similar municipalities throughout the region; this will enable the public and staff alike to learn Medford's processes quicker and in turn make application processing quicker, while making development quicker.

Furthermore, with an easier to read and consistent language in Article II perception of the planning process and Medford's government will become more transparent allowing for a more direct line of communication between staff and the public. Lastly, the changes to the review process for tentative land partition plats will enable a more streamlined review process for small residential and commercial projects. Changing the land partition review process will save time in the development process enabling money to be saved and creating a quicker turnaround on housing and commercial development, both with a high demand in Medford currently. This criterion has been satisfied.

10.184 (2) (b). The justification for the amendment with respect to the following factors:

1. *Conformity with goals and policies of the Comprehensive Plan considered relevant to the decision.*

   Findings

   The following are the goals, policies, and implementation measures of the Comprehensive Plan applicable to DCA-15-088.

   Citizen Involvement Element

   Policy 2: The City of Medford shall provide the most efficient and effective means to informing citizens about the planning process.

Statewide Planning Goal 1: Maintain a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

Objective: Provide adequate opportunities for public input.

Action: Provide and promote various methods of communication to enhance opportunities for citizen education and interaction.

C. City Staff

City staff will:

10. Teach citizens how they can get involved in the process

13. Allocate adequate City staff time to assist and meet with citizens to explain projects and proposals

15. Avoid using jargon in written and oral communication with the public. Explain complex issues in simple and understandable terms.

Economic Element

Policy 1-2: *The City of Medford shall encourage the redevelopment of underutilized employment sites.*

Policy 1-3: *The City of Medford shall, as appropriate under the Goal above, support the retention and expansion of existing businesses.*

Implementation 1-3(a): *Adopt code amendments that encourage the development of existing sites.*

Housing Element

Policy 3: In planning for needed housing, the City of Medford shall strive to provide a compact urban form that allows efficient use of public facilities and protects adjacent resource land.

Implementation 3-A: Assess policies, regulations, and standards affecting residential development and pursue amendments as needed to meet Policy 3. Consider actions such as:

f) Assuring land division design standards and approval criteria encourage efficient use of public facilities.

Conclusions

When looking to the Comprehensive Plan for support of DCA-15-088 one will find that the Citizen Involvement, Economic, and Housing, Elements all have supporting goals, policies, and implementation strategies in support of the proposed text amendment. Below are the conclusions deducted from the various goals and policies that apply to DCA-15-088.

Providing "...efficient and effective means to informing citizens about the planning process," is no easy task. Municipal code language often becomes complex and lengthy, especially for those unfamiliar with the code language's nuisances. This creates shortcomings for the community members, business owners, and others who don't typically spend their time navigating and writing code. To efficiently and effectively inform citizens of a chapter in the MLDC that has had no comprehensive review and revision since its inception in 1987 requires exactly that, a comprehensive review and revision.

Additionally, ensuring, "...adequate opportunities for public input," is achieved in several ways; principally public input is achieved through the public hearings, the procedures of which are outlined in Article II. Furthermore, one of the specific action items that staff is to adhere to outlined in the Citizen Involvement Element states that " [Staff will] Avoid using jargon in written and oral communication with the public. Explain complex issues in simple and understandable terms." This is in direct support of DCA-15-088 as the intent is to simplify language, remove redundancy, and to create consistency with other Oregon and Rogue Valley municipalities.

In addition to the Citizen Involvement Element, the Housing and Economic Elements also have supporting goals and policies for DCA-15-088. When looking to Policy 3, Implementation Strategy 3-A one will find that an explicit goal of Medford's Comprehensive Plan is to assess and consider revisions to policies that affect housing. Specifically called out in the Implementation Strategies is the need for, "Assuring land division design standards and approval criteria encourage efficient use of public facilities." This is directly addressed by changing the review procedures for tentative land partition plats from a Type III (formerly Class C) land use decision to a Type II (formerly Class D & E) administrative decision.

Further support can be found more broadly in the Economic Element where it states that, "(The City shall) Adopt code amendments that encourage the devel-

opment of existing sites." The change of land partitions to an administrative decisions will enable a more streamlined, simpler, and affordable process for smaller developers and land owners unfamiliar with more complex land use processes, such as hearings. Both the Economic and Housing Elements are in direct support of DCA-15-088. Conformity with the Comprehensive Plan can be found, this criterion has been satisfied.

2. *Comments from applicable referral agencies regarding applicable statutes or regulations.*

Findings

Comments from applicable referral agencies have been provided for in the Exhibits. Only three agencies have provided comment. The following comments have been received:

- Fire Department – Comments Regarding (Exhibit F):
  - Comments addressing Water Commission and Fire Department in Section 10.112 (E)(3).
  - Comments regarding spelling on Section 10.192 (B)(6)(b)
- Public Works Department – No Comment (Exhibit G)
- Address Technician Public Works – No Comment (Exhibit G)

Conclusions

Staff has reviewed the comments provided for by the various agencies that've been noticed of DCA-15-088. Changes to the proposed text have been made to reflect the comments received. This criterion has been satisfied.

3. *Public comments.*

Findings

In regards to DCA-15-088 staff has received public comment from CSA Planning, LTD. through their principal planner Jay Harland (Exhibit H). The Planning Commission, on May 8, 2017, directed staff to address the comments received from CSA Planning in another text amendment as the comments received are specific to particular land use review procedures, such as the conditional use permit exception criteria. No further public comment has been received.

In addition to the public comment already received, DCA-15-088 will also be available on the City's website prior to any hearing date and will also have a minimum of two public hearings; one before the Planning Commission and one before the City Council.

Conclusions

Staff has reviewed the comments received and has obtained direction from the Planning Commission on May 8, 2017 at a study session reviewing the proposed text of DCA-15-088. The direction was to continue forward with the scope of DCA-15-088 as originally outlined and to incorporate the comments received from CSA Planning at a later date. No additional public comment has been received and the opportunity for public comment will continue to be available through both the Planning Commission and City Council hearings. This criterion has been satisfied.

4. *Applicable governmental agreements.*

Findings

This amendment does not affect any known governmental agreements.

Conclusions

This criterion is not applicable.

FINDINGS AND CONCLUSIONS – CP-17-063

Applicable criteria

For the applicable criteria the Medford Municipal Code §10.184(1) redirects to the criteria in the "Review and Amendments" chapter of the Comprehensive Plan. The applicable criteria in this action are those for the review and amendments procedure. The criteria are set in *italics* below; findings and conclusions are in roman type.

Comprehensive Plan, Review and Amendments chapter: Amendments [to review and amendment procedures] shall be based on the following [criteria]: Amendments shall be based on Statewide Goal 2 and any other applicable Statewide goals.

Findings

The changes proposed in CP-17-063 are intended to reflect the language changes proposed within DCA-15-088. Staff has reviewed the Comprehensive Plan and the

associated land use goals and has found that the majority of the criteria are not applicable to the proposed changes within CP-17-063. Additionally, staff has reviewed Statewide Planning Goal 2, Land Use Planning, per the listed criteria and has found that CP-17-063 is supported by the language within Goal 2.

Goal 2 states that the intent is "To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions." [2] With the changes reflected in DCA-15-088, the need for CP-17-063 comes from the changes to the "land use planning process," which in Medford resides in Article II. Furthermore, CP-17-063 is needed in order to adhere to Goal 2, in which the language states that, "All land-use plans and implementation ordinances shall be adopted by the governing body after public hearing and shall be reviewed and, as needed, revised on a periodic cycle to take into account changing public policies and circumstances." In the case of the Article II update, CP-17-063 becomes necessary in order to reflect the changes to "public policies and circumstances" reflected in the proposed text of DCA-15-088.

All other criteria for comprehensive plan updates do not apply to CP-17-063.

Conclusions

If the proposed text within CP-17-063 was not amended then the Comprehensive Plan would be referencing text that was no longer factual or relevant. This would be in direct conflict with the intent of creating "...a land use planning process and policy framework...to assure an adequate factual base for such decisions and actions." Since Article II includes the processes for land use actions it is important to ensure that all text referencing Article II is also up to date, thus the need for CP-17-063.

The criterion has been satisfied.

[2] United States. State of Oregon. Department of Land Conservation and Development. Oregon's Statewide Planning Goals & Guidelines GOAL 2: LAND USE PLANNING. Salem: n.p., 2010. Web. 19 July 2017

Exhibit B

Summary of Proposed Changes within Article II (DCA-15-088)

DCA-15-088 LAND DEVELOPMENT CODE AMENDMENT
REORGANIZING ARTICLE II - PROCEDURAL REQUIREMENTS

10.100 Purpose of Article II. (Minor Changes)

- Stayed the same with minor language changes.

10.101 The Development Permit Application (Removed)

- No longer applicable. Development permits are not a planning function, land use reviews are.

10.102 Land Use Review. (Re-worked Section)

- The term land use review replaced plan authorization. Removed Class A, B, etc... as they are now in Section 10.106 as the Procedural Types (Type I, II, etc...)

10.104 Land Use Decision. (New Section)

- Incorporates Sections 10.021 Development Permit Required and 10.031 Exemptions from the Development Permit Requirement while also outlining general requirements of land use decisions (i.e. 120 day rule, approvals)

10.106 Procedural Types. (Re-worked Section)

- Includes Section 10.105. Changes Class A, B....to Type I, II etc. and further explains the extent of the various procedural types.

Current Procedure Types	Proposed Procedure Types	Review Authority
Class A and B	**Type IV**	CC (PC recommend)
Class C	**Type III**	PC, LHPC, SPAC
Class D	**Type II**	Planning Director
Class E	**Type I**	Planning Director

10.108 Land Use Review Procedure Types. (New Section)

- Adds Table 10.108-1 in which the various land use reviews are assigned a procedural type in which the approving authority, standards, and 120 day rule applicability are also shown

10.110 Designation and Duties of Approving Authorities. (Combination of Several Sections)

- Condenses the various Sections that described the roles and duties of the approving authorities which included Sections: 10.111, .120, .122, .123, .124, .132, .133, .134, .135, .136, .137, .138, and .140

10.112 Referral Agencies. (Combination of Several Sections)

- Currently Sections 10.145, .146, .183, and .223. Removes the agency referral list to prevent the need for a code amendment as the list changes over time and directs individuals to refer to the list, as maintained by the Planning Department.

10.114 Concurrent Land Use Review (Relocated Language)

- Takes language from the current Section 10.101 and separates to make an easier to read standard.

10.116 Application Submittals. (New Section)

- Created to clarify application submittal requirements within the MLDC.

10.118 Findings of Fact. (New Section)

- Currently Section 10.168 Findings. Expanded the detail to better explain the needed submittals regarded the findings of fact to aid in development of findings.

10.120 Due Process. (Re-worked Section)

- Currently Section 10.155. Re-frames information into table 10.120-1 to clearly state which part of the process is required for each procedural type. Outlines the next nine sections in a clear step-by-step process in which previously they Sections were scattered throughout Article II

Table 10.120-1. Due Process Elements by Procedure Type

Due Process Element	Land Use Procedure Type			
	Type I	Type II	Type III	Type IV
1. Completeness Review		✓	✓	✓
2. Notification		✓	✓	✓
3. Disclosure		✓	✓	✓
4. Conflict of Interest			✓	✓
5. Public Hearing			✓	✓
6. Cross-Examination			✓	✓
7. Action, Decision Time and Notice of Decision		✓	✓	✓
8. Findings of Fact		✓	✓	✓
9. Record		✓	✓	✓

10.122 Due Process Element 1: Completeness Review (Re-worked Section)

-Currently Section 10.221. Cleans up and makes easier to read.

10.124 Due Process Element 2: Notification. (Relocated Language & Re-Worked Section)

- Incorporates Sections 10.156-.158 into one Section, all of which related to notification. Includes table 10.124-1 which clearly states the notification procedures for each land use type. Added standards for noticing Type II (Administrative) decisions.

10.126 Due Process Element 3: Disclosure. (Relocated Language)

- Currently 10.159.

10.128 Due Process Element 4: Conflict of Interest. (Relocated Language)

- Points to part of the Code referring to this part of the due process.

10.130 Due Process Element 5: Public Hearing. (Relocated Language & Re-Worked Section)

- Currently 10.161, cleans up format.

10.132 Due Process Element 6: Cross Examination. (Relocated Language & Re-Worked Section)

- Currently 10.162, cleans up format.

10.134 Due Process Element 7: Action, Decision Time, and Notice of Decision. (Relocated Language)

- Currently 10.163, cleans up format.

10.136 Due Process Element 8: Findings of Fact (New Section)

- Points to part of the Code referring to Findings of Fact, a part of the due process.

10.138 Due Process Element 9: Record. (Relocated Language)

- Currently 10.169, cleans up format.

10.140 Appeal of Land Use Decision. (Relocated Language & Re-Worked Section)

- Pulls in Section 10.051, .052, .053, and .056 from Article I. Appeal language was relocated and expanded upon within Article II to better articulate the procedures required when appealing land use decisions of all Types. Incorporated language distinguishing the types of appeal, including de novo, limited issues, and on the record.

10.142 Type I Land use actions. (New Section)

- This section describes Type I Land use actions (Previously Class E). Type I land use decisions are non-discretionary and are often decided by the Planning Director or designee. These decisions are not appealable, except for Final PUD Plans and Minor Historic Reviews. It further clarifies that pre-applications, sign permits, minor modifications to SPAC approval, De Minimis Revision to approved PUD, and minor modifications to CUP are a Type I procedural requirement which was previously not addressed. These land use actions are not directly addressed in the current code with a distinct section.

10.144 De Minimis Revision(s) to an Approved PUD Plan. (New Section)

- Points to part of the Code referring to this procedural requirement. 10.198

10.146 Final PUD Plan (New Section)

- Points to part of the Code referring to this procedural requirement. 10.196

10.148 Minor Historic Review (New Section)

- Points to part of the Code referring to this procedural requirement. 10.188

10.150 Minor Modification to an Approved Conditional Use Permit. (New Section)

- Points to part of the Code referring to this procedural requirement. 10.184

10.152 Minor Modification to a Site Plan and Architectural Review Approval (New Section)

- Points to part of the Code referring to this procedural requirement. 10.200

10.154 Nonconformities (New Section)

- Added to direct users of the code for processing nonconforming developments

10.156 Preapplication Conference. (Relocated Language & Re-Worked Section)

- Currently 10.176, cleaned up language and format.

10.158 Property Line Adjustment. (Relocated Language & Re-Worked Section)

- Currently 10.297, cleaned up language and format.

10.160 Riparian Corridors, Reduction and Deviation (New Section)

- Added to direct users to the code pertaining to riparian corridor reductions and deviations

10.162 Subdivision and Partition Final Plats. (Relocated Language & Re-Worked Section)

- Currently 10.273, .276, .277, .278, .279, and .280 cleaned up language and format.

10.168 Type II Land use actions. (Re-Worked Section)

- Currently Section 10.167. Describes what Type II Land use actions are, currently they are a Class D procedural types (Administrative Decisions/Planning Director Decision). Additionally, partition tenative plats were added as a Type II Land use action, which are currently a Class C (now Type III) land use decision needing Planning Commission review/approval. Partitions are currently classified as land divisions under Class C actions.

10.170 Partition Tentative Plat. (Relocated Language & New Section)

- Currently Sections 10.265, .266, .267, .269, and .270. Cleans up language, format, and removes the items required on a plat as it is redundant since it is repeated in the section pertaining to Final Plats (10.202). Language regarding phasing and naming of the subdivision has also been removed.

10.172 Portable Storage Containers. (New Section)

- Points to section of code referencing Portable Storage Containers.

10.182 Type III Land use actions. (Relocated Language & Re-Worked Section)

- Currently Sections 10.220, .166, .224, and .224-1. This section describes what Type III land use actions are, which they are currently a Class C land use actions. Land divisions have been separated into two new land use actions. One being partition tentative plats (addressed above), which is proposed as a Type II Land use actions and the other being subdivision tentative plats, which is proposed as a Type III land use action.

Subdivisions will remain a Type III (Class C) land use action as they require larger amounts of discretion to determine compliance, as stated above.

10.184 Conditional Use Permit. (Relocated Language & Re-Worked Section)

- Currently Sections 10.246, .247, .247a, .248, .249, and .250. Condensed all of the various sections in the current code to one section while simplifying the language and format.

10.186 Exception. (Relocated Language & Re-Worked Section)

- Currently Sections 10.251, .252, .253, and .254. Condensed all of the various sections in the current code to one section while simplifying the language and format.

10.188 Historic Review. (Relocated Language & Re-Worked Section)

- Currently Sections 10.256, .252, .253, and .254. Condensed all of the various sections in the current code to one section while simplifying the language and format.

10.190 Planned Unit Development (PUD) – Application and Approval Provisions. (Relocated Language & Re-Worked Section)

- Currently Sections 10.230, .235(B), .235 (D), .235 (E), .240 (B), .240 (D), and .240 (E). Condensed all of the various sections in the current code to one section while simplifying the language and format.

10.192 Preliminary PUD Plan – General Provisions. (Relocated Language & Re-Worked Section)

- Currently Sections 10.230 (B), .230(D), .230 (E), .230 (F), .230 (G), .230 (H), .230 (I), .235 (F), .235 (G) and .235 (H). The proposal condenses all of the various sections in the current code to one section while simplifying the language and format.

10.194 Preliminary PUD Plan - Neighborhood Meeting Requirement. (Relocated Language & Re-Worked Section)

- Currently Section 10.235 (A). The proposed changes simplify the language with minimal changes.

10.196 Final PUD Plan - Application Procedures. (Relocated Language & Re-Worked Section)

- Currently Sections 10.240 and .241. The proposed text removes Section 10.241 as it refers to the action and decision time, which is redundant as Section 10.122 in the proposed amendment states the same language which is currently in 10.241. Furthermore, language pertaining to time limits of Preliminary PUD plan approvals and phasing has been removed to limit restrictions of

approvals. The remaining changes to this portion of the code pertain to simplifying language or moving language to other portions of the proposed amendment.

10.198 Revision or Termination of a PUD. (Relocated Language & Re-Worked Section)

- Currently Section 10.245. The proposed changes simplify the language with minimal changes.

10.200 Site Plan and Architectural Review. (Relocated Language & Re-Worked Section)

- Currently Sections 10.285, .031, .287, .290, .291, .292, .294, and .296 The proposal condenses all of the various sections in the current code to one section while simplifying the language and format. Section 10.287 has also been removed as that pertains to the application criteria, which staff is proposing to remove from Article II.

10.202 Subdivision Tentative Plat. (Relocated Language & Re-Worked Section)

- Currently Sections 10.265, .266, .267, .269, and .270. The proposal condenses all of the various sections in the current code to one section while simplifying the language and format. Any information pertaining to application submittal has been removed.

10.204 Zone Change. (Relocated Language & Re-Worked Section)

- Currently Sections 10.225, .226, .227, and .228. The proposal condenses all of the various sections in the current code to one section while simplifying the language and format. Section 10.226 pertaining to application submittals has been removed.

10.214 Type IV Land use actions. (Relocated Language & Re-Worked Section)

- Currently Sections 10.180, .185, .181, .190, .187, and .165. Sections 10.187 and .165 have been removed as they refer to review and decision time as well as referral requirements. The proposed changes condense the various sections into one and simplify the language and clarify items not previously identified.

10.216 Annexation. (Relocated Language & Re-Worked Section)

- Currently Sections 10.195, .196, .197, .198, and .199. The proposal condenses all of the various sections in the current code to one section while simplifying the language and format. Section 10.196 pertaining to application submittals has been removed.

10.218 Land Development Code Amendment Approval Criteria.
(Relocated Language & Re-Worked Section)

- Currently Section 10.184 (split into two sections), minimal changes.

10.220 Major Type IV Amendments (Relocated Language & Re-Worked Section)

- Currently Section 10.184 (split into two sections). The proposal describes the various types of Major Type IV land use actions.

10.222 Minor Type IV Amendments. (Relocated Language & Re-Worked Section)

- Currently Sections 10.190, .191, and .192. The proposal describes the various types of Minor Type IV land use action.

10.224 Minor Comprehensive Plan Application Form (Relocated Language)

- Currently Section 10.191.

10.226 Transportation Facility Development. (Relocated Language & Re-Worked Section)

- Currently Sections 10.205, .206, .207, and .208. The proposal keeps much of language regarding transportation facility development.

10.228 Vacation of Public Right-of-Way. (Relocated Language & Re-Worked Section)

- Currently Sections 10.200, .201, and .202. The proposal keeps much of language regarding vacations.

Exhibit C Proposed Amendment – Article II (DCA-15-088) without Track Changes

Medford Code

CHAPTER 10
PLANNING

[NOTE: This Chapter was enacted 12-18-86 by Ord. No. 5785. This is a revision of sections 10-005 through 10-954 which were repealed by Ord. No. 5785. The effective date of Ord. No. 5785 was 12-24-86.]

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10.228	Vacation of Public Right-of-Way

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ARTICLE II - PROCEDURAL REQUIREMENTS

PURPOSE, LAND USE REVIEW, LAND USE DECISION, PROCEDURAL TYPES, LAND USE REVIEW PROCEDURE TYPES (10.100 – 10.108)

10.100 Purpose of Article II.

It is the purpose of this article to establish land use review procedures, designate and define the responsibilities of the approving authorities, and to set forth the procedural requirements and substantive criteria and standards for each land use review necessary to obtain a development permit.

10.102 Land Use Review.

(A) A land use review is a specific planning and development process conducted in order to determine whether proposed land uses comply with the policies, standards and criteria of the Comprehensive Plan and this chapter. A land use application shall be provided for each land use review when applicable.

(B) Each type of land use review has a designated procedural type and each procedural type has specific due process and administrative requirements that shall be followed.

(C) A land use review is complete once a land use decision, as outlined in Section 10.104, has been made by the designated approval authority.

10.104 Land Use Decision.

(A) A land use decision consists of the Final Order signed by the approving authority based upon the criteria and standards considered relevant to the decision, as well as the facts contained within the record. The decision shall address such relevant criteria, standards and facts relied upon in rendering the decision. A written record of the decision shall be provided to the applicant, any person with standing (if applicable), and kept on file in the Planning Department.
(B) When the proposed land use application is inconsistent with the Comprehensive Plan or this chapter the application is either denied or specific requirements called "conditions" are included with the land use decision which when implemented will bring it into conformance.
(C) Upon receipt of an approved land use decision or upon satisfactory completion of any condition(s) of an approved land use decision that are required prior to building permits, a development permit shall be issued by the Planning Director. Upon issuance of a development permit, the applicant may obtain building permits.

(D) 120 Day Rule.
For all Type II and III land use reviews as outlined in Table 10.108-1 below, the city shall arrive at a final decision, including resolution of all appeals, within 120 days from the date the application is deemed complete, unless the applicant requests an extension in writing. The total of all extensions shall not exceed 245 days.

(E) Land Use Approval Required.
No person shall subdivide or partition, nor shall any person create any street or road for the purpose of subdividing or partitioning an area or tract of land, or to dispose of, transfer or sell any lot or parcel of land if same constitutes or is part of a process of subdivision or partitioning as herein defined, or to record a final plat thereof without first complying with all of the applicable provisions of this chapter. A building permit shall not be issued for the construction, reconstruction or the alteration, use or occupancy of a structure for which a development permit is required and has not been issued pursuant to this Section unless exempted as per Section 10.200(C) or Subsection (F) below.

(F) Exemptions from Land Use Review.

(1) An exemption from land use review does not exempt the use or development from compliance with the applicable standards of this chapter, including but not limited to access, parking, riparian protection, and landscaping.

(2) The following uses or developments do not require land use review.

(a) An emergency measure resulting from fire, an act of God, or a public enemy or other calamity, which is necessary to protect and save property and lives.

(b) The reconstruction of a legal main structure or legal accessory structure which has been destroyed by fire, an act of God, or a public enemy or other calamity, and restoration is started within one year from such destruction and is diligently pursued to completion.

(c) Temporary uses as identified in Section 10.840, Temporary Uses and Structures.

(d) The erection, construction, alteration, maintenance or termination of a public utility service facility, such as a public safety communication tower.

10.106 Procedural Types.

For purposes of administering the provisions of this chapter, and other ordinances and policies of the City pertaining to land use and development, there are hereby established four types of procedures for processing land use review applications. Two factors vary for each procedural type. First, the degree of discretionary judgment involved in rendering a decision. The greater the degree of discretionary judgment, the more rigorous they are procedurally. Second, the extent of public participation which varies based upon the degree of impact(s) caused by the proposed use and development of land. The greater degree of impacts, the more the public is notified and invited to participate.

(A) Type I Ministerial Procedures.

(1) Non-discretionary administrative decisions shall be made by applying clear and objective approval criteria and standards.

(2) Decisions shall be made by the Planning Director or designee.

(3) No public notice, public comment period, or public hearing shall be required.

(4) Requested action shall be initiated by the applicant.

(5) Decisions are final, and except for Final Planned Unit Development (PUD) Plan and Minor Historic Review decisions, are not appealable. Final PUD Plan decisions are appealed to the Planning Commission per Section 10.140(F)(3). Minor Historic Review decisions are appealed to the Landmark and Historic Preservation Commission per Section 10.140(F)(4).

(B) Type II Administrative Procedures.

(1) Administrative decisions shall be made by applying clear, objective approval criteria and standards while using limited discretion to determine impact(s) on adjacent properties and the surrounding vicinity, public infrastructure and services, and the health, welfare, and safety of the community at-large.

(2) Decisions shall be made by the Planning Director or designee.

(3) Public notice and a public comment period are required according to Section 10.124 of this Chapter, but a public hearing shall not be required.

(4) Requested action shall be initiated by the applicant.

(5) Appeals of Type II decisions are heard by the Planning Commission at a public hearing per Section 10.140(G).

(C) Type III Quasi-judicial Procedures.

(1) Quasi-judicial decisions require the application of clear, objective approval criteria and standards, and a degree of discretion to determine compliance with approval criteria and the impact(s) of development on adjacent properties and the surrounding vicinity, public infrastructure and services, and the health, welfare, and safety of the community at-large. If necessary to mitigate such impacts, conditions may be imposed to bring the proposed land use into compliance and/or to mitigate impacts.

(2) Decisions are made by the designated approving authority.

(3) Public notice, a public comment period, and a public hearing are required according to Section 10.124 of this Chapter.

(4) Requested action may be initiated by City Council, the Planning Commission or an applicant.

(5) Appeals of Type III decisions are heard by the City Council per Section 10.140(H).

(D) Type IV Legislative Procedures.

(1) Legislative decisions that involve the greatest degree of discretion as they establish by law the general policies and regulations for future land use decisions and have either widespread and significant impact beyond the immediate area or change the character of the land use, or affect large areas or many different ownerships.

(2) The Planning Commission shall review Type IV land use permit applications and forward a recommendation to City Council to approve, approve with modifications, approve with

conditions, deny, or to adopt an alternative. City Council shall consider and address the recommendation, but shall not be bound by it. The City Council is the approving authority and, if it so determines that a Type IV land use permit application has satisfied the standards and criteria for approval, shall approve Type IV land use applications by ordinance.

(3) Public notice(s), public comment period(s) and public hearing(s) are required according to Section 10.124 of this Chapter

(4) Requested action may be initiated by City Council and Planning Commission (except annexations) or for minor amendments, by an applicant(s).

(5) Appeals of Type IV decisions are made to the Land Use Board of Appeals (LUBA) per Section 10.140(I).

10.108 Land Use Review Procedure Types.

Table 10.108-1 identifies the procedural type, applicable standards, and approving authority for each type of land use review as well as whether the 120-day rule in Section 10.104(D) is applicable. Each procedural type is subject to specific due process and administrative requirements of this chapter.

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Table 10.108-1. Land Use Review Procedures				
Land Use Review Type	**Procedural Type**	**Applicable Standards**	**Approving Authority**	**Subject to 120 Day Rule (ORS 227.178)?**
Annexation	IV	Urbanization, 10.216	City Council	No
Appeal of Final PUD Plan Decision	I	10.140(F)(3)	Planning Commission	No
Appeal of Minor Historic Review Decision	I	10.140(F)(4)	LHPC	No
Appeal of Type II Decision	III	10.140(G)	Planning Commission	Yes
Appeal of Type III Decision	IV	10.140(H)	City Council	Yes
Appeal of Type IV Decision	IV	10.140(I)	LUBA	No
Comprehensive Plan Amendment, Major	IV	Review & Amendment, 10.220	City Council	No
Comprehensive Plan Amendment, Minor	IV	Review & Amendment, 10.222	City Council	No
Conditional Use Permit	III	10.184	Planning Commission	Yes
De Minimis Revision(s) to an Approved PUD Plan	I	10.198	Planning Director	No
Exception	III	10.186	PC/LHPC/SPAC	Yes
Final PUD Plan	I	10.196	Planning Director	No
Final Plat, Subdivision or Partition	I	10.160	Planning Director	No
General Land Use Plan Map Amendment, Major	IV	GLUP, Review & Amendment, 10.220	City Council	No
General Land Use Plan Map Amendment, Minor	IV	GLUP, Review & Amendment, 10.222	City Council	No
Historic Review	III	10.188	LHPC	Yes
Land Development Code Amendment	IV	10.218	City Council	No
Minor Historic Review	I	10.148	Planning Director	No
Major Modification to a Site Plan & Architectural Review Approval	III	10.200(H)(1)	SPAC	Yes

Minor Modification to a Site Plan & Architectural Review Approval	I	10.200(H)(2)	Planning Director	No
Major Modification to an Approved Conditional Use Permit	III	10.184(D)(1)	Planning Commission	Yes
Minor Modification to an Approved Conditional Use Permit	I	10.184(D)(2)	Planning Director	No

Table 10.108-1. Land Use Review Procedures				
Land Use Review Type	**Procedural Type**	**Applicable Standards**	**Approving Authority**	**Subject to 120 Day Rule (ORS 227.178)?**
Nonconformities	I	10.032 – 10.036	Planning Director	No
Portable Storage Container	II	10.840(D)(6)	Planning Director	Yes
Pre-Application	I	10.156	Not Applicable	No
Preliminary PUD Plan	III	10.190–10.198	Planning Commission	Yes
Property Line Adjustment	I	10.158	Planning Director	No
PUD Plan Revision(s)	III	10.198	Planning Commission	Yes
PUD Plan Termination	III	10.198	Planning Commission	Yes
Riparian Corridors, Reduction or Deviation	I	10.927	Planning Director	No
Sign Permit	I	10.1000 – 10.1810	Planning Director	No
Site Plan and Architectural Review	III	10.200	SPAC	Yes[MHB1]
Tentative Plat, Partition	II	10.170	Planning Director	Yes
Tentative Plat, Subdivision	III	10.202	Planning Commission	Yes
Transportation Facility Development	IV	10.226	City Council	No[MHB2]
Urban Growth Boundary Amendment, Major	IV	Urbanization, 10.220	City Council	No
Urban Growth Boundary Amendment, Minor	IV	Urbanization, 10.222	City Council	No
Vacation of Public Right-of-Way	IV	10.226	City Council	No
Zone Change, Major	IV	Review & Amendment, 10.220	City Council	No
Zone Change, Minor	III	10.204	Planning Commission	Yes

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APPROVING AUTHORITIES AND REFERRAL AGENCIES. (10.110 & 10.112)

10.110 Designation and Duties of Approving Authorities.

(A) Approving Authorities. This article designates the authority to act on land use reviews as follows:

1. The City Council
2. The Planning Commission
3. The Site Plan and Architectural Commission
4. The Landmarks and Historic Preservation Commission
5. The Planning Director

(B) Duties of the Approving Authorities. Under the provisions in Section 10.110, there is hereby designated to the approving authorities the power to:

(1) Approve, conditionally approve, or disapprove applications for land use review(s);

(2) Determine compliance or lack of compliance with the approval criteria listed under each application type.

(C.) City Council, Authority.

The City Council is hereby designated as the approving authority for all the following land use reviews:

Land Use Review

Annexation
Appeals (See Section 10.140)
Comprehensive Plan Amendment (Major or Minor)
General Land Use Plan Map Amendment (Major or Minor)
Land Development Code Amendment
Transportation Facility Development
Urban Growth Boundary Amendment (Major or Minor)
Vacation of Public Right-of-Way
Zoning Map Amendment (Major)

(D) Planning Commission, Authority.

(1) The Planning Commission shall have all powers set forth in ORS 227.090 (Powers and Duties of Commission) except as otherwise provided by ordinance of the City Council.

(2) The Planning Commission is hereby designated as the approving authority for the following land use reviews:

Land Use Review

Appeals (See Section 10.140)

Conditional Use Permit
Exception
Preliminary Planned Unit Development (PUD) Plan
Subdivision Tentative Plat
Zone Change (Minor)

(E) Planning Commission, Other Duties

It shall further be the responsibility of the Planning Commission to:

(1) Study and report on all proposed code amendments referred to it by the City Council. When reviewing any such proposed amendments, the Planning Commission shall submit its recommendation and findings to the City Council.

(2) Review this chapter and report on same to the City Council at least once every five years commencing on the date of enactment of this chapter. Specifically the Planning Commission shall:

(a) Analyze the extent to which development has occurred in the city as compared to the projected growth per the Comprehensive Plan.

(b) Recommend any changes in the mapping of zoning districts as determined necessary to accommodate the expected 20-year growth as determined by the Comprehensive Plan.

(3) Serve as the Committee for Citizen Involvement (CCI) per the Comprehensive Plan.

(F) Planning Commission, Membership.

(1) **Number Appointed**. The Planning Commission shall consist of nine voting members appointed by the Mayor and City Council.

(2) **Length of Term**. All terms shall be for a period of four years beginning on February 1 of each year with not more than three terms expiring in the same year.

(3) **Position Appointments.** The Planning Commission members shall at a minimum comply with the requirements of Oregon Revised Statutes (ORS) 227.030 (Membership) as provided below or as amended:

(a) No more than two members of a city planning commission may be city officers, who shall serve as ex officio nonvoting members.

(b) No more than two voting members of the commission may engage principally in the buying, selling, or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation, that engages principally in the buying, selling or developing of real estate for profit.

(c) No more than two members shall be engaged in the same kind of occupation, business, trade or profession.

(4) **Selection Criteria**. All members of the Commission shall either be residents of the City of Medford or Medford Urban Growth Boundary. No more than two members of the Commission shall be appointed who reside outside the Medford city limits. A Commissioner who ceases to meet the residency requirement during their term of office shall forfeit the

office and a new member shall be appointed to serve the unexpired portion of the term.

(5) **Removal Terms.** A member may be removed by the Mayor and City Council, after a hearing, for misconduct or nonperformance of duty.

(6) **Vacancy Replacement.** A Commissioner who ceases to meet the residency requirement during their term of office shall forfeit the office and a new member shall be appointed to serve the unexpired portion of the term. Any vacancy shall be filled by the Mayor and City Council for the unexpired term of the predecessor in the office.

(7) **Quorum.** A quorum of the Planning Commission shall consist of a majority of the current membership of the Commission.

(G) Planning Commission Meeting Procedures.

Except as otherwise provided by law or this Code, the Planning Commission shall conduct its meetings in accordance with *Robert's Rules of Order, Newly Revised*, unless other rules are adopted by the Commission.

(H) Site Plan and Architectural Commission Authority.

The Site Plan and Architectural Commission is hereby designated as the approving authority for the following land use reviews:

Land Use Review

Exception
Major Modification of Site Plan and Architectural Review Approval
Site Plan and Architectural Review

(I) Site Plan and Architectural Commission, Other Duties. The Site Plan and Architectural Commission shall have the power to adopt design guidelines. Such guidelines may be general or specific in nature and shall be in the form of suggested approaches intended to aid applicants in preparation, presentation and implementation of development proposals in compliance with the City of Medford Comprehensive Plan and implementing ordinances. Guidelines shall be advisory and shall not limit applicants to a single approach.

(J) Site Plan and Architectural Commission, Membership.

(1) **Number Appointed.** The Site Plan and Architectural Commission shall consist of nine voting members appointed by the Mayor and City Council.

(2) **Length of Term.** Site Plan and Architectural Commissioner terms shall be for a period of four years, with the exception of the member of the Planning Commission, whose initial term shall be for a period of two (2) years. Subsequent Planning Commissioner terms shall be for one year if reappointed. Said terms shall begin on February 1 of each year with not more than two terms expiring in the same year, exclusive of the Planning Commissioner.

(3) **Position Appointments.**

(a) One member shall be a Planning Commissioner nominated by the Planning Commission chairperson.
(b) One member shall be a licensed architect.
(c) One member shall be a licensed professional engineer.
(d) One member shall be a licensed landscaping professional.
(e) One member shall be a licensed contractor.

When selecting persons to fill the remaining four positions, preference should be given to applicants who have training or experience closely related to the licensed positions. At the Mayor and City Council's discretion, an appointment to any of the four professional/licensed positions may be an individual who, in lieu of having a valid license in the profession, possesses a comparable combination of skill, education, training and experience related to the respective professional licensing category.

(4) **Selection Criteria**.

All members of the Commission shall either be residents of the City of Medford or Medford Urban Growth Boundary. No more than two members of the Commission shall be appointed who reside outside the Medford city limits. A Commissioner who ceases to meet the residency requirement during their term of office shall forfeit the office and a new member shall be appointed to serve the unexpired portion of the term.

(5) **Removal Terms.**

A member may be removed by the Mayor and City Council, after a hearing, for misconduct or nonperformance of duty.

(6) **Vacancy Replacement**.

A Commissioner who ceases to meet the residency requirement during their term of office shall forfeit the office and a new member shall be appointed to serve the unexpired portion of the term. Any vacancy shall be filled by the Mayor and City Council for the unexpired term of the member being replaced.

(7) **Quorum.**

A quorum of the Site Plan and Architectural Commission shall consist of a majority of the current membership of the Commission.

(K) Site Plan and Architectural Commission Meeting Procedures.

Except as otherwise provided by law or this Code, the Site Plan and Architectural Commission shall conduct its meetings in accordance with *Robert's Rules of Order, Newly Revised*, unless other rules are adopted by the Commission.

(L) The Landmarks and Historic Preservation Commission Authority.

The Landmarks and Historic Preservation Commission is hereby designated as the approving authority for the following land use reviews:

Land Use Review
Appeals (See Section 10.140)

Exceptions
Historic Review

(M) The Landmarks and Historic Preservation Commission, Other Duties

(1) To study proposed Comprehensive Plan and Land Development Code amendments relating to historic preservation, and submit recommendations regarding such proposals to the Planning Commission and City Council.

(2) To institute and support programs and projects that further the historic preservation policies of the City of Medford.

(3) To adopt approval criteria for Minor Historic Review of alterations of roofing materials, exterior colors, or sign face design for an existing sign within Historic Preservation Overlay Districts. Such criteria shall be consistent with the Secretary of the Interior's Standards for the Treatment of Historic Places as applicable.

(4) To adopt design guidelines for new construction and exterior alterations within an Historic Preservation Overlay. Such guidelines may be general or specific in nature and shall be in the form of approaches intended to aid applicants in preparation, presentation, and implementation of development proposals that comply with the Medford Comprehensive Plan and implementing ordinances. Guidelines shall be advisory and shall not limit applicants to a single approach.

(5) To adopt approval criteria and/or design guidelines for signage within the Historic Preservation Overlay. Such criteria or design guidelines may authorize signs that differ from the standards of Article VI when necessary to meet historic compatibility and preservation goals.

(N) Historic Review.

For the purposes of this section, the definitions, rules, and procedures of Sections10.401 through 10.408 shall apply. Historic Review shall include:

(1) **Historic Preservation Overlay Changes**. Review and investigation of any historic resource in the City of Medford that may have historic significance; initiation of proceedings to change the extent of the Historic Preservation Overlay; decisions on applications to change to the extent of the Historic Preservation Overlay; and preparation of findings substantiating or refuting the historic significance of the resource.

(2) **Exterior Alteration and/or New Construction Review.** Consideration of proposed exterior alteration and/or new construction within a Historic Preservation Overlay.

(3) **Demolition and/or Relocation Review.** Consideration of proposed demolition or relocation within an Historic Preservation Overlay, and authorization of either delayed or immediate issuance of a demolition or relocation permit.

(O) Landmarks and Historic Preservation Commission, Membership.

(1) **Number Appointed.** The Landmarks and Historic Preservation Commission shall be made

up of five voting members appointed by the Mayor and City Council.

(2) **Length of Term.** All regular terms of members of the Landmarks and Historic Preservation Commission shall be for a period of four years, and shall begin on February 1, with not more than three terms expiring in the same year.

(3) **Position Appointments.** All members of the Landmarks and Historic Preservation Commission shall have demonstrated positive interest, competence, or knowledge of historic preservation. The Planning Director or designee shall serve as an *ex-officio* member of the Landmarks and Historic Preservation Commission. (4) **Selection Criteria.** All members of the Commission shall either be residents of the City of

Medford or Medford Urban Growth Boundary. No more than two members of the Commission shall be appointed who reside outside the Medford city limits.

(5) **Removal Criteria.** A member of the Landmarks and Historic Preservation Commission may be

removed by the Mayor and City Council, after a hearing, for misconduct or nonperformance of duty. Replacements shall be appointed by the Mayor and City Council for the remainder of the unexpired term. A Commissioner who ceases to meet the residency requirement during their term of office shall forfeit the office and a new member shall be appointed to serve the unexpired portion of the term.

(6) **Quorum.** A quorum of the Landmarks and Historic Preservation Commission shall consist of a

majority of the currently appointed members.

(P) Landmarks and Historic Preservation Commission, Meeting Procedures.

(1) Except as otherwise provided by law or this Code, the Landmarks and Historic Preservation Commission shall conduct its meetings in accordance with *Robert's Rules of Order, Newly Revised*, unless other rules are adopted by the Commission.

(2) The Landmarks and Historic Preservation Commission shall meet as necessary to act on Historic Reviews in a timely manner.

(3) There shall be at least one meeting of the Landmarks and Historic Preservation Commission held each year, during the month of March.

(Q) Planning Director Authority. The Planning Director is hereby designated as the approving authority for Type I and II land use reviews as well as issuance of the Development Permit. This includes the following land use reviews:

Land Use Review

De Minimis Revision(s) to Approved PUD Plan
Final PUD Plan
Final Plat, Partition/Subdivision
Minor Historic Review
Minor Modification to Conditional Use Permit

Minor Modification to Site Plan and Architectural Review
Pre-Application
Property Line Adjustment
Riparian Corridor Reduction or Deviation
Sign Permit
Tentative Plat, Partition

(R) Planning Director, Other Duties. The Planning Director shall also be responsible for the administration and enforcement of this chapter.

10.112 Referral Agencies.

(A) It is the responsibility of a referral agency to provide timely review and comment on all proposals referred by the City. The referral agency shall be requested to determine consistency of a proposal with the referral agency's operating policies and standards and to suggest conditions of approval on a land use review/application.
(B) This Chapter employs the use of referral agencies for the review of land use permit applications according to a Referral Agency Distribution Schedule that is available and maintained by the Planning Department.
(C) Referral agencies may be asked to review certain applications, in the judgment of the Planning Director, the agency may have an interest in the proposal. Additional referral agencies may be notified at the discretion of the Planning Director.

(D) Referral Agency Action and Decision Time.
(1) After deeming an application complete per Section 10.122, the Planning Department shall transmit one copy of the proposed legislation, or land use permit application, and necessary accompanying data for review and comment to any governmental agency or private entity that is entitled to notice per the Planning Department's Distribution Schedule.
(a) **Type IV Land Use Reviews:** Referral agencies shall have thirty working days to submit comments on all Type IV land use applications/reviews. If the referral agency does not comments within thirty working days, then the referral agency is assumed to have no comment. If requested in writing, by a referral agency, an extension of thirty working days may be granted.
(b) **Type III Land Use Reviews:** Upon receipt of a Type III land use application/review and necessary accompanying data, each referral agency shall make an investigation and submit a written report within fifteen working days, and forward same to the Planning Department, clearly specifying any recommended conditions for development or approval.

(E) Referral Agency Reports.
Upon receipt of a request for review and comment, each referral agency shall make an investigation and submit written comments to the Planning Department clearly specifying any recommended conditions for development approval.

(1) **Affected Agency Reports.** Other agencies having jurisdiction shall report to the Planning Department as to any recommendations or provisions which in their determination are required for the approval of the land use permit consistent with this code.
(2) **City Engineer's Report.** The City Engineer shall investigate and report on existing facilities and make a recommendation on the manner in which the land use is to be provided city services. The City Engineer shall appropriately condition the land use permit to adequately provide for the provision of public infrastructure for the land constituting and surrounding the proposed land use.
(3) **Fire Department.** The Fire Department shall investigate and report on existing facilities and make a recommendation concerning the number and placement of fire hydrants and other fire protection requirements for the proposed land use.
(4) **Water Commission.** The Water Commission shall investigate and report on the applicable infrastructure that is in place, what easements pertain to the project, and what are the improvements needed to provide adequate infrastructure to the site.
(5) **Planning Department.** The Planning Department shall review the land use permit application in relation to the Comprehensive Plan, any applicable specific plans prescribed by law which affect the proposed land use and in relation to any and all criteria and standards applicable to the application type. The staff report shall either summarize, or incorporate by reference, all referral agency reports and public comments received, and shall itemize such conditions as it deems appropriate to be imposed by the approving authority if approval is to be recommended. The staff report shall be made available at no cost by the Planning Department seven days before the public hearing.

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CONCURRENT LAND USE REVIEWS, APPLICATION SUBMITTALS, FINDINGS AND CONCLUSIONS (10.114 – 10.118)

10.114 Concurrent Land Use Review

The applicant of a land use application may choose to request consideration of all, any one, or a combination of required land use reviews by the same approving authority at the same time. Otherwise, a request for consideration of a specific land use application may follow, at any time, the application for other required land use reviews.

10.116 Application Submittals.

Land use applications shall be submitted to the Planning Department and shall consist of the submittal requirements specified in this Chapter, Article II, or in other applicable sections of the Medford Land Development Code. If an application does not include all required submittals, it shall be deemed incomplete per Section 10.122.

10.118 Findings of Fact

Findings of Fact are statements of the criteria, facts, and conclusions used in making a decision. In order for the approving authority to approve a land use application, it must find that the proposal complies with the approval criteria and standards listed in this chapter. The findings must demonstrate and lead to the conclusion, based on the facts, that the criteria are being met. Findings which address applicable criteria shall accompany all actions required of this chapter for land use review. At a minimum, the findings of fact shall include:
(A) The approval criteria applicable to the specific land use application.
(B) A complete description of the project including all facts about the proposal which support approval.
(C) An analysis and rationale of how the facts demonstrate that the project meets each of the criteria.

DUE PROCESS. (10.120 – 10.138)

10.120 Due Process.

Each of the procedural types outlined in Section 10.106 are subject to specific due process and administrative requirements which are outlined below in Table 10.120-1 for each land use application.

Table 10.120-1. Due Process Elements by Procedure Type

Due Process Element	Land Use Procedure Type			
	Type I	Type II	Type III	Type IV
1. Completeness Review		✓	✓	✓
2. Notification		✓	✓	✓
3. Disclosure		✓	✓	✓
4. Conflict of Interest			✓	✓
5. Public Hearing			✓	✓
6. Cross-Examination			✓	✓
7. Action, Decision Time and Notice of Decision		✓	✓	✓
8. Findings of Fact		✓	✓	✓
9. Record		✓	✓	✓

10.122 Due Process Element 1: Completeness Review

(A) Upon submittal of a land use application to the Planning Department, the date of receipt shall be indicated on each copy of the materials submitted.

(B) Within 30 days of receipt, the Planning Department shall determine whether a Type II, III, or IV land use application as submitted, along with the required information, is complete as per this chapter.

(C) If the Planning Department fails to provide notice of completeness to the applicant of a Type II, III, or IV land use application in writing within 30 days of receipt, the application shall be deemed complete. For purposes of this section, the date of notice to the applicant shall be the date of mailing.

(D) If it is determined that the Type II, III, or IV land use application is incomplete or otherwise

does not conform to the provisions of this chapter, the Planning Department shall notify the applicant in writing to submit the missing material. The application shall be deemed complete upon receipt of (1) all of the missing information; (2) some of the missing information and written notice from the applicant that no other information will be provided; or (3) written notice from the applicant that none of the missing information will be provided.

(E) If the Type II, III, or IV land use application is deemed complete as first submitted, or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria applicable at the time the application was submitted.

(F) On the 181st day after first being submitted, the Type II, III, or IV land use application is void if the applicant has been notified of the missing information and has not submitted:

(1) all of the missing information;

(2) some of the missing information and written notice that no other information will be provided; or

(3) written notice that none of the missing information will be provided. Any applications that are resubmitted to the Planning Department shall be subject to the standards and criteria in effect at the time the application is resubmitted.

10.124 Due Process Element 2: Notification

(A) Content of Public Hearing Notice. The Public Hearing notice shall:

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

(2) List the applicable criteria from the Code and the Comprehensive Plan that apply to the application at issue;

(3) Set forth the street address or other easily understood geographical reference to the subject property;

(4) State the date, time and location of the hearing; or, for Type II applications, state the date the decision will be rendered;

(5) State that failure to raise an issue in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal based on that issue;

(6) Include the name of a local government representative to contact and the telephone number where additional information may be obtained;

(7) State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;

(8) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; or for a Type II application the staff report will be available on the day the decision is rendered; and

(9) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

(B) Public Hearing Signs. Public hearing signs shall be posted on the project site for any proposed Type II, III, or IV (minor) land use actions according to the following:

(1) Contents of sign. Public Hearing signs shall include a description of the proposed land use action, the date of the public hearing, and the City of Medford file number for the proposed land use action.

(2) Location and number of signs. A posted notice sign must be placed on each existing street frontage of the project site. If a frontage is over 600 feet long, a notice sign is required for each 600 feet, or fraction thereof. Notice signs must be posted within 10 feet of a street lot line and must be visible to pedestrians and motorists. Notice signs may not be posted in a public right-of-way, unless the land use action specifically pertains to a public right-of-way. If posting must occur in the right-of-way, care should be taken to comply with Section 10.735, Clear View of Intersecting Streets.

(3) Sign posting schedule. The required sign(s) shall be posted as specified in Table 10.124-1. Posted signs shall be removed within 10 days following the final decision.

(4) Consequences of failing to post the property as required. Failure to post the signs as required by this section is a violation of the Medford Municipal Code.

(C) Notification, Affected Property Owners.

(1) **Notice of Type II Land Use Action**. In the case of Type II land use actions where there is no public hearing, notification shall be mailed to the applicant and all affected property owners within 10 working days of deeming an application complete pursuant to Section 10.122.

(a) **Notice of Public Comment Period, Type II**. The Planning Director shall provide a 14 day period for submission of written comments prior to making a decision on any application requiring a Type II land use action.

(b) **Notice Area, Type II**. The Planning Director shall mail notice of the public comment period to the following:

(i) The applicant.

(ii) Property owners within 200 feet of the entire contiguous site for which the application is made. This list shall be compiled from the most recent property tax assessment roll.

(iii) Any neighborhood or community organization recognized by the City and whose boundaries include the site.

(iv) Public agencies which provide transportation facilities and services, such as Jackson County and the Oregon Department of Transportation (ODOT), for all partitions, which affect private access to roads.

(c) **Notice of Comment Period Content, Type II.** The notice shall:

(i) 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 provide for appeal of a Type II decision to the Planning Commission through a de novo hearing, which allows new issues to be raised and allows the 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 this code allows for local appeal.*

(ii) List, by commonly used citation, the applicable criteria for the decision.
(iii) Briefly summarize the local decision making process for the decision being made.
(iv) Provide a project description that clearly describes the proposal and what is being requested.
(v) Identify the street address or other easily understandable geographical reference of the location of the site under review.
(vi) State the place, date and time the comments are due, and the person whom the comments should be addressed.
(vii) State that copies of all evidence relied upon by the applicant are available for review at no cost, and that copies can be obtained at reasonable cost from the City.
(viii) Include the name of the Planning Director or designee to contact and the telephone number where additional information may be obtained regarding the application.
(ix) State that any person who is adversely affected or aggrieved, anyone who is entitled to written notice in Subsection (C.1.b) above, and anyone who provides written comments during the comment period may appeal the decision by filing an appeal in accordance with this Code within 14 days of the date the written notice of decision is mailed.
(x) State the decision will not become final until the period for filing a local appeal has expired.
(xi) 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.

(d) **Notice of Decision, Type II**. Upon reaching a final decision on the application, the Planning Director shall mail a copy of the decision to the applicant and any person who submits comments during the public comment period. The Planning Director shall also mail notice of the decision in writing to parties who were notified of the comment period

in Subsection (C.1.b) of this Section.

(e) **Notice of Decision Content, Type II**. The content of the notice of decision shall:

(i) A description of the applicant's proposal and a summary of the City's decision on the proposal.

(ii) Identify the street address or other easily understandable geographical reference of the location of the site.

(iii) Identify a statement of where the City's decision can be obtained and contact information.

(iv) Include a statement that all persons entitled to notice may appeal the decision.

(v) State that any person who is adversely affected or aggrieved, anyone who is entitled to written notice in Subsection (C.1.b) above, and anyone who provides written comments during the comment period may appeal the decision by filing an appeal in accordance with this Code within 14 days of the date the written notice of decision is mailed.

(vi) State that copies of all evidence relied upon by the decision-maker are available for review at no cost, and that copies can be obtained at reasonable cost from the City.

(vii) State the decision will not become final until the period for filing a local appeal has expired.

(viii) 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.

(f) **Final Decision and Effective Date, Type II.** 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 decision is effective when the appeal is decided.

(g) **Appeal, Type II.** A final decision may be appealed to the Planning Commission as provided in Section 10.140 of this Code.

(2) **Notice of Type III and IV Land Use Actions.** Notification shall be mailed to the applicant and

all affected property owners no later than 21 days prior to each public hearing date.

(3) All addresses for mailed notices shall be obtained from the latest property tax rolls of the Jackson County Assessor's office.

(4) Affected property owners for each procedure type shall be determined as indicated in Table 10.124-1

(D) Publication. Unless otherwise indicated, public hearing notices for all proposed land use actions shall be published in a newspaper of general circulation prior to the scheduled public hearing date before the approving authority. The schedule of publication for each procedure type shall be as specified in Table 10.124-1.

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Table 10.124-1: Notice of Public Hearing Schedule by Procedure Type			
Procedure Type	Newspaper Publication	On-Site Public Hearing Sign	Affected Property Owners Notice
Type I	None	None	None
Type II	None	None	Within 10 working days of receiving a complete application, notice will be sent to all property owners within 200 feet of the project boundaries
Type III: Conditional Use Permit, Exception, Preliminary PUD Plan, Zone Change	Notice shall be published no later than 10 days prior to the public hearing date before the approving authority.	A sign shall be placed on the subject property 21 days prior to the public hearing date.	21 days prior to the public hearing date notice will be sent to all property owners within the project boundaries plus all property owners within 200 feet of the project boundaries. For Preliminary PUD Plans, in addition to the above, the owners of no less than 75 tax lots shall be notified. If 75 tax lots are not located within 200 feet of the exterior boundary of the PUD, the notification area shall be extended by successive 50-foot increments, until the minimum number of lots are included in the notification area.

Table 10.124-1: Notice of Public Hearing Schedule by Procedure Type			
Procedure Type	Newspaper Publication	On-Site Public Hearing Sign	Affected Property Owners Notice
Type III: Historic Review, Site Plan and Architectural Commission Review	None	A sign shall be placed on the subject property 21 days prior to the public hearing date. AND A notice shall be posted in a public place no later than five days prior to the public hearing date.	21 days prior to the public hearing date notice will be sent to all property owners within the project boundaries plus all property owners within 200 feet of the project boundaries.
Type III: Subdivision Tentative Plat	Notice shall be published no later than 10 days prior to the public hearing date.	A sign shall be placed on the subject property 21 days prior to the public hearing date.	21 days prior to the public hearing date notice will sent to all property owners within the project boundaries plus all property owners within 200 feet of the project boundaries.
Type IV: Minor Comprehensive Plan Amendment, General Land Use Plan Map Amendment, Transportation Facility Development	Notice shall be published no later than 10 days prior to the public hearing date before the Planning Commission (the advisory body) AND No later than 10 days prior to the public hearing date before City Council (the approving authority).	A sign shall be placed on the subject property 21 days prior to the first public hearing date.	21 days prior to each public hearing date notice will be sent to all property owners within the project boundaries plus all property owners within 200 feet of the project boundaries.
Type IV: Annexation	Notice shall be published once	Notice shall be posted in four	21 days prior to the public hearing

Table 10.124-1: Notice of Public Hearing Schedule by Procedure Type			
Procedure Type	Newspaper Publication	On-Site Public Hearing Sign	Affected Property Owners Notice
	each week for two successive weeks prior to the public hearing date.	public places for two successive weeks prior to the public hearing date.	date notice will be sent to all property owners within the project boundaries plus all property owners within 200 feet of the project boundaries.
Type IV: Vacation of Public Right-of-Way	Not less than 14 days before the public hearing date before the approving authority, notice shall be published once a week for two consecutive weeks.	Within five days after publication of the first notice, and not less than 14 days before the hearing, a sign shall be placed at or near each end of the proposed vacation in at least two conspicuous places in the proposed vacation area.	21 days prior to the public hearing date notice will be sent to all property owners within the area of a plat vacation or all abutting property and all attached real property within 200 feet laterally and 400 feet beyond the terminus of each right-of-way to be vacated.
Type IV: Land Development Code Amendment, Major Comprehensive Plan Amendment, Major Zone Change	Notice shall be published no later than 10 days prior to the public hearing date before the Planning Commission (the advisory body), AND No later than 10 days prior to the public hearing date before the City Council (the approving authority).	None	Generally not applicable to a legislative action unless it meets ORS 227.186 criteria (*i.e.*, the change effectively rezones property).

10.126 Due Process Element 3: Disclosure.

There shall be provided to the applicant and other interested parties adequate opportunity to review the facts, findings, staff report and other exhibits as soon as practical, but not less than seven days prior to the time at which a decision is to be made on land use application by the approving authority.

10.128 Due Process Element 4: Conflict of Interest

See Section 10.130 (E) and 10.132

10.130 Due Process Element 5: Public Hearing.

The contents of this section shall govern the conduct of all quasi-judicial public hearings before an advisory body/approving authority. A copy of this section shall be available for public inspection at each quasi-judicial hearing and in the Planning Department. The conduct of public hearings on legislative matters shall be at the discretion of the presiding officer.

(A) **Nature of Hearing**. All parties with standing shall have an opportunity to be heard, to present and rebut evidence before an impartial tribunal, to have the proceedings recorded, and to have a decision rendered in accordance with the facts on record and the law.

(B) **Authority of Presiding Officer.** The presiding officer of the advisory body/approving authority shall have authority to:

(1) Regulate the course and decorum of the meeting.
(2) Dispose of procedural requests and similar matters.
(3) Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation, questions, and rebuttal testimony.
(4) Question any person appearing, and allow other members to question any such person.
(5) Waive, at their discretion, the application of any rule herein where the circumstances of the hearing indicate that it would be expedient and proper to do so, provided that such waiver does not act to prejudice or deny any party their substantial rights as provided herein or otherwise by law.
(6) Take such other action as authorized by the approving authority to appropriately conduct the hearing.

(C) **Challenge or Reversal of Presiding Officer Ruling.** A ruling of the presiding officer may be challenged by any member of that advisory body/approving authority present at the hearing. The challenge must be seconded. A ruling may be reversed by a majority of the members present and voting. A tie vote upholds the presiding officer's decision.

(D) **Conduct of Participants**. Proceedings shall at all times be orderly and respectful. The presiding officer may refuse to recognize or exclude from the hearing anyone who:

(1) Is disorderly, abusive, or disruptive;
(2) Takes part in or encourages audience demonstrations such as applause, cheering, display of

signs, or other conduct disruptive to the hearing;
(3) Testifies without first receiving recognition from the presiding officer and stating their full name and residence; and,
(4) Presents irrelevant, immaterial, or repetitious evidence.
(E) **Order of Procedure**. The presiding officer shall conduct the hearing in an orderly fashion, within the guidelines set forth herein. The hearing shall proceed in the following manner:
(1) **Commencement**: At the commencement of a hearing under a *Comprehensive Plan* or land use regulation, a statement shall be made to those in attendance that lists the applicable substantive criteria; states that testimony and evidence must be directed toward the criteria described in this subsection or other criteria in the plan or land use regulation which the person believes to apply to the decision; and states that failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal based on that issue.
(2) **Abstentions, Conflict of Interest and Challenges**. All members shall comply with ORS 244.120 and 244.130 regarding actual or potential conflicts of interest. Any member who is disqualified or wishes to abstain from participation in the hearing on a proposal shall identify the reasons for the record and shall not thereafter participate in the discussion as a member or vote on the proposal. Any challenges to the impartiality shall also be decided at this time.
(3) **Planning Director's Report**. The presiding officer shall request that the Planning Director or staff member report on the criteria and standards and the basic factual evidence applicable to the case and indicate the action required to be taken.
(4) **Applicant's Case**. The presiding officer shall allow the applicant or applicant's representative to present evidence in support of the application. The applicant shall be allowed to produce witnesses on their behalf. Other parties in favor of the proposal shall thereafter be allowed to present their evidence. Applicant may then reserve time for rebuttal. The Planning Director may appear as an applicant on a staff proposal.
(5) **Opponent's Case**. The presiding officer shall allow opponents to present evidence in opposition to the proposal. Opponents shall be allowed to produce witnesses on their behalf.
(6) **Questioning of Witnesses**. Cross examination shall be permitted as per Section 10.132.
(7) **Applicant's Rebuttal if Reserved**.
(8) **Staff Summary and Recommendations**. The Planning Director or staff person may present any additional evidence, comments and recommendations at the close of the hearing.
(9) **Final Discussion**. Upon conclusion of the evidence, members shall be allowed to openly discuss the proposal and further question any party appearing for or against the proposal as necessary.
(10) Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. Such an extension shall not be subject to the limitations of ORS 227.178, "120 Day Rule."
(11) When the advisory body/approving authority re-opens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.

(12) The failure of the property owner to receive notice as provided in Section 10.124 shall not invalidate such proceedings if the city can demonstrate by affidavit that such notice was mailed. The notice provisions contained in Section 10.124 shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.

(F) **Standing**. A person has the right to appear as a party to a quasi-judicial proceeding if the person:

(1) received official written notice of the hearing or was entitled to receive such notice, or

(2) has interests which could be adversely affected by the decision.

10.132 Due Process Element 6: Cross Examination.

(A) Prior to any quasi-judicial public hearing there shall be provided to all affected parties, upon request, the right to question the advisory body/approving authority, relative to any actual or potential conflict of interest. Once a member of the advisory body/approving authority is disqualified, no further questions shall be directed to them.

(B) Any witness may be questioned in an orderly fashion by any member of the advisory body/approving authority, applicant, proponent or opponent who has first been recognized by the presiding officer. Questions shall be brief and to the point. All questions shall be submitted to the witness through the presiding officer unless the presiding officer expressly permits the submission of questions directly to a witness.

10.134 Due Process Element 7: Action, Decision Time, and Notice of Decision.

(A) **Action**. After acceptance of an application, the approving authority shall approve, approve with conditions, or deny the request. The decision of the approving authority shall be based upon the application, the evidence and comments from referral agencies and the public, and compliance with this chapter.

(B) **Decision Time.** Action on all land use reviews shall be taken within the time herein prescribed.

(C) **Notice of Decision.** For all land use reviews, the Planning Department shall, within five working days of the decision date, provide written notification of the land use decision to the applicant and all persons who testify orally or in writing on the land use review. The notice shall indicate the date that the decision will take effect, the approval's expiration date, and the final date for appeal.

10.136 Due Process Element 8: Findings of Fact

See section 10.118.

10.138 Due Process Element 9: Records.

The secretary to the advisory body/approving authority shall be present at each meeting and shall cause the proceedings to be recorded stenographically or electronically.

(A) Testimony shall be transcribed if required for judicial review or if ordered by the advisory body/approving authority.
(B) The total public record for any legislative or quasi-judicial action includes, but is not limited to, the application, the staff report, the hearing record, the appeal record, the decision or recommendation of all public bodies that considered the matter, and all additional information, correspondence and other items submitted to the city by any party or by the staff prior to the closing of the record. The record shall be deemed closed at the end of the last hearing on the matter, unless kept open to a later date as otherwise provided by law. Items submitted for the record do not have to be formally introduced and admitted at the hearing. The Planning Department shall create and maintain a separate file with a unique file number for each land use action and all items received by the city for that action shall be placed in the Planning Department file.
(C) The Planning Director shall, where practicable, retain as part of the record each item of physical or documentary evidence presented including the staff report, and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent, opponent or staff. Exhibits received into evidence shall be retained in the file until after the applicable appeal period has expired, at which time the exhibits may be released to the person identified thereon, or disposed of by the Planning Director if not claimed within 60 days of the expiration of any appeal date.
(D) Included in the record shall be a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the criteria, standards and facts set forth.
(E) A person shall have access to the record of the proceedings and the exhibit file during normal working hours. A person shall be entitled to copies of the record at the person's own expense. The custodian of record shall make the copies for a fee equal to the actual cost of reproduction.

10.140 Appeal of Land Use Decision.

(A) Standing for Appeal.

(1) Any person with standing may appeal a land use decision of an approving authority (Planning Commission, Site Plan and Architectural Commission, Landmarks and Historic Preservation Commission, and Planning Director) which approves conditionally, approves, or disapproves an appealable land use action per Subsection (E), by filing a written notice together with the requisite filing fee with the Planning Department within 14 days after notice of the decision is mailed.

(2) A person has standing if the person:
(a) appeared in the initial proceedings orally or in writing; and
(b) was entitled to a right of notice and hearing prior to the decision to be reviewed, or is aggrieved by the decision, or has interests adversely affected by the decision.

(3) For a Type II land use decision, a person with standing is an applicant or owner of the

subject property, was entitled to written notice of the decision, or participated in the proceeding by submitting written comments.

(B) Notice of Appeal.

(1) A notice of appeal shall be signed by the appellant or their agent and shall contain:

(a) An identification of the decision sought to be reviewed, including the date of the decision.

(b) A statement demonstrating that the appellant has standing to appeal as required by Subsection (A) above.

(c) A statement of the specific grounds which the appellant relies on as the basis for the appeal. If the appellant contends that the findings of fact made by the approving authority are incorrect or incomplete, the notice shall specify the factual matters omitted or disputed. If the appellant contends that the decision is contrary to ordinance, statute or other law, such errors shall be specifically identified in the notice along with the specific grounds relied upon for review.

(2) Upon timely receipt of the notice of appeal and filing fee, the Planning Department shall schedule the appeal for a hearing before the appropriate appeal body at the next regular hearing that falls not less than fourteen days after the date of filing. The Planning Department shall notify the appellant and other parties with standing, of the time and place of the hearing by first class mail, enclosing a copy of the notice of appeal.

(C) Appeal Procedure.

Only the appellant and other parties with standing may participate in the appeal hearing. Appellant shall make the initial presentation and shall be allowed rebuttal. Each participant in the appeal hearing shall present to the appeal body those portions of the record which the participant deems relevant to the appeal. If a party wishes the appeal body to review recorded testimony, the party shall present a written summary or transcript of such testimony to be read by the appeal body in lieu of actually listening to the recording.

For an appeal of a Type II land use decision, the appellant and other parties shall have an opportunity to present testimony, arguments, and evidence as they would have had in a hearing before the decision was issued. The presentation of testimony, arguments, and evidence shall not be limited to the issues raised in the notice of appeal.

(D) Scope of Appeal.

An appeal hearing shall be either 'de novo', 'limited to issues', or 'on the record' as summarized below.

(1) De novo: Anyone may testify. Issues are not limited to those raised in the appeal. New evidence and argument may be presented.

An appeal of a Type II land use decision, shall be a 'de novo' hearing as required by ORS 227.175 (10)(a)(D). The de novo hearing shall be the initial evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals.

(2) On the record: Issues are limited to those raised in the appeal. New evidence may not be presented. New arguments may be presented so long as they relate to issues raised in the

initial proceedings.

a. The appeal body shall not re-examine issues of fact and shall limit its review to determining whether there is substantial evidence to support the findings of the approving authority, or determining if errors in law were committed. The appellant is also precluded from raising an issue on appeal to the appeal body if they could have raised the issue with the approving authority but failed to do so.

b. The record shall consist of the application and all materials submitted with it; documentary evidence, exhibits and materials submitted at the initial hearing; recorded testimony; the decision of the approving authority, including the findings and conclusions; and the notice of appeal.

(E) Decision Regarding Appeals.

(1) Upon review of the appeal, the appeal body may by order affirm, reverse or modify in whole or in part a determination or requirement of the decision that is under review. When the appeal body modifies or renders a decision that reverses a decision of the approving authority, the appeal body, in its final order, shall set forth its finding and state its reasons for taking the action encompassed in the order. When the appeal body elects to remand the matter back to the approving authority for such further consideration as it deems necessary, it shall include a statement explaining the error to have materially affected the outcome of the original decision and the action necessary to rectify such.

(2) Action by the appeal body shall be decided by a majority vote of its members present at the meeting at which review was made and shall be taken either at that or any subsequent meeting. The appeal body shall render its decision within the time limits allowed by State law.

(F) Appeal of Type I Land Use Decision.

(1) With the exception of Riparian Corridor Reductions or Deviations, Final PUD Plan decisions and Minor Historic Review decisions, all other Type I land use decisions are final and not appealable under this chapter or any other provision of the Medford Municipal Code.

(2) Riparian Corridor Reduction or Deviation decisions made by the Planning Director or designee may be appealed to the City Council.

(3) Final PUD Plan decisions made by the Planning Director or designee may be appealed to the Planning Commission.

(4) Minor Historic Review decisions made by the Planning Director or designee may be appealed to the Landmarks and Historic Preservation Commission.

(G) Appeal of Type II Land Use Decisions.

Type II land use decisions made by the Planning Director or designee may be appealed to the Planning Commission as a de novo hearing. The Planning Commission decision on appeal shall be the final local decision on the matter.

(H) Appeal of Type III Land Use Decision.

Type III land use decisions made by the approving authority (Planning Commission, Site Plan and

Architectural Commission, or Landmarks and Historic Preservation Commission) may be appealed to the City Council. The appeal shall be heard on the record.

(I) Appeal of Type IV Land Use Decision.

Type IV land use decisions made by City Council may be appealed to the Land Use Board of Appeals (LUBA) pursuant to ORS 197.830.

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TYPE I APPLICATIONS. (10.142 – 10.160)

10.142 Type I Land Use Actions.

Type I land use actions comprise the following land use reviews:

Type I Land Use Actions

De Minimis Revision(s) to an Approved PUD Plan
Final PUD Plan
Minor Historic Review
Minor Modification(s) to Approved Conditional Use Permit
Minor Modification to a Site Plan and Architectural Review Approval
Nonconformities
Pre-Application
Property Line Adjustment
Riparian Corridor Reduction or Deviation
Sign Permit
Subdivision/Partition Final Plat

10.144 De Minimis Revision(s) to an Approved PUD Plan. See Section 10.198.

10.146 Final PUD Plan. See Section 10.196.

10.148 Minor Historic Review. See Section 10.188.

10.150 Minor Modification to an Approved Conditional Use Permit. See Section 10.184.
10.152 Minor Modification to a Site Plan and Architectural Review Approval. See Section 10.200.

10.154 Nonconformities. See sections 10.032 – 10.037

10.156 Preapplication Conference.
Prior to submitting a land use permit application, the applicant may apply for a preapplication conference with the Planning Department. Upon receipt of an application the preapplication conference shall be scheduled. At the conference there shall an exchange of information regarding procedural requirements, required land use applications, consistency with the Comprehensive Plan and this Chapter, scheduling and such other technical and design assistance as will aid the applicant in preparing a complete application. Upon conclusion of the conference the Planning Department shall provide the applicant with a written summary of the conference.

10.158 Property Line Adjustment.

(A) Property Line Adjustment Purpose.

The purpose of property line adjustments is to relocate or eliminate a common property line between abutting properties.

(B) Property Line Adjustment Approval Criteria.

A property line adjustment shall be approved if it complies with the following:

(1) All properties were lawfully created;

(2) No new lots or parcels of land will result from the adjustment;

(3) The adjustment will not result in a unit of land that overlaps the city limit line, urban growth boundary, or zoning districts;

(4) The adjusted property configurations shall not create a substandard condition relative to the applicable standards of the Code. When one or more properties are less than the minimum required area or width, none of the resulting units of land shall be made smaller in area or narrower in width than the original smallest existing unit of land.

(C) Property Line Adjustment Application Form.

Property line adjustments shall be submitted to the Planning Department on application forms supplied by the Planning Department. The Planning Director or designee may waive the submittal of any of the materials or information that is deemed to be excessive, repetitive, or unnecessary. The application for property line adjustment shall require the following information:

(1) A site plan drawn to scale by a land surveyor registered in the State of Oregon showing the following:

(a) Existing and proposed property lines, including dimensions and square footage, for all properties involved;

(b) Assessor's map and tax lot identification for subject properties;

(c) Location of existing wells, septic systems, sanitary sewer, storm drain laterals, and water service;

(d) Location, name, and purpose of all existing and proposed easements; If the property line adjustment will result in any portion of a utility service, lateral, driveway, or water service being located on a different parcel than the structure served by them, an easement granting continued use of the improvement will be required;

(e) The name of public and private streets that abut or lie within the subject area;

(f) Accurate location, height, ground floor area, and use of all structures on the subject properties including the distance from all proposed property lines. If the units of land are vacant, a written statement certifying the same shall be provided;

(g) Names of subject property owners as shown on the accompanying deeds;

(h) Signature of person preparing the map, attesting to the accuracy of information contained thereon;

(i) If items above are not shown on site plan, a statement is required stating the specific items do not exist on the property;

(2) A report from a title company prepared within 30 days listing the vested owners, easements, encumbrances, and other matters of record for each property;

(3) The owners of all properties that will be modified by the property line adjustment must sign the application form or a letter of authorization.

(D) Property Line Adjustment Procedure.

(1) Preliminary Review.

Once the application has been submitted the Planning Department shall send a copy to affected agencies and City departments for review. Within 25 working days after the application has been submitted, the Planning Department shall send a written notification to the applicant indicating:

(a) The application is missing information required in Section 10.158. Once all of the missing information is submitted, the City will have 25 working days to complete the review; or

(b) The application has been preliminarily approved consistent with Section 10.158; or

(c) The application has been disapproved as it is not consistent with Section 10.158.

(2) Final Review.

(a) Within one year of the preliminary approval date, the applicant shall submit to the Planning Department all of the following:

(i) Map of survey showing the adjusted property lines prepared by an Oregon licensed surveyor in accordance with the procedures of ORS 92.060(7) and 209.250. This requirement applies to all properties regardless of size.

(ii) A report from a title company prepared within 15 days listing the current vested owners, easements of record, encumbrances, and other matters of record;

(iii) A copy of proposed easements to be recorded. Proposed easements may be included as a reservation on the property line adjustment deeds;

(iv) Deeds which include a statement that identifies the associated conveyance of property as a property line adjustment and labeled as a "Property Line Adjustment." If a property line is being eliminated, the deeds shall be labeled "Property Line Adjustment – Lot Consolidation."

(v) Property descriptions attached to the deeds shall either describe the resultant properties or otherwise specify that the conveyed land shall be consolidated with the property of the grantee. A property line adjustment deed shall contain the names of the parties, the description of the adjusted line, references to original recorded documents, and signatures of all parties with proper acknowledgment.

(b) Within 25 days of submittal, the City will conduct the final review for consistency with the preliminary approval and the approval criteria. Upon approval, the survey will be signed by the City Surveyor and the Planning Director.

(E) Property Line Adjustment Recordation and Expiration.

Within one year of the final decision date, the property line adjustment deeds must be filed with the Jackson County Recorder's Office. If the deeds are not filed within one year, the application approval will expire.

10.160 Riparian Corridors, Reduction or Deviation. See Sections 10.920 – 10.928.

10.162 Subdivision and Partition Final Plats.

(A) Final Plat Approval Required.

No person shall cause or permit the sale or development of any real property under their ownership or control, nor shall any development [MHB3]permit be issued for such development, until final approval therefor has been granted by the Planning Director in accordance with this chapter, and an approved final plat has been recorded with the Jackson County Recorder. The requirements of this section shall not be applicable to any of the following which are exempt from such provisions:

(1) Where final plat approval for the identical lot or site has been previously obtained from the City within 10 years prior to the date of application for a building permit, in accord with such ordinance requiring plat approval which was in effect at that time, and such final plat is of record evidencing such plat approval;

(2) Developments made solely for the purpose of opening or widening a public street or alley, or those involving conveyance, transfer, access, sewer, water, or public utility, provided that no partitions or parcels of land are created other than those directly caused by such action.

(3) Developments made solely because of the acquisition of lands by government agencies for freeways, parks, public buildings, flood control channels, or other public purposes, or for the sale of minor remnant parcels by such agencies to adjacent property owners where such land involved in the sale is not designated in the City's Comprehensive Plan as a recreational facility. In connection with the sale of any such minor remnant parcel, the person acquiring the property shall consolidate the acquired remnant parcel with his existing contiguous ownership;

(4) Developments involving land dedicated for cemetery purposes; or

(5) Developments caused by a conveyance for the purpose of adding land to one parcel by deducting it from another contiguous parcel, where such does not reduce the area of the parcel from which such portion is taken below the minimum area, frontage, width or depth prescribed for the zoning district in which said parcel is located, nor reduce any of the required yard spaces surrounding any structure or use on such parcel below the minimum prescribed for such zoning district.

(B) Final Plats, General.

The form and content of a final plat shall be in accord with the provisions of ORS 92.050 through 92.080, and this code. Final plats not submitted in accord with this code shall not be considered for approval.

(C) Form of Final Plat and Data to Appear Thereon.

Where identified by an "X" in table 10.162-1, the final plat of subdivisions and partitions

shall conform to the following provisions:

Final Plat Form and Data – Table 10.162-1

Final Plat Provisions	Include on Subdivision Final Plat	Include on Partition Final Plat
1. **Title and subtitle of plat**. The title sheet shall contain the name as approved by the Planning Commission. Below the title sheet shall appear a subtitle giving a general location of the property being developed by reference to the plats which have previously been recorded. In case the property included within the subdivision lies wholly in the city of Medford, the following words shall appear below the title, "In the City of Medford."	X	
2. **Distances and bearings**. Sufficient data to determine readily the bearing and length of every lot line, block line, and boundary line. Dimensions of lots shall be given as total dimensions, corner to corner and shall be shown in feet and hundredths of a foot. The plat shall show the basis of bearings and lengths of straight lines and radii, and all arc lengths, central angle, or other data as necessary to define all curves within the subdivision.	X	X
3. **Boundary references and monuments**. The plat shall show clearly what monuments (type and size) or other evidence is found on the ground to determine boundaries of the subdivision. The adjoining corners of all adjoining subdivisions shall be identified by lot and block number, and subdivision name. The plat shall show the location and description of monuments found or placed in making the survey for proper reference and data sufficient for relocation and retracing of any and all exterior boundary lines and lot and block lines. Whenever the city or county engineer has established the centerline of a street adjacent to or in the proposed subdivision, the data shall be shown on the plat.	X	X
4. The plat shall note whether the subdivision or portion thereof are subject to periodic inundation by water as determined from the Federal Flood Insurance Rate Maps.	X	X

Final Plat Form and Data – Table 10.162-1

Final Plat Provisions	Include on Subdivision Final Plat	Include on Partition Final Plat
5. The centerlines and sidelines of all streets, and total width thereof, and the widths of each side of the centerline and widths of any portion of a street being dedicated, the width of existing dedications, and the widths of any railway, drainage channel, or other rights-of-way shall be shown.	X	X
6. The plat shall show all easements of record, or easements to be recorded, to which the lots will be subject. Such easements must be clearly labeled and identified if already of record, and record reference given. If any easement is not definitely located of record, a statement of such easement must appear on the plat. All easements other than for streets shall be denoted by fine broken lines and designated as to type. Easement widths and the lengths and bearings of the lines thereof, together with sufficient ties thereto, shall be set forth to definitely locate the easement with respect to the development.	X	X
7. City boundary lines which bound, adjoin or cross the development, shall be clearly designated and referenced.	X	X
8. Lot numbers shall begin with the number "1" and shall continue consecutively throughout the development with no omission or duplications, except that lot numbers in subsequent contiguous development units may expand the numbering sequence of the previous unit providing the commercial name of the development remains unchanged. Each block shall be shown on one sheet when possible. Where adjoining blocks appear on separate sheets, the street adjoining both blocks shall be shown on both sheets, complete with centerline and property line data. All letters and figures within the development shall be conspicuous and solid.	X	X
9. The plat shall particularly define and designate all lots and parcels, including those reserved for private purposes, all parcels and easements offered for dedication for any purpose, with all the dimensions, boundaries, and courses clearly shown and defined in each case. Ditto (" ") marks shall not be used.	X	X

Final Plat Form and Data – Table 10.162-1

Final Plat Provisions	Include on Subdivision Final Plat	Include on Partition Final Plat
10. All street names, including those designated by numbers, and including the words "Avenue", Boulevard", "Place", etc., shall be spelled out in full.	X	X
11. The plat shall also show and delineate all other data that is or may be required by other provisions of this chapter or otherwise by law.	X	X
12. **Certificates:** Areas dedicated to public use shall be free and clear of all encumbrances, except public utility easements which the City Engineer determines will not interfere with the use contemplated by the dedication. All mortgages, trust deeds, and other liens shall be released as to public use areas.	X	X
13. **Certificates:** Each final plat shall contain the requisite owner's certificate or dedication, release of liens, Surveyor's certificate, City Engineer's certificate, City Surveyor's certificate, County Recorder's certificate, and such other certificates as may hereafter be required by law. The form of each said certificate shall be prescribed by the City Attorney.	X	X
14. **Certificates:** The owner's dedication statement shall include offers of dedication of all streets and other easements shown on the final plat intended for any public use, except those parcels of land which are intended for the exclusive use of the lot owners in the development, their licensees, visitors, tenants and employees, which private streets and other private easements shall be specifically designated as such on the plat.	X	X
15. **Certificates:** The Planning Director certificate shall contain a statement that acknowledges compliance with all conditions of the development permit and recognition of same.	X	X

(D) Filing of Final Plat with City Engineer.

(1) Prior to submitting a final plat to the Planning Department, the applicant shall:

(a) Cause the proposed land division to be accurately surveyed and a final plat to be prepared substantially in accordance with the approved tentative plat;

(b) Cause a minimum of five copies of the final plat, with any and all alterations and changes required thereto, to be filed with the City Engineer for approval. At the time of filing of the final plat with the City Engineer, the developer shall also file concurrently therewith the following:

(i) A traverse sheet, giving the latitude and departures, or computer print-out, showing the mathematical closure, within allowable limits of error, of the exterior boundaries of the tract in all cases in which said boundaries are irregular or in which the tract is laid out in irregular blocks, and of the exterior boundaries of all irregular lots and blocks.

(ii) Plans, profiles, details, and specifications for improvements conforming to all ordinances of the city and to the standards of this code which must show full details of all improvements and shall be to a scale of 40 or 50 feet to the inch horizontal and four or five feet to the inch vertical.

(iii) A detailed estimate of quantities and costs of the proposed improvements for approval by the City Engineer.

(iv) A title report or subdivision guarantee by a title company doing business in Jackson County, showing names of all persons whose consent is necessary for the preparation of said plat and for any dedication to public use, and their interest therein, certified for the benefit and protection of the City that the persons therein named are all of the persons necessary to give clear title to the streets and other easements therein to be offered for dedication. Said title report shall be dated no later than 15 days from the date of submittal.

(v) Two copies of all proposed covenants, conditions, and restrictions or a statement in writing signed by the developer that no such restrictions will be established.

(vi) Instruments prohibiting traffic over the side or rear lines of any street or other public way when and if the same is required by this chapter.

(vii) Such streets, offers of dedication or other instruments affecting or conveying title or any interest in land as are required under the conditions of approval of the tentative plat.

(viii) A statement that all applicable fees required by the city code have been paid.

(ix) Two copies of the city's standard (or deferred) form of improvement agreement executed by the developer, together with two executed copies of each labor and material and improvement bond guaranteeing payment of the cost of setting monuments (ORS 92.065) and county certification that the requisite tax bond has been posted (ORS 92.095) and such other agreements and bonds as may from time to time be required by law.

(2) The City Engineer shall examine the final plat and accompanying data and shall within 15 working days determine:

(a) Whether all engineering conditions of tentative plat approval have been satisfactorily completed, or if incomplete, are matters which can be included in a regular or

deferred improvement agreement with the city;

(b) Whether said plat is technically correct.

(3) Upon the City Engineer's determination that conformity with the foregoing has been made, they shall execute the City Engineer's certificate on said final plat and cause said plat to be forwarded to the Planning Department for approval by the Planning Director.

(E) Filing of the Final Plat with Planning Department.

(1) No final plat shall be accepted by the Planning Department unless, in addition to the above, the following is complied with:

(a) An accepted final plat shall be considered by the Planning Director 10 working days following acceptance.

(b) The final plat is accompanied by:

(i) A blue or black line print thereof;

(ii) The approved improvement plans signed by the City Engineer;

(iii) All documents and matters previously submitted to the City Engineer under Subsection (D) above.

(c) All required fees by the developer have been paid.

(d) A print of the final plat signed off by all affected referral agencies and involved agencies.

(2) The Planning Department shall examine the final plat and accompanying data and shall within five working days determine:

(a) Whether the land division is substantially the same as shown on the tentative plat with only approved alterations thereof;

(b) Whether bonds and agreements guaranteeing improvement of all conditions of tentative plat approval have been completed pursuant to Section 10.666, Improvement Agreements, and Section 10.667, Security for Public Improvements.

(F) Action and Decision Time: Final Plat.

(1) The Planning Director shall within a period of not more than 25 working days after a final plat is submitted to the Planning Department, approve or disapprove the final plat and acknowledge compliance with all conditions of the tentative plat.

(2) If the final plat does not conform with all local code requirements applicable at the time of approval of the tentative plat and all rulings made thereunder, the Planning Director may disapprove said plat, or approve it; said approval to become unconditional at such time as said plat is made to comply with the approved tentative plat and such code requirements.

(3) Upon disapproval of any final plat, the Planning Director shall return said plat to the applicant together with a written statement setting forth the reasons for such disapproval.

(4) Upon approval by the Planning Director becoming unconditional, the Planning Director shall sign and affix the city seal to the approving authority certificate attached to said plat.

(5) No land division will be recognized as complete until final plat is unconditionally approved by the Planning Director and no title to or interest in any property described in any offer of dedication on the final plat which is accepted by the Planning Director shall pass until

recordation of said plat.

(6) Within 10 days after recordation of the final plat, the applicant at their own expense shall furnish to the Planning Department one copy.

TYPE II APPLICATIONS – ADMINISTRATIVE DECISIONS WITH NOTICE (10.168 – 10.172)

10.168 **Type II Land Use Actions.**

(A) Type II actions comprise the following land use reviews:

Land Use Actions
Partition, Tentative Plat
Portable Storage Containers

(B) Type II Action and Decision Time.
The Planning Director shall take final action within 120 days after the application is deemed complete. An applicant may make a written request to extend the 120-day period for a specified period of time. In no case may the total extensions exceed 245 days. At the Planning Director's discretion, an application requiring a Type II land use action may be referred directly to the Planning Commission for review through a Type III land use action.

10.170 **Partition Tentative Plat.**
(A) Final Plat Approval Required.
The partitioning of land shall be subject to the application requirements as herein set forth and shall include both the tentative and final platting requirements. The approval of a partition tentative plat is a Type II administrative decision with notice and the Planning Director is the approving authority. Final partition plat approval is a Type I ministerial action which relies on compliance with the requirements established at the time of tentative plat approval, and on the requirements set forth in Section 10.162.
(B) Application for Partition Tentative Plat. See Section 10.202(B).
(C) Form of Tentative Plat and Accompanying Data. See Section 10.202(C).
(D) Partition Approval Criteria.
The Planning Director shall not approve any tentative partition plat unless they can determine that the proposed land partition, together with the provisions for its design and improvement:
(1) Is consistent with the Comprehensive Plan, any other applicable specific plans thereto, including Neighborhood Circulation Plans, and all applicable design standards set forth in Article IV and V;
(2) Will not prevent development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this chapter;
(3) If it includes the creation of streets or alleys, that such streets or alleys are laid out to be consistent with existing and planned streets and alleys and with the plats of land divisions already approved for adjoining property, unless the approving authority determines it is in the public interest to modify the street pattern;

(4) If it has streets or alleys that are proposed to be held for private use, that they are distinguished from the public streets or alleys on the tentative plat, and reservations or restrictions relating to the private streets or alleys are set forth;

(5) Will not cause an unmitigated land use conflict between the land partition and adjoining agricultural lands within the EFU (Exclusive Farm Use) zoning district.

(E) Expiration of Partition Tentative Plat Approval.

Approval of a tentative partition plat application shall take effect on the date the Planning Director's decision is signed, unless appealed, and shall expire two years from the effective date unless the final plat has been approved by the Planning Director pursuant to Sections 10.162. If a request for an extension of a tentative partition plat application approval is filed with the Planning Department within two years from the date of the Planning Director's decision, an extension not to exceed one additional year shall be granted. Extensions shall be based on findings that the facts upon which the tentative partition plat application was first approved have not changed to an extent sufficient to warrant refiling of the application.

10.172 Portable Storage Containers. (See Section 10.840(d)(6)).

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TYPE III APPLICATIONS. (10.182 – 10.204)

10.182 **Type III Land Use Actions.**

(A) Type III actions comprise the following land use reviews:

Land Use Action
Conditional Use Permit
Exception
Historic Review
Preliminary PUD Plan
Site Plan and Architectural Review
Subdivision Tentative Plat
Zone Change

(B) Type III Action and Decision Time.

(1) The approving authority shall take final action within 120 days after the application is deemed complete.

(2) An applicant may make a written request to extend the 120-day period for a specified period of time. In no case may the total extensions exceed 245 days.

(C) Resubmission of Type III Application. After 60 working days of the final determination denying a Type III action, the applicant may make appropriate alterations to a proposal and resubmit along with the payment of any additional fees as required by Section 10.070.

(D) Effective Date of a Type III Application. A Type III land use decision shall take effect on the date the final order or resolution for approval is signed.

10.184 **Conditional Use Permit.**

(A) A development classified as a conditional use shall be given special review via this process in order to assure its appropriateness for the site and allow for adjustment to be made to assure its compatibility with adjacent land uses.

(B) **Conditional Use Permits Exempt of Site Plan and Architectural Commission Review.**

(1) Conditional Use Permits (CUPs) approved under this Section shall be exempt from, and there shall be no requirement to apply separately for, a Site Plan and Architectural Commission review or to demonstrate compliance with the approval criteria in Section 10.200(E). However, the Planning Director in their discretion may forward a CUP proposal or proposed revisions thereto to the Site Plan and Architectural Commission for review. When forwarded by the Planning Director, the Site Plan and Architectural Commission shall have authority to review the CUP plans and make recommendations to the Planning

Commission.

(2) **Delegation of Authority.**
The Planning Commission may delegate authority to the Site Plan and Architectural Commission or to the Planning Director to approve in its name the plans for buildings or any other element of a CUP or revisions thereto after the Planning Commission has approved the CUP. The authority delegated by the Planning Commission under this Subsection shall be delimited in conditions attached to the approval. Notwithstanding any other provision of this Code, the approval of delegated matters shall be subject to a Type III Procedure as set forth in Article II.

(C) Conditional Use Permit Approval Criteria.

(1) The Planning Commission must determine that the development proposal complies with either of the following criteria before approval can be granted.
- (a) The development proposal will cause no significant adverse impact on the livability, value, or appropriate development of abutting property, or the surrounding area when compared to the impacts of permitted development that is not classified as conditional.
- (b) The development proposal is in the public interest, and although the development proposal may cause some adverse impacts, conditions have been imposed by the Planning Commission to produce a balance between the conflicting interests.

(2) In authorizing a conditional use permit the Planning Commission may impose any of the following conditions:
- (a) Limit the manner in which the use is conducted, including restricting the time an activity may occur, and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
- (b) Establish a special yard or other open space or lot area or dimension requirement.
- (c) Limit the height, size, or location of a building or other structure.
- (d) Designate the size, number, location, or nature of vehicle access points.
- (e) Increase the amount of street dedication, roadway width, or improvements within the street right-of-way.
- (f) Designate the size, location, screening, drainage, surfacing, or other improvement of parking or truck loading areas.
- (g) Limit or otherwise designate the number, size, location, height, or lighting of signs.
- (h) Limit the location and intensity of outdoor lighting, or require its shielding.
- (i) Require screening, landscaping, or other facilities to protect adjacent or nearby property, and designate standards for installation or maintenance thereof.
- (j) Designate the size, height, location, or materials for a fence.
- (k) Protect existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources.

(D) Conditional Use Permits, Mitigation of Impacts.

A conditional use requiring the mitigation of impacts under Subsection (C)(1)(b) above must do one of the following:

(1) Preserve unique assets of interest to the community.
(2) Provide a public facility or public nonprofit service to the immediate area or community.
(3) Otherwise provide a use or improvement that is consistent with the overall needs of the community in a location that is reasonably suitable for its purpose.

(E) Modifications of a Conditional Use Permit.

(1) **Major Modification of a CUP.** Any modification that is not a minor modification is a major modification. A request to substantially modify a conditional use permit shall be processed in the same manner as a request for a conditional use permit in this section. The Planning Director or designee may waive submittal requirements deemed unnecessary or inapplicable to the proposal.

(2) **Minor Modification of a CUP.** A minor modification to an approved permit may be approved provided the Planning Director can determine that the modification does not constitute a major modification. The purpose of the determination is to assure that a modification does not significantly affect other property or uses; will not cause any deterioration or loss of any natural feature, process or open space; nor significantly affect any public facility. A minor modification shall meet all of the following standards:

(a) Meets all requirements of the Land Development Code and other legal requirements.
(b) The amount of open space and landscaping is not decreased.
(c) No relocation of vehicle access points and parking areas where the change will generate an impact that would adversely affect off-site or on-site traffic circulation.
(d) No reduction or elimination of any project amenities such as recreational facilities, significant natural resources (streams, creeks, landform), fencing and other screening material.
(e) Modifications to facilities and utilities conform to the adopted facility plans.
(f) Modifications to any other components of the plan conform to standards of the Land Development Code.
(g) No modification to any condition of approval.

(F) Expiration of Conditional Use Permit.

Within one year following the final order date, issuance of building permit for vertical construction shall be completed, or if a use, the use shall have commenced. If a request for an extension is filed with the planning department within one year from the approval date of the final order, the Planning Commission, may, upon written request by the applicant, grant a single extension of the expiration date for a period not to exceed one year from the expiration date of the final order. An extension shall be based on findings that the facts upon which the conditional use permit was first approved have not changed to an extent sufficient to warrant re-filing of the conditional use permit.

(G) Conditional Use Permit Application Form

An application for a conditional use permit shall contain the following:
(1) Vicinity map drawn at a scale of 1" = 1,000' identifying the location of the proposed site.
(2) Assessor's map with subject site identified.
(3) Site plan drawn to scale on an eighteen inch by twenty-four inch (18" x 24") sheet. Site plan shall identify all existing and proposed buildings, parking, drives, vegetation or landscaping, adjacent development.
(4) Property owner's (and agent's) names, addresses, and map and tax lot numbers within 200 feet of the subject site, typed on mailing labels.
(5) Findings prepared by the applicant or his/her representative addressing the criteria set forth in Section 10.184 (C), Conditional Use Permit Approval Criteria.
(6) A conceptual stormwater facility plan with associated landscape plan, if applicable, pursuant to Sections 10.486(B) or 10.729(B).
(7) A Landscape Plan, meeting the specifications and requirements in Section 10.780, if applicable.

10.186 **Exception.**

(A) Exception, Purpose.
The purpose of this section is to empower the approving authority to vary or adapt the strict application of the public improvement and site development standards as contained in Article III, Sections 10.349 through 10.361, and 10.370 through 10.385, as well as Articles IV and V of this chapter. Exceptions may be appropriate for reasons of:
(1) exceptional narrowness or shape of a parcel; or
(2) exceptional topographic conditions; or
(3) extraordinary and exceptional building restrictions on a piece of property; or
(4) if strict applications of the public improvement or site development standards in the above-referenced Articles would result in peculiar, exceptional, and undue hardship on the owner.

(B) Criteria for an Exception.
No exception, in the strict application of the provisions of this chapter, shall be granted by the approving authority having jurisdiction over the land use review unless it finds that all of the following criteria and standards are satisfied. The power to authorize an exception from the terms of this code shall be sparingly exercised. Findings must indicate that:
(1) The granting of the exception shall be in harmony with the general purpose and intent of the regulations imposed by this code for the zoning district in which the exception request is located, and shall not be injurious to the general area or otherwise detrimental to the health, safety, and general welfare or adjacent natural resources. The approving authority shall have the authority to impose conditions to assure that this criterion is met.
(2) The granting of an exception will not permit the establishment of a use which is not permitted in the zoning district within which the exception is located.
(3) There are unique or unusual circumstances which apply to this site which do not typically

apply elsewhere in the City, and that the strict application of the standard(s) for which an exception is being requested would result in peculiar, exceptional, and undue hardship on the owner.

(4) The need for the exception is not the result of an illegal act nor can it be established on this basis by one who purchases the land or building with or without knowledge of the standards of this code. It must result from the application of this chapter, and it must be suffered directly by the property in question. It is not sufficient proof in granting an exception to show that greater profit would result.

(C) Expiration of an Exception.

Within one year following the final order date, issuance of building permit for vertical construction shall be completed, or if a use, the use shall have commenced. If a request for an extension is filed with the Planning Department within one year from the approval date of the final order, the approving authority may, upon written request by the applicant, grant a single extension of the expiration date for a period not to exceed one year from the expiration date of the final order. An extension shall be based on findings that the facts upon which the exception was first approved have not changed to an extent sufficient to warrant re-filing of the exception. An exception directly related to another land use review(s), such as an exception which was filed concurrently with the other land use review(s), and/or an exception which is integrally intertwined with and necessary to the development or use authorized by the other land use review(s), shall expire when the related land use review(s) expires.

(D) Exception Application Form

An application for an exception shall be made by the owner of the property for which the exception is requested to the approving authority for the plan authorization involving the exception. An exception application shall include the following:

(1) A list of the specific standard(s) for which an exception is being requested and a description of the degree of exception(s) being requested, including findings prepared by the applicant or applicant's representative addressing the criteria as set forth in Section 10.186 (B), Criteria for an Exception.

(2) Vicinity map drawn at a scale of 1" = 1000' identifying the location of the site of the variance.

(3) Assessor's map with the subject site identified.

(4) Site plan showing in detail the circumstance(s) which justifies each exception.

10.188 **Historic Review.**

The Historic Review process is hereby established to assure compliance with the Historic Preservation Overlay, Sections 10.401 through 10.407, the Oregon Administrative Rules, Oregon Revised Statutes, and to achieve consistency with The Secretary of the Interior's Standards for the Treatment of Historic Properties.

(A) An application for Historic Review is required in the following instances:

(1) To request addition to or removal from the Historic Preservation Overlay for any area, parcel, or portion thereof. The property owner, Planning Director, Landmarks and Historic Preservation Commission, or City Council may request initiation of proceedings to change the extent of the Historic Preservation Overlay.

(2) For proposed exterior alteration and/or new construction within an Historic Preservation Overlay.

(3) Prior to application for a demolition or relocation permit for all or part of a building, structure, object or site in an Historic Preservation Overlay.

(B) Historic Review of proposed exterior alteration and/or new construction is required irrespective of whether a building permit or a development permit is required. Historic Review final actions shall be taken prior to application for a building permit or proceeding with work that does not require a permit.

(C) Historic Review, Approval Criteria.

Approval of Historic Review applications shall require findings that the proposal is consistent with the indicated approval criteria:

(1) Changes to the Historic Preservation Overlay.

The extent of the Historic Preservation Overlay may be changed to include a historic resource other than those specified in Section 10.402 (1), (2), and (3) through a Type III Historic Review process if findings can be made substantiating that the proposal is consistent with the criteria below:

(a) It has been demonstrated that the designation of the historic resource is consistent with the purposes of the Historic Preservation Overlay in Section 10.401; and,

(b) It has been demonstrated that the designation of the historic resource is appropriate, considering the historic value of the resource and any other conflicting values, and will not result in a loss of substantial beneficial use of the property; and,

(c) It has been demonstrated that the historic resource has a significance rank of "primary" or "secondary" on an historical survey conducted in conformance with the standards of the Oregon State Historic Preservation Office; or, the historic value of the resource has sufficient local significance to merit designation as a Local Historic Resource.

(2) Exterior Alteration and/or New Construction.

The Landmarks and Historic Preservation Commission shall approve a Historic Review application for exterior alteration and/or new construction within an Historic Preservation Overlay after consideration during a public hearing, if findings can be made substantiating that the proposal is consistent, or can be made consistent through the imposition of conditions, with all of the following criteria:

(a) It has been demonstrated that the proposed exterior alteration and/or new construction is consistent with the purposes of the Historic Preservation Overlay in Section 10.401; and,

(b) It has been demonstrated that the proposed exterior alteration and/or new construction will preserve the historic character, form, and integrity of the historic resource; and,

(c) It has been demonstrated that the proposed exterior alteration and/or new construction is consistent with the most current version of the The Secretary of the Interior's Standards for the Treatment of Historic Properties; and,

(d) It has been demonstrated that the proposed exterior alteration and/or new construction is compatible with the historical and architectural style of the historic resource, of adjacent historic properties, and of the historic district within which it is located, if any. Assessment of compatibility may include consideration of the design, arrangement, proportion, detail, scale, color, texture, and materials, and the way new features will be differentiated from the old; and,

(e) It has been demonstrated that the proposed exterior alteration and/or new construction is consistent with all other applicable provisions of this Code.

(3) Minor Historic Review.

Minor Historic Review of certain exterior alterations may be conducted by the Planning Director, according to standards adopted by the Landmarks and Historic Preservation Commission. The Planning Director shall approve a Minor Historic Review application if the proposal conforms to approval criteria adopted by the Landmarks and Historic Preservation Commission. These approval criteria are available at the Planning Department.

Minor Historic Review shall be limited to the review of:

(a) Changes in roofing materials and exterior paint colors in residentially-zoned Historic Preservation Overlay Districts as per the Paint and Roofing Approval Criteria adopted in December 2007;

(b) Changes in exterior paint colors in commercially-zoned Historic Preservation Overlay Districts, when new paint colors are chosen from the adopted color palette;

(c) Changes in awning fabric materials without a change in the shape of the awning frame, in Historic Preservation Overlay Districts, if the new fabric is either solid or striped and the fabric colors are chosen from the adopted color palette;

(d) Change of sign face/copy as defined in Section 10.1010.

(4) Demolition and Relocation. The Landmarks and Historic Preservation Commission shall temporarily delay issuance of a demolition or relocation permit for all or part of a building, structure, object or site in an Historic Preservation Overlay, unless, during a public hearing:

(a) It is demonstrated that a temporary suspension of the demolition or relocation permit would not aid in avoiding the demolition or relocation of the historic resource; in informing the owner of the benefits of renovation; nor in pursuing public or private acquisition or restoration; and,

(b) In the case of a demolition, it is demonstrated that there is no practical opportunity

to relocate the historic resource to another site, nor to salvage historic or architectural elements; and,

(c) It is demonstrated that the proposed demolition or relocation would not adversely affect the protection, enhancement, perpetuation, improvement, or use of any historic district or other historic resource; and,

(d) It is demonstrated that the benefits of protecting the historic resource no longer outweigh the benefits of allowing the demolition or relocation.

(5) Temporary Suspension of a Demolition or Relocation Permit.

(a) In the case of temporary suspension of a demolition or relocation permit by the Landmarks and Historic Preservation Commission, issuance of the permit shall be delayed for a period of 120 days from the date of application for Historic Review or for the demolition or relocation permit, whichever is earlier.

(b) The Landmarks and Historic Preservation Commission may invoke an extension of the suspension period for an additional period not exceeding 90 days if it determines during a subsequent public hearing that there is a program underway that could result in public or private acquisition, or preservation or restoration of such building, structure, object, or site, and that there are reasonable grounds to believe that such a program will be successful.

(c) During the period of suspension, no permit shall be issued for demolition or relocation, nor shall any person demolish or move the building, structure, object, or site.

(d) At the end of the suspension period, if all such programs have been unsuccessful, the Medford Building Safety Director shall issue a demolition or relocation permit as long as the application otherwise com-plies with all other city ordinances.

(D) Historic Review, Conditions of Approval.

In approving a Historic Review application, the Landmarks and Historic Preservation Commission may impose conditions necessary to ensure compliance with the standards of this Code and the criteria in this section, and to otherwise protect the health, safety and general welfare of the surrounding area and community as a whole. These conditions may include, but are not limited to the following:

(1) Limiting the number, height, location and size of signs;

(2) Requiring the installation of appropriate public facilities and services and dedication of land to accommodate public facilities when needed;

(3) Limiting the visibility of mechanical equipment through screening or other appropriate measures;

(4) Requiring the installation or modification of irrigated landscaping, walls, fences or other methods of screening and buffering;

(5) Limiting or altering the location, height, bulk, configuration or setback of buildings, structures and improvements;

(6) Requiring the improvement of an existing, dedicated alley which will be used for ingress

or egress for a development;

(7) Controlling the number and location of parking and loading facilities, points of ingress and egress and providing for the internal circulation of motorized vehicles, bicycles, public transit and pedestrians;

(8) Requiring the retention of existing natural features;

(9) Modifying architectural design elements including exterior construction materials and their colors, roofline, fenestration and restricting openings in the exterior walls of structures;

(10) Restricting the height, directional orientation and intensity of exterior lighting.

(E) Historic Review Approval, Expiration.

(1) Approval of a Historic Review application shall take effect on the date the final order for approval is signed, unless appealed, and shall expire two years from the effective date. Within two years following the effective date, issuance of building permit for vertical construction must have occurred or an extension of the approval shall be necessary. If a request for an extension of a Historic Review application approval is filed with the Planning Department within two years from the effective date, the Landmarks and Historic Preservation Commission may grant an extension not to exceed one additional year if based upon findings that the facts upon which the Historic Review application was first approved have not changed to an extent sufficient to warrant re-filing of the application.

(2) When it is the developer's intent to complete an approved project in phases, the Landmarks and Historic Preservation Commission may authorize a time schedule for the issuance of building permits for a period exceeding two years, but in no case shall the total time period for the issuance of building permits be greater than five years without having to re-submit a new application for Historic Review. Phases developed after the passage of two years from approval of the Historic Review application shall be required to modify the plans if necessary to avoid conflicts with changes in the Comprehensive Plan or this chapter.

(F) Major Revisions or Amendments to Historic Review Approval.

Major revisions or amendments to plans approved through Historic Review shall require re-application.

(G) Issuance of Building Permits Consistent with Historic Review Approval.

(1) All applications for a building permit, wherein Historic Review has been required, shall be consistent with the plans as approved and all conditions of approval imposed thereon and shall be accompanied by an accurate and correct plan.

(2) Security for Completion of Public Improvements: If all required public improvements, as specified in the conditions of Historic Review approval, have not been satisfactorily completed before issuance of a building permit, the developer shall enter into a written agreement (provided by the City) to secure full and faithful performance thereof, according to Sections 10.666 and 10.667(A) respectively.

(H) Historic Review Application Content

An application for Historic Review shall include the information and materials listed below:

(1) Application form.

(2) All information requested on the application form.
(3) Findings of fact demonstrating compliance with the approval criteria in Section 10.258, Historic Review, Approval Criteria.
(4) Appropriate fee.
In addition to that listed, the City may require the applicant to submit additional information deemed necessary to take action on an application in accordance with this Code and applicable State laws.

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PLANNED UNIT DEVELOPMENT, PRELIMINARY PLANS, TYPE III. (10.190 – 10.194)

10.190 Planned Unit Development (PUD) – Application and Approval Provisions.

(A) Purpose and Intent of PUDs.

The PUD approach permits flexibility to allow creative and imaginative urban development that would otherwise not be possible under the strict requirements of this Code. The intent is to promote more efficient use of urban land and urban services while protecting natural features, creating common open space, promoting the development of transit-oriented design along designated transit corridors and within designated transit-oriented development (TOD) areas, and encouraging a mixture of land uses and housing types that are thoughtfully planned and integrated.

(B) PUD Stepped Process.

Consolidated Applications Authorized: Approval of a PUD shall be a two-step process involving approval of a Preliminary PUD Plan by the Planning Commission as a Type III land use action as the first step and approval of a Final PUD Plan by the Planning Director as a Type I land use action as the second step. As used in Sections 10.190 through 10.194, the Planning Director shall mean the Director of the Medford Planning Department or their designee. Except applications for annexations and comprehensive plan amendments, applications authorized in Article II may be consolidated with an application for a Preliminary PUD Plan per Section 10.114.

(C) Application for a Preliminary PUD Plan.

(1) An application for Preliminary PUD Plan shall be on forms supplied by the City. A complete application shall include the materials and information listed in this Subsection. However, the Planning Director, in their discretion, may waive the submittal of any of the materials or information that are deemed to be excessive, repetitive or unnecessary based upon the size and nature of the PUD. Unless waived by the Planning Director, the following items shall be required to constitute a complete application for a Preliminary PUD Plan:

(a) Current assessor map with the boundaries of the proposed PUD identified.

(b) Preliminary PUD Plan (16 copies) and supplemental materials conforming to the Site Plan and Architectural Review application requirements in Section 10.200 (J). Additionally, such plans shall include preliminary plans for providing public water and sanitary sewer service. The Preliminary PUD Plan shall indicate boundaries within the property which distinguish areas devoted to different land uses pursuant to Subsections 10.190 (C)(1)(c)(vi), 10.192(B)(7) and 10.230(D)(8). Where different land uses are separated by streets, railroad rights-of-way, drainage channels or other water courses, the centerlines of such features shall be their boundaries. One copy of the Preliminary PUD Plan shall be a reduced size suitable for photocopy. If a tentative plat for a land division is submitted concurrently with a Preliminary PUD Plan, the Preliminary PUD Plan and tentative plat shall be on separate sheets.

It is further provided that:

(i) Unless otherwise required in this Code, architectural plans for single family detached dwellings and landscaping plans for lots occupied by single family detached dwellings are not subject to review or approval as part of a PUD. However, nothing shall prevent an applicant from supplying architectural or landscaping plans for single family detached housing as a means to comply with one or more approval criteria.

(ii) If private or non-city standard street lighting is proposed, a street lighting plan shall be provided which provides a detail of the proposed lighting fixture(s). The Preliminary PUD Plan shall indicate the location of proposed private or non-citystandard light fixtures.

(iii) An applicant may postpone the submission and approval of architectural plans for proposed buildings and to have such plans approved later as a separate matter under Subsection 10.192 (I) after the Preliminary PUD Plan has been approved. When the approval of architectural plans has been postponed, the Preliminary PUD Plan shall show a conceptual footprint for each planned building and each building footprint shall be separately enclosed by a dashed line which shall be called and labeled a building envelope. Building envelopes shall reasonably anticipate and define the maximum extent of the footprint for each building in the PUD.

(c) A narrative description of the PUD which shall cover:

(i) The rationale for planning this development as a PUD.

(ii) The nature, planned use, future ownership and method of perpetual maintenance of land to be left in natural or developed open space or which will be held in common ownership.

(iii) A listing of all modified applications of the Code that are proposed, followed by a brief explanation which covers the nature of, extent of, and reason for each modification.

(iv) If one or more signs are intended to vary from the provisions of this Code, then a detailed plan for all signs which require a sign permit shall be submitted. The sign plan shall specify the size, number, type, height and location of all signs which require a sign permit and shall clearly indicate all proposed modifications.

(v) A proposed development schedule. If the PUD will be constructed in phases, the development schedule for each phase shall be keyed to a plan that indicates the boundaries of each phase.

(vi) The gross acreage devoted to the various proposed land uses and housing types.

(d) Written findings of fact and conclusions of law which address the approval criteria in Subsection 10.190 (D)

(e) The names and mailing addresses of the owners of record of tax lots, obtained by the latest tax rolls of the Jackson County Assessor's Office, located within 200 feet of the exterior boundary of the whole PUD. The owners of no less than seventy-five (75) tax lots shall be notified of the pending land use hearing. If seventy-five (75) tax lots are not located within two-hundred (200) feet of the exterior boundary of the PUD, the notification area shall be extended by successive fifty (50) foot increments, until a minimum of seventy-five (75) tax lots are included in the notification area. The owners of all tax lots within the extended notification area shall receive written notice; therefore, noticing of more than seventy-five (75) tax lots may be required. The names and mailing addresses shall be typed on mailing labels and shall include the assessor map and tax lot numbers for each parcel.

(f) A conceptual stormwater facility plan with associated landscape plan, if applicable, pursuant to Sections 10.486(B) or 10.729(B).

(g) Documentation of pre-submittal PUD Neighborhood Meeting. Documentation shall include:

(i)A copy of a Certificate of Mailing for the neighborhood meeting notification mailing pursuant to Section 10.194(C);

(ii) A completed Verification of Neighborhood Meeting form attesting to the contents of the materials provided or reviewed at the meeting;

(iii) A set of the notification materials listed in Section 10.194 (B); and,

(iv)The signature sheet(s) from the Neighborhood Meeting.

(2) An applicant may postpone the submission and approval of architectural plans for proposed buildings and to have such plans approved later as a separate matter under Section 10.192(I) after the Preliminary PUD Plan has been approved. When the approval of architectural plans has been postponed, the Preliminary PUD Plan shall show a conceptual footprint for each planned building and each building footprint shall be separately enclosed by a dashed line which shall be called and labeled a building envelope. Building envelopes shall reasonably anticipate and define the maximum extent of the footprint for each building in the PUD.

(3) Extended Notification Area, PUD. The application for Preliminary PUD Plan shall include the names and mailing addresses of the owners of record of tax lots, obtained by the latest tax rolls of the Jackson County Assessor's Office, located within 200 feet of the exterior boundary of the whole PUD. The owners of no less than seventy-five (75) tax lots shall be notified of the pending land use hearing. If seventy-five (75) tax lots are not located within two-hundred (200) feet of the exterior boundary of the PUD, the notification area shall be extended by successive fifty (50) foot increments, until a minimum of seventy-five (75) tax lots are included in the notification area. The owners of all tax lots within the extended notification area shall receive written notice; therefore, noticing of more than seventy-five (75) tax lots may be required. The names and mailing addresses shall be typed on mailing

labels and shall include the assessor map and tax lot numbers for each parcel.

(D) Approval Criteria for Preliminary PUD Plan.

The Planning Commission shall approve a Preliminary PUD if it concludes that compliance exists with each of the following criteria:

(1) The proposed PUD:
- (a) preserves an important natural feature of the land; or
- (b) includes a mixture of residential and commercial land uses; or
- (c) includes a mixture of housing types in residential areas; or
- (d) includes open space, common areas, or other elements intended for common use or ownership; or
- (e) is otherwise required by the Medford Land Development Code.

(2) The proposed PUD complies with the applicable requirements of this Code, or
- (a) the narrative describes the proposed modified standards of the Code and how they are related specifically to the implementation of the rationale for the PUD as described in the application, and
- (b) the proposed modifications enhance the development as a whole resulting in a more creative and desirable project, and
- (c) the proposed modifications to the limitations, restrictions, and design standards of this Code will not materially impair the function, safety, or efficiency of the circulation system or the development as a whole.

(3) The property is not subject to any of the following measures or if subject thereto the PUD can be approved under the standards and criteria thereunder:
- (a) Moratorium on Construction or Land Development pursuant to ORS 197.505 through 197.540, as amended.
- (b) Public Facilities Strategy pursuant to ORS 197.768 as amended.
- (c) Limited Service Area adopted as part of the Medford Comprehensive Plan.

(4) The location, size, shape and character of all common elements in the PUD are appropriate for their intended use and function.

(5) If the Preliminary PUD Plan includes uses not allowed in the underlying zone pursuant to Subsection 10.192(B)(7)(c), the applicant shall alternatively demonstrate that either:
- (a) Demands for the Category "A" public facilities listed below are equivalent to or less than for one or more permitted uses listed for the underlying zone, or
- (b) By the time of development the property can be supplied with the following Category "A" public facilities in sufficient condition and capacity to support development of the proposed use:
  - (i) Public sanitary sewerage collection and treatment facilities.
  - (ii) Public domestic water distribution and treatment facilities.
  - (iii) Storm drainage facilities.
  - (iv) Public streets.

Determinations of compliance with this criterion shall be based upon standards of public facility adequacy as set forth in this Code and in goals and policies of the comprehensive plan which by their language and context function as approval criteria for comprehensive plan amendments, zone changes or new development. In instances where the Planning Commission determines that there is insufficient public facility capacity to support the development of a particular use, nothing in this criterion shall prevent the approval of early phases of a phased PUD which can be supplied with adequate public facilities.

(6) If the Preliminary PUD Plan includes uses proposed under Subsection 10.192(B)(7)(c), approval of the PUD shall also be subject to compliance with the conditional use permit criteria in Section 10.184.

(7) If approval of the PUD application includes the division of land or the approval of other concurrent land use applications as authorized in Subsection 10.190(B), approval of the PUD shall also be subject to compliance with the substantive approval criteria in Article II for each of the additional land use applications.

(E) Conditions of Preliminary PUD Plan Approval.

If the Planning Commission approves a Preliminary PUD Plan, in addition to conditions of approval authorized under Section 10.200(F), it may attach conditions to the Preliminary PUD Plan approval which are determined to be reasonably necessary to ensure:

(1) The Final PUD Plan will be substantially consistent with the approved Preliminary PUD Plan and specifications related thereto.

(2) Development of the PUD will be consistent with the approved Final PUD Plan and specifications related thereto. To ensure satisfactory completion of a PUD in compliance with the approved plans, the Planning Commission may require the developer to enter into an agreement with the City as specified under Section 10.200(I).

(3) The PUD will comply with the Comprehensive Plan, the Medford Municipal Code and all provisions of this Code except the specific provisions for which there are approved modifications.

(4) There are appropriate safeguards to protect the public health, safety and general welfare.

(5) There will be ongoing compliance with the standards and criteria in this Section.

(6) To guarantee that streets, public facilities and utilities can be appropriately extended from one PUD phase to each successive future phase in accordance with the approved Preliminary PUD Plan, the City may require the conveyance of easements or other assurances.

(F) Expiration of Preliminary PUD Plan Approval.

Preliminary PUD Plan approval shall be valid for three years and may not be extended. The three-year period shall begin the date the Final Order approving the Preliminary PUD Plan is signed by the Planning Commission Chairperson. If a Preliminary PUD Plan is appealed, the three-year period shall begin on the date on which all appeals are resolved, including the resolution of all issues on remand. Within the three-year time period, an application for a Final PUD Plan must be filed for the entire site or for the first phase if the PUD has been approved for phased development.

(G) Time Limit Between PUD Phases.

After Final PUD Plan approval for the first phase of a PUD having approved multiple phases, and for each successive phase thereafter, no more than five years shall lapse between the approval of phases. If more than five years pass between the Final PUD Plan approval of any two PUD phases after the first phase, the Planning Commission may, without the consent of the owner(s) of the PUD, initiate action to terminate undeveloped portions of the PUD under Section 10.198(B).

(H) Binding Effect; Previously Approved PUDs.

A PUD Plan approval shall run with the land and shall be binding upon all successors in interest in all land within the whole PUD. It is further provided that a Preliminary PUD Plan approval shall remain in full force and effect unless the approval expires or is terminated by action of the City pursuant to Section 10.198(B). Preliminary plans submitted prior to the adoption date of this ordinance, and final plans resulting from those preliminary plans, are subject to the regulations for PUDs in effect at the time the preliminary plan application was submitted.

10.192 **Preliminary PUD Plan – General Provisions.**

(A) Minimum Acreage for a PUD.

PUDs must contain one acre or more at the time of application filing.

(B) Modified Application of Standards Authorized for PUDs.

To fulfill the purpose and intents of the standards set forth in Section 10.190(A), authority is herewith granted for the approval of PUDs which vary from the strict standards of this Code. The nature and extent of potential modifications shall be limited to the categories below described, provided that the City, in approving such modifications, shall not violate substantive provisions of the Oregon Transportation Planning Rule:

(1) **Lots and Parcels in PUDs.** Limitations, restrictions and design standards pertaining to the size, dimension, location, position and coverage of lots, and restrictions related to through lots.

(2) **Yards, Setbacks and Building Height in PUDs.** Limitations, restrictions and design standards pertaining to the location, size, height, yards and setbacks for buildings and other structures.

(3) **Parking, Bicycle and Pedestrian Standards in PUDs.** Limitations, restrictions and design standards pertaining to off-street vehicle and bicycle parking and loading, and standards related to pedestrian access.

(4) **Frontage, Access, Landscaping and Signs in PUDs.** Limitations, restrictions and design standards pertaining to lot frontage, access, required landscaping, signs and bufferyards.

(5) **Streets Generally in PUDs.** Streets within PUDs may be either city streets dedicated for public use or private streets owned and maintained by an association of owners, and may exceed maximum block length and perimeter standards provided in Section 10.426(C)(1). Streets within or adjacent to a PUD shall comply with the following:

(a) Collector and arterial streets shall be dedicated city streets, the existence and general location of which shall be determined by the Comprehensive Plan.

(b) City streets shall comply fully with the strict requirements of this Code, provided that the City in approving a PUD may permit the width of parking lanes for city streets to be less than the Code otherwise requires.

(c) The City may require any proposed PUD street or segment thereof to be constructed and dedicated as a city street.

(6) Private Streets in PUDs. Private streets may vary from the limitations, restrictions and design standards pertaining to streets with respect to length, width, position, aspect, intersection standards, grades, curve radii, cul-de-sac turnarounds, street lights, easements, sidewalks, curbs and driveway approaches for streets within the PUD, provided:

(a) With respect to the amount, quality and installation of construction materials, private streets shall be structurally equivalent to or better than city-standard streets.

(b) The City Fire Marshall shall approve the design of all private streets for access by emergency vehicles before approval of the Preliminary PUD.

(c) Private streets shall be posted as private streets and shall connect to the public street system. The applicant shall convey to the City and all appropriate utility companies a perpetual easement over the private street(s) for use by emergency vehicles and employees of the City and utility company(s) in the maintenance of public facilities and utilities.

(7) Allowed Uses and Housing Types in PUDs. The following uses and housing types shall be permitted as part of a PUD subject to the following:

(a) In addition to permitted uses, any portion of a PUD may contain any housing type listed in Subsection 10.314(1-3). In approving housing types, the Planning Commission may waive or reduce any of the special use regulations or standards contained in Sections 10.811 through 10.839.

(b) Any conditional use listed for the underlying zone may be permitted without addressing the Conditional Use Permit criteria in Section 10.184 except when the conditional use is within 200 feet of the perimeter of the PUD. This exemption does not apply to conditional uses within Riparian Corridors pursuant to Section 10.925.

(c) Use(s) not permitted in the underlying zone may, nevertheless, be permitted and approved to occupy up to 20% of the gross area of the PUD provided that no portion of the use(s), including its parking, is located nearer than 200 feet from the exterior boundary of the PUD. If any portion of the use(s) is nearer than 200 feet from the exterior PUD boundary, then said use(s) shall be considered to be a conditional use and may be approved subject to compliance with the conditional use permit criteria in Section 10.184. However, this provision shall not apply where the land outside the PUD which is nearer than 200 feet from proposed use(s) is inside a zone in which the proposed use(s) is permitted.

(8) Mixed Land Use Designations in PUDs.

Unless otherwise prohibited, PUDs that have more than one General Land Use Plan designation

or Southeast Plan land use category shall have the flexibility to mix or relocate such designations within the boundaries of the PUD in any manner and/or location as may be approved by the Planning Commission.

(C) Common Elements in PUDs.

A multi-family residential PUD must include a minimum of 20% of the land area as common area unless otherwise modified by the Planning Commission. This common area shall be for the purpose of providing protection for natural features, common recreational space, landscaped area, or commonly enjoyed amenities other than parking areas or private streets. Where a PUD has open spaces, private streets, parking or other elements to be owned or maintained in common by the owners or future owners of land or improvements within the PUD, the Final PUD Plan shall not be approved and no unit shall be sold or conveyed until the PUD has been found to comply with the following requirements, as applicable:

(1) PUD Planned Community.

If the PUD is a planned community under ORS Chapter 94, the declaration and tentative plat for the planned community shall be submitted with the Final PUD Plan for approval by the Planning Director before recording in the official records of Jackson County.

(2) PUD Condominium.

If the PUD is a condominium under ORS Chapter 100, a copy of the recorded declaration and plat shall be submitted to the City after it has been approved by the Oregon Real Estate Commissioner and recorded in the official records of Jackson County. A condominium declaration and plat shall not be reviewed and approved by the Planning Director and the Planning Director shall have no authority under this Subsection to require changes thereto.

(3) PUD Common Ownership.

If the PUD contains elements intended for common ownership but ORS Chapters 94 and 100 do not apply, there shall be appropriate legal documents which assure that the common elements will be improved and perpetually maintained for their intended purposes. The legal documents in such instance shall be submitted to the Planning Director for approval as part of the Final PUD Plan before recording in the official records of Jackson County.

(4) Phased PUDs.

When a PUD is proposed to be developed in phases, the phased provision of improved common elements shall be roughly proportional with the development of housing and other elements intended for private ownership. Unless approved by the Planning Commission as part of a phasing plan or which was approved by the Planning Commission prior to the adoption of this ordinance, no significant common element shall be postponed to the final phase of a PUD. Nothing in this Subsection shall prevent the provision of improved common elements at a rate that is proportionally greater than the development of housing and other elements intended for private ownership.

(5) Public Dedications and PUDs.

Land shown on the Final PUD Plan as a common element or which is intended for public dedication shall be conveyed under one of the following options:

(a) To a public entity which shall agree in writing to perpetually maintain the common element(s) being conveyed.

(b) To an association of owners created pursuant to ORS Chapters 94 or 100 or as otherwise created under Subsection 10.192(C)(3) in which instance the legal document which establishes the association shall provide that the association cannot be terminated or discontinued without the City's prior consent.

(6) Private Streets in PUDs.

If the PUD will have private streets, the legal document which establishes the association of owners shall provide that the City may enforce the maintenance or protection of its easements or public facilities.

(D) PUDs Exempt from Site Plan and Architectural Review.

PUDs approved under this Section shall be exempt and there shall be no requirement to apply separately for Site Plan and Architectural Review or to demonstrate compliance with the criteria in Section 10.200. However, the Planning Director in their discretion may forward a Preliminary PUD Plan or proposed revisions thereto to the Site Plan and Architectural Commission for review. When forwarded by the Planning Director, the Site Plan and Architectural Commission shall have authority to review the PUD plans and make recommendations to the Planning Commission.

(E) Delegation of Authority.

The Planning Commission may delegate authority to the Site Plan and Architectural Commission or to the Planning Director to approve in its name the plans for buildings or any other element of a PUD or revisions thereto after the Planning Commission has approved the Preliminary PUD Plan. The authority delegated by the Planning Commission under this Subsection shall be delimited in conditions attached to the approval. Notwithstanding any other provision of this Code and subject to an applicant's written request, the approval of delegated matters, where eligible, shall be procedurally treated as an Expedited Land Division pursuant to ORS 197.360 through 197.380, as amended. Lacking a written request from the applicant, approval of delegated matters shall be subject to a Type III Procedure as set forth in this Article.

(F) Building Permits, Development and Operation of a PUD.

All building and construction plans submitted to the City for the purpose of obtaining building and other site improvement permits shall be consistent with the approved Final PUD Plan. The development and operation of the PUD shall conform in all respects with the approved Final PUD Plan.

G. Residential Density in PUDs.

(1) Residential Density Calculation.

Minimum and maximum residential densities in PUDs shall be calculated pursuant to Section 10.708, except, in PUDs having residential and non-residential land uses within a residential zoning district, including mixed-use buildings as defined herein, the minimum and maximum number of dwelling units shall be calculated using the gross area of the residentially zoned land including any to be occupied by non-residential uses. "Natural unbuildable areas" may be excluded at the developer's option as provided in Section 10.708.

(2) Residential Density Bonus.

In PUDs larger than five acres, the residential density may be increased by up to 20% more than the maximum density permitted by Subsection (1) above.

(H) Revised Preliminary PUD Plans.

In instances where conditions of approval result in substantial, complex or unpredictable changes to a proposed Preliminary PUD Plan, the Planning Commission, as a condition of Preliminary PUD Plan approval, may require an applicant to incorporate the changes into a revised Preliminary PUD Plan. When required, the revised plans shall be approved by the Planning Commission and when approved, the revised plans shall become the approved Preliminary PUD Plan and any conditions satisfied by the revised plans shall be stricken or appropriately altered.

(I) Postponed Preliminary PUD Plan Approval for Building Architecture.

When the approval of architectural plans for buildings in the PUD has been postponed under Section 10.190(C)(2), no Final PUD Plan shall be approved until the architecture of buildings has been approved by the Planning Commission, or by the Site Plan and Architectural Commission pursuant to Subsection (E) above, and the Final Order for such approval has been appended to the earlier approval of the Preliminary PUD Plan.

(J) Engineering Construction Plans, Preliminary PUD Plans.

Engineering construction plans, profiles, details and specifications for all public facility and utility improvements shall be prepared by a qualified engineer registered in Oregon. The engineering plans shall be approved by the City before the start of construction. Unless specifically authorized by the Planning Commission in the Preliminary PUD Plan approval, all public facilities and utilities shall be designed and constructed in accordance with the standards and procedures of the City or other public entity to which ownership will be conveyed. The procedures for engineering design, plan approval and inspection shall in all respects be the same as for land divisions under this Code.

10.194 **Preliminary PUD Plan - Neighborhood Meeting Requirement.**

(A) **Purpose of Neighborhood Meeting Requirement for Preliminary PUD Plans.**

To ensure neighborhood knowledge of proposed development and to provide an opportunity for direct communication, the applicant shall present the development proposal at a neighborhood meeting prior to submitting the land use application to the Planning Department. The applicant shall arrange and conduct the neighborhood meeting. City staff need not attend. Attendees shall be asked to sign a signature sheet and provide their mailing address. Attendance at the neighborhood meeting does not give an attendee legal standing for appeal.

(B) Neighborhood Meeting Presentation, Preliminary PUD Plans.

The presentation at the neighborhood meeting shall include at a minimum the following:

(1) A map depicting the location of the subject property proposed for development; and,

(2) A visual description of the project including a tentative site plan, tentative subdivision plan and elevation drawings of any structures, if applicable; and,

(3) A description of the nature of the proposed uses and physical characteristics, including but not limited to, sizes and heights of structures, proposed lot sizes, density; and,

(4) A description of requested modifications to code standards; and
(5) Notification that attendance at the neighborhood meeting does not give legal standing to appeal to the City Council, the Land Use Board of Appeals, or Circuit Court.

(C) Scheduling and Noticing Neighborhood Meeting, Preliminary PUD Plans.

It shall be the responsibility of the applicant to schedule the neighborhood meeting and provide adequate notification of the meeting. The applicant shall send mailed notice of the neighborhood meeting to the owners of no less than 75 of the nearest tax lots regarding the neighborhood meeting. If 75 tax lots are not located within 200 feet of the exterior boundary of the PUD, the notification area shall be extended by successive 50-foot increments, until a minimum of 75 tax lots are included in the notification area. The owners of all tax lots within the extended notification shall receive written notice; therefore, noticing of more than 75 tax lots may be required. In addition to the affected property owners, the applicant shall also provide notice to the Planning Department. The applicant shall use the Jackson County Tax Assessor's property owner list from the most recent property tax assessment roll. The notice shall be mailed a minimum of 15 days prior to the neighborhood meeting which shall be held in Medford on a weekday evening. A certificate of mailing attesting to the date of mailing and the name and signature of the agent responsible for mailing said notices shall be prepared and submitted to the Planning Department in accordance with the materials identified in the application for Preliminary PUD Plan. The notice for PUD neighborhood meeting shall include:

(1) Date, time and location of the neighborhood meeting; and,
(2) A brief written description of the proposal; and,
(3) The location of the subject property, including address (if applicable), nearest cross streets and any other easily understood geographical reference, and a map (such as a tax assessor's map) which depicts the subject property.

PLANNED UNIT DEVELOPMENT, FINAL PUD PLANS, TYPE I. (10.196 & 10.198)

10.196 **Final PUD Plan - Application Procedures.**

(A) Application for a Final PUD Plan.

Application for a Final PUD Plan shall be on forms supplied by the Planning Department. The Final PUD Plan shall contain all information and materials listed on the application unless certain items are or have been waived by the Planning Director as therein provided. However, there shall be no burden to demonstrate compliance with the criteria in Subsection 10.190(D). As appropriate, the Final PUD Plan shall incorporate all conditions imposed on the Preliminary PUD Plan approval. The application for a Final PUD Plan shall include a written narrative explaining how the Final PUD Plan complies with the Final PUD Plan approval criteria in Subsection (D) below, and the conditions of approval.

(B) Phased PUD.

The Final PUD Plan may be submitted for the entire project or for each phase consistent with the approved Preliminary PUD Plan. If a Preliminary PUD Plan was not approved as a phased project, nothing in this Section shall prevent the Planning Director from approving a Final PUD Plan in phases provided that they approve a phasing plan pursuant to Sections 10.190(G) and 10.192(C)(4) as part of the Final PUD Plan approval, and provided further that the phasing plan ensures that essential services such as roads, fire access, storm drain, and sewer are available to serve each successive phase. After Final PUD Plan approval for the first phase, Final PUD Plans for all subsequent phases must be filed with the Planning Director.

(C) Final Plat for Land Division.

Application for the approval of a Final PUD Plan may occur before or concurrent with the approval of a final plat for a land division. However, no building permits shall be issued by the City and no buildings intended for human occupancy shall be constructed and no lot shall be sold until the Final PUD Plan has been approved by the Planning Director.

(D) Approval Criteria for Final PUD Plan.

A Final PUD Plan shall be approved by the Planning Director if the Director concludes that it complies with each of the following criteria:

(1) Provisions for the establishment and maintenance of elements to be held in common ownership, if any, have or will comply with the standards in Section 10.192(C).

(2) The Final PUD Plan is substantially consistent with the Preliminary PUD Plan and with any and all conditions imposed by the Planning Commission which were attached to the approval of the Preliminary PUD Plan.

(E) The Planning Director in their discretion may forward a Final PUD Plan to the Planning Commission for written clarification regarding whether the Final PUD Plan is substantially consistent with the Preliminary PUD Plan. When forwarded by the Planning Director, the Planning Commission shall have authority to review the PUD plans and advise the Planning Director.

(F) Modification of a phasing plan shall be considered substantially consistent with the Preliminary PUD Plan unless the revised phasing plan affects the provision of essential services such as public streets, sewer or storm drain to serve the successive phases.

(G) A Final PUD Plan shall be found to be inconsistent with the Preliminary PUD Plan when any of the following apply. If such inconsistencies are identified, an application for revision to the Preliminary PUD Plan shall be required:

(1) The exterior boundaries of the PUD have changed except for slight deviations which result from the resolution of boundary errors or inconsistencies discovered when the PUD property was surveyed,

(2) The number of housing units has increased,

(3) The number of housing units has decreased by more than five percent,

(4) Modifications to the provisions of this Code have been included which were not approved as part of the Preliminary PUD Plan under Section 10.192(B).

10.198 **Revision or Termination of a PUD.**

(A) Revision of a Preliminary or Final PUD Plan.

The expansion or modification of a PUD approved under earlier PUD ordinances of the City or the revision of a Preliminary or Final PUD Plan shall follow the same procedures required for initial approval of a Preliminary PUD Plan in this Section, provided:

(1) Applicant for Revision; Filing Materials; Procedures.

An application to revise an approved PUD Plan shall be on forms supplied by the Planning Department. The application form shall bear the signature of the owner(s) who control a majority interest in more than 50% of the vacant land covered by the approved PUD and who are also the owner(s) of land and improvements within the PUD which constitute more than 50% of the total assessed value of vacant portion of the PUD. For changes deemed by the Planning Director to be minor but not de minimis, the Planning Director shall exercise appropriate discretion under Section 10.190(C)(1) to limit or waive the submittal of filing materials deemed to be excessive, repetitive or unnecessary based upon the scope and nature of the proposed PUD revisions. PUD revisions shall follow the same procedures used for initial approval of a Preliminary PUD Plan.

(2) Consolidated Procedure.

At the discretion of the Planning Director, revisions to an approved PUD Plan may be consolidated into a single procedure, the effect of which will be the approval of both a Preliminary PUD Plan and Final PUD Plan by the Planning Commission.

(3) Burden of Proof; Criteria for Revisions.

The burden of proof and supporting findings of fact and conclusions of law for the criteria in Sections 10.190(D) or 10.196(D), as applicable, shall be strictly limited to the specific nature and magnitude of the proposed revision. However, it is further provided that the design and development aspects of the whole PUD may be relied upon in reaching findings of fact and conclusions of law for the criterion at Section 10.190(D)(5). It is further provided that before the Planning Commission can approve a PUD Plan revision, it must determine that the proposed revision is compatible with existing developed portions of the whole PUD.

(4) De Minimis Revisions.

Notwithstanding Section 10.192(E), the Planning Director may approve revisions to an approved Preliminary or Final PUD Plan that they determine is de minimis. Proposed revisions shall be considered de minimis if the Planning Director determines the changes to be slight and inconsequential and will not violate any substantive provision of this Code. The Planning Director's written approval of a de minimis revision(s) shall be appended to the Final Order of the Planning Commission or Final Approval of the Final PUD Plan. Revisions that are de minimis shall not require public notice, public hearing or an opportunity to provide written testimony. However, if, while the record is open, any party requests in writing to be notified of future de minimis revisions of a Preliminary PUD Plan, then all de minimis revisions of a Preliminary PUD Plan shall be subject to review as a

Type III land use action or such other procedure as may be permitted by law.

(B) Termination of a PUD.

A PUD may be terminated by action of the Planning Commission subject to the following procedures:

(1) If issuance of building permits for vertical construction has not occurred or if no lots or units therein have been sold, the PUD may be terminated as provided in this Subsection. Termination proceedings may be initiated by filing with the City a written petition signed by the owner(s) who control a majority interest in more than 50% of the land covered by the approved PUD and which also constitutes more than 50% of the total assessed value of land and improvements of the PUD. Upon receipt of a valid petition, the Planning Commission shall consider the matter in an open meeting and shall declare the PUD terminated. The Planning Commission's termination of a PUD shall be evidenced by a Final Order declaring the same. When the Final Order is signed the PUD shall be terminated and previous PUD Plan approvals shall be considered void and of no further effect. Termination of a PUD shall not affect other land use actions taken by the City which concern the PUD property.

(2) If issuance of building permits for vertical construction has occurred or if lots or units within the PUD have been sold, the PUD may be terminated as provided in this Subsection. Termination proceedings may be initiated by filing with the City a written petition signed by the owner(s) who control a majority interest in more than 50% of the vacant land covered by the approved PUD which also constitutes more than 50% of the total assessed value of vacant land within the PUD. If there is an association of owners established within the boundaries of the whole PUD, the owner(s) petitioning for termination of the PUD shall also supply the City with the correct mailing address of the association which shall be notified along with others entitled to notice under this Subsection. Upon receipt of the petition, the Planning Commission shall provide notification of the proposed PUD termination and conduct a public hearing on the matter. The Notice and public hearing shall be subject to Type III procedures. The Planning Commission shall declare the PUD terminated if it concludes that the termination will not produce greater than minimal harm to the public health, safety or general welfare. The Planning Commission's termination of a PUD shall be evidenced by a Final Order declaring the same and after the Final Order is signed the PUD shall be terminated and previous PUD Plan approvals shall be considered void and of no further effect. Termination of a PUD shall not affect other land use actions taken by the City which concern the PUD property.

10.200 **Site Plan and Architectural Review.**

(A) Purpose of Site Plan and Architectural Review.

The Site Plan and Architectural Review process is established in order to provide for review of the functional and aesthetic adequacy of commercial, industrial and multi-family development and to

assure compliance with the standards and criteria set forth in this chapter for the development of property as applied to the improvement of individual lots or parcels of land as required by this code. Site Plan and Architectural Review considers consistency in the aesthetic design, site planning and general placement of related facilities such as street improvements, off-street parking, loading and unloading areas, points of ingress and egress as related to bordering traffic flow patterns, the design, placement and arrangement of buildings as well as any other subjects included in the code which are essential to the best utilization of land in order to preserve the public safety and general welfare, and which will encourage development and use of lands in harmony with the character of the neighborhood within which the development is proposed.

(B) Site Plan and Architectural Review Required.

Projects which are not exempt from Site Plan and Architectural Commission Review pursuant to Subsection (C) below, except that exterior alterations to a building or site and new construction in a Historic Overlay shall require Historic Review pursuant to Section 10.188, but shall not require Site Plan and Architectural Review.

(C) Exemptions from the Site Plan and Architectural Commission Review Requirement.

(1) An exemption from Site Plan and Architectural Commission (SPAC) review does not exempt the use or development from compliance with the applicable standards of this chapter, including but not limited to access, parking, riparian protection, and landscaping.

(2) The following uses or developments do not require SPAC review.

(a) Parking lots and parking lot additions, when not associated with building construction required to be reviewed by the Site Plan and Architectural Commission, except any parking lot or parking lot additions located within a Historic Overlay requires Historic Review. (Effective Dec. 1, 2013.)

(b) Construction of a new building if it does not increase motor vehicle trip generation by more than 10 average daily trips, unless within a Historic Overlay, in which case, Historic Review is required for all new construction. (Effective Dec. 1, 2013.)

(c) A building addition similar to the existing building in architectural style and exterior building materials and that is no more than a 20 percent or 2,500 square-foot increase in gross floor area, whichever is less, unless within a Historic Overlay, in which case, Historic Review is required for all building additions and exterior alterations. (Effective Dec. 1, 2013.)

(d) Detached single-family residential development on a lot within a final platted land division or on an otherwise legally created lot, unless within a Historic Overlay, in which case, Historic Review is required for all single-family residential development. (Effective Dec. 1, 2013.)

(e) Solar Photovoltaic/Solarvoltaic energy systems, as defined in ORS 757.360, except when located on historic landmarks or within historic districts, in which case the review authority shall be the Landmarks and Historic Preservation Commission.

(f) One duplex dwelling divided by a lot-line or on a single, vacant lot within a final platted land division or on an otherwise legally created lot, unless within a Historic Overlay, in which case, Historic Review is required.

(g) Airport accessory structure(s) including hangars, aircraft storage, maintenance facilities, warehouse storage, and office buildings to be located on airport property within the secured fence area (as shown on the Medford Zoning Map) not intended for public use.

(D) Site Plan and Architectural Review approval and a development permit shall be required prior to the application for a building permit.

(E) Site Plan and Architectural Review Approval Criteria.

The Site Plan and Architectural Commission shall approve a site plan and architectural review application if it can find that the proposed development conforms, or can be made to conform through the imposition of conditions, with the following criteria:

(1) The proposed development is compatible with uses and development that exist on adjacent land, and

(2) The proposed development complies with the applicable provisions of all city ordinances or the Site Plan and Architectural Commission has approved (an) exception(s) as provided in Section 10.186.

(F) Site Plan and Architectural Review Conditions of Approval. In approving a site plan and architectural review application, the Site Plan and Architectural Commission may impose, in addition to those standards expressly specified in this code, conditions determined to be reasonably necessary to ensure compliance with the standards of the code and the criteria in Subsection (E) above, and to otherwise protect the health, safety and general welfare of the surrounding area and community as a whole. These conditions may include, but are not limited to the following:

(1) Limiting the number, height, location and size of signs;

(2) Requiring the installation of appropriate public facilities and services and dedication of land to accommodate public facilities when needed;

(3) Limiting the visibility of mechanical equipment through screening or other appropriate measures;

(4) Requiring the installation or modification of irrigated landscaping, walls, fences or other methods of screening and buffering;

(5) Limiting or altering the location, height, bulk, configuration or setback of buildings, structures and improvements.

(6) Requiring the improvement of an existing, dedicated alley which will be used for ingress or egress for a development;

(7) Controlling the number and location of parking and loading facilities, points of ingress and egress and providing for the internal circulation of motorized vehicles, bicycles, public transit and pedestrians;

(8) Requiring the retention of existing natural features;

(9) Modifying architectural design elements including exterior construction materials and their

colors, roofline, fenestration and restricting openings in the exterior walls of structures;

(10) Restricting the height, directional orientation and intensity of exterior lighting

(G) Expiration of a Site Plan and Architectural Review Approval.

(1) Approval of a Site Plan and Architectural Commission application shall take effect on the date the final order for approval is signed, unless appealed and shall expire two years from the effective date. Within two years following the effective date, issuance of building permit for vertical construction must have occurred or an extension of the approval will be necessary. If a request for an extension is filed with the Planning Department within two years from approval of the final order, the Site Plan and Architectural Commission shall grant an extension not to exceed one additional year. Extensions shall be based on findings that the facts upon which the Site Plan and Architectural Commission application was first approved have not changed to an extent sufficient to warrant re-filing of the application.

(2) When it is the developer's intent to complete an approved project in phases, the approving authority may authorize a time schedule for the issuance of building permits for a period exceeding one year, but in no case shall the total time period for the issuance of building permits be greater than five years without having to resubmit a new application for Site Plan and Architectural Commission review. Phases developed after the passage of one year from approval of the Site Plan and Architectural Commission application will be required to modify the plans as necessary to avoid conflicts with changes in the Comprehensive Plan or this chapter.

(H) Modifications of an Approved Site Plan and Architectural Review.

(1) Major Modification. Any modification that is not a minor modification is a major modification. When modification to an approved plan is determined to be a Major Modification, the plan shall be processed as a Type III application for Site Plan and Architectural Review. The Planning Director may waive submittal requirements deemed unnecessary or inapplicable to the proposal.

(2) Minor Modification. A minor modification to an approved plan may be made by the Planning Director provided the Planning Director can make the determination that the modification does not constitute a major modification. A minor modification shall meet all of the following standards:

(a) Meets the exemption standards of Subsection (C) above.

(b) No increase in the number of dwelling units.

(c) The amount of open space or landscaping is decreased by no more than 10% of the previously approved area, provided the resulting area does not drop below the minimum standards as required by the code.

(d) No relocation of vehicle access points and parking areas where the change will generate an impact that would adversely affect off-site or on-site traffic circulation.

(e) No reduction or elimination of any project amenities such as recreational facilities, significant natural resources (streams, creeks, landforms), fencing and other

screening material.

(f) Modifications to facilities and utilities conform to the adopted facility plans.

(g) Modifications to any other components of the plan conform to standards of the Code.

(h) No modification to any condition of approval.

(I) Issuance of Building Permits, Consistent with Site Plan and Architectural Review Approval.

All applications for a building permit, wherein Site Plan and Architectural Review has been required, shall be consistent with the plans as approved and all conditions of approval imposed thereon and shall be accompanied by an accurate and correct site plan.

(1) Security for Completion of Public Improvements. If all required public improvements, as specified in the conditions of site plan and architectural review approval, have not been satisfactorily completed before issuance of a building permit, the developer shall enter into a written agreement (provided by the City) to secure full and faithful performance thereof, according to Sections 10.666 and 10.667(A) respectively.

(2) Agreement for Completion of Private Improvements (for projects with signed agreements prior to January 1, 2015). The following regulations shall apply to all Building Site Improvement Agreements (BSIA) signed prior to January 1, 2015. After said date, the provisions of Building Site Improvement Agreements (BSIA) shall no longer be used as a means to ensure the completion of private improvements. If all required private improvements, as specified in the conditions of site plan and architectural review approval, have not been satisfactorily completed before issuance of a building permit, the permit shall not be issued unless the owner and all other parties having an interest in the property enter into a written and recorded agreement, called a Building Site Improvement Agreement (BSIA), (provided by the City) with the City. The agreement shall be in a form acceptable to the City Attorney and shall specify that, within six months after signing the agreement or such longer time period as specified by the Site Plan and Architectural Commission, all improvement work shall be completed according to the approved plans. The Planning Director or other person designated by the City Manager shall sign the agreement on behalf of the City.

(a) **Extension.** If a request for an extension of a Building Site Improvement Agreement is filed with the Planning Department within six months after signing the agreement, the Planning Director may grant an extension not to exceed six additional months. Extensions shall be based on findings that the extension is necessary for good cause, such as: circumstances beyond the developer's control that are causing delay in completing private improvements (i.e., ODOT work, weather-related delays, building permit delays), so long as no applicable development standards have changed.

(b) **Procedure and Enforcement.** The agreement shall be recorded in the Official Records of Jackson County, and once recorded the burdens of the agreement

shall run with the title of the affected property. The property affected by the agreement shall be the property depicted on the approved site plan. The agreement shall provide that, if the work is not completed in accordance with its terms within the allotted time, the property may not thereafter be occupied or used until all deficiencies are corrected. The agreement shall provide for enforcement by the City through a civil suit for injunction and provide that the prevailing party shall be awarded costs and reasonable attorney's fees. When made in substantial compliance with this section, such an agreement shall be enforceable according to its terms, regardless of whether it would be enforceable as a covenant at common law.

(c) **Satisfaction.** Once improvements have been satisfactorily completed according to the approved plans, a Satisfaction of Building Site Improvement Agreement shall be signed by the Planning Director or other person designated by the City Manager. The agreement shall be recorded in the Official Records of Jackson County.

(J) Site Plan and Architectural Review Application Form

The application for Site Plan and Architectural Review (SPAR) shall contain the following plans, submitted in the quantity and sizes specified on the Site Plan and Architectural Review application form, including legible reduced copies of all plan documents.

(1) Landscape Plan meeting the specifications and requirements in Section 10.780.

(2) Building Construction Plans: A site plan and architectural plan which are clearly and legibly drawn to scale shall be provided. Building construction plans shall include north arrow, orientation of building elevations indicating full dimensions and providing the following information:

(a) Site Plan:

(i) Lot dimensions.

(ii) All proposed and existing buildings and structures: location, size, height, proposed use.

(iii) Public and private yards and open space between buildings.

(iv) Walls and fences: location, height and material.

(v) Existing and proposed off-street parking: location, number, type and dimensions of spaces, parking area, internal circulation pattern.

(vi) Access: pedestrian, vehicular, service, points of ingress and egress.

(vii) Loading: location, dimension, number of spaces, type of space (A or B), internal circulation.

(viii) Lighting: location and general nature, hooding devices.

(ix) Street dedication and improvements.

(x) Drainage plan.

(xi) Location of existing public improvements including streets, curbs, sidewalks, street trees, utility poles, light fixtures, traffic signs and signals, and such

other data as may be required to permit the Site Plan and Architectural Commission to make the required findings.
(xii) Location and screening of mechanical equipment.
(xiii) Location and screening of outdoor trash bins.

(b) Architectural Plans:
(i) Roof plan.
(ii) Floor plan.
(iii) Architectural elevations.
(iv) Materials and Colors.

(c) A conceptual stormwater facility plan with associated landscape plan, if applicable, pursuant to Sections 10.486(B) or 10.729(B).

10.202 **Subdivision Tentative Plat.**

(A) Application.
The subdividing of land shall be subject to the application requirements as herein set forth and shall include both the tentative and final platting requirements. The approval of a tentative plat is a Type III procedure, with the Planning Commission being the approving authority. Final plat approval is a Type I ministerial procedure which relies on compliance with the requirements established at the time of tentative plat approval, and on the requirements set forth in Section 10.162.

(B) Application for Tentative Plat.
The tentative plat for each proposed land division shall be filed with the Planning Department.

(C) Form of Tentative Plat and Accompanying Data.
All tentative plats shall be clearly and legibly drawn on tracing paper of good quality and prepared by a civil engineer or land surveyor registered in the State of Oregon. It shall have a dimension of not less than 18 inches by 24 inches, and the scale shall be as follows: One inch shall be equal to 50 feet for 20 acres or less, and one inch shall be equal to 100 feet for all divisions of land over 20 acres in area. The tentative plat shall contain the following data:

(1) Proposed land division name (if a subdivision), date, north arrow, scale, total acreage, and sufficient legal information to define the boundaries of the proposed development.
(2) A key map located in the upper right hand corner identifying the location of the development relative to section and township lines and to adjacent property and major physical features such as streets, railroads, and waterways.
(3) Names of abutting property owners on all sides, names and widths of adjoining rights-of-way, topographic features and all public improvements on adjacent property located within 200 feet of the project boundary.
(4) Name and address of the owner(s) of record, developer, and engineer or land surveyor registered in the State of Oregon who prepared the tentative plat.
(5) Locations, names, widths, approximate intersection angle, centerline radii, center line slopes, and improvement section of all streets, highways and other ways in the proposed

project.

(6) Number of lots, dimensions of lots (to the nearest foot), including frontage, width, and area (to the nearest 50 square feet).

(7) Location and height of all existing structures to remain on property and distance from proposed property lines.

(8) Location and character of all easements existing and proposed by the developer for drainage, sewage and public utilities.

(9) Five foot topographic contours describing the area. Where the grade of any part of the proposed land division exceeds 10%, or where the development abuts existing developed lots, an overall conceptual grading plan shall be required showing features adjacent to the development within a reasonable distance therefrom which could affect said project. Where a conceptual grading plan is required it shall show how runoff of surface water from individual lots will be achieved and the ultimate disposal of all development surface waters. All topographic information shall be based on city data.

(10) A conceptual stormwater facility plan with associated landscape plan, if applicable, pursuant to Sections 10.486(B) or 10.729(B).

(11) Location of all creeks, streams and other watercourses, showing top of existing bank and areas subject to inundation as shown on the latest Federal Flood Rate Insurance Maps.

(12) Existing wells and irrigation canals, active or abandoned, and proposed disposition.

(13) Public or common area proposed, if any.

(14) The approximate distance to, and location of, the nearest sanitary sewer main.

(15) Name of the irrigation district, if any, within which the project is located and whether it is currently being assessed.

(16) Name of the school district within which the project is located.

(D) Expiration of Tentative Plat Approval.

(1) Approval of a tentative plat application shall take effect on the date the final order for approval is signed, unless appealed, and shall expire two years from the effective date unless the final plat has been approved by the Planning Director pursuant to Section 10.158. If a request for an extension of a tentative plat application approval is filed with the Planning Department within two years from the date of the final order, the Planning Commission shall grant an extension not to exceed one additional year. Extensions shall be based on findings that the facts upon which the tentative plat application was first approved have not changed to an extent sufficient to warrant re-filing of the application.

(2) When it is the developer's intent to record and develop a tentatively platted land division in phases, the Planning Commission may authorize a time schedule for platting the various phases in periods exceeding one year, but in no case shall the total time period for platting all phases be greater than five years without having to re-submit the tentative plan. Phases platted after the passage of one year from approval of the tentative plat will be required to modify the tentative plat as necessary to avoid conflicts with changes in the Comprehensive Plan or this chapter.

(E) Land Division Approval Criteria.

The Planning Commission shall not approve any tentative plat unless it first finds that the proposed land division, together with the provisions for its design and improvement:

(1) Is consistent with the Comprehensive Plan, any other applicable specific plans thereto, including Neighborhood Circulation Plans, and all applicable design standards set forth in Articles IV and V;

(2) Will not prevent development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this chapter;

(3) Bears a name that has been approved by the approving authority and does not use a word which is the same as, similar to, or pronounced the same as a word in the name of any other subdivision in the City of Medford; except for the words "town", "city", "place", "court", "addition", or similar words; unless the land platted is contiguous to and platted by the same applicant that platted the land division bearing that name; or unless the applicant files and records the consent of the party who platted the land division bearing that name and the block numbers continue those of the plat of the same name last filed;

(4) If it includes the creation of streets or alleys, that such streets or alleys are laid out to be consistent with existing and planned streets and alleys and with the plats of land divisions already approved for adjoining property, unless the Planning Commission determines it is in the public interest to modify the street pattern;

(5) If it has streets or alleys that are proposed to be held for private use, that they are distinguished from the public streets or alleys on the tentative plat, and reservations or restrictions relating to the private streets or alleys are set forth;

(6) Will not cause an unmitigated land use conflict between the land division and adjoining agricultural lands within the EFU (Exclusive Farm Use) zoning district.

10.204 **Zone Change.**

(A) Zone Change Initiation.

A zoning district boundary change may be initiated by the Planning Commission either on its own motion or at the request of the City Council, or by application of the property owner(s) in the area subject to the zone change.

(B) Zone Change Approval Criteria.

The Planning Commission shall approve a quasi-judicial, minor zone change if it finds that the zone change complies with subsections (1) and (2) below:

(1) The proposed zone is consistent with the Transportation System Plan (TSP) and the General Land Use Plan Map designation. A demonstration of consistency with the acknowledged TSP will assure compliance with the Oregon Transportation Planning Rule.

(2) Where applicable, the proposed zone shall also be consistent with the additional locational standards of the below sections (2)(a), (2)(b), (2)(c), or (2)(d). Where a special area plan requires a specific zone, any conflicting or additional requirements of the plan shall take

precedence over the locational criteria below.

(a) For zone changes to SFR-2, the zoning shall be approved under either of the following circumstances:
  (i) if at least 70% of the area proposed to be re-zoned exceeds a slope of 15%,
  (ii) if other environmental constraints, such as soils, geology, wetlands, and flooding, restrict the capacity of the land to support higher densities.

(b) For zone changes to SFR-6 or SFR-10 where the permitted density is proposed to increase, one of the following conditions must exist:
  (i) At least one parcel that abuts the subject property is zoned the same as the proposed zone, either SFR-6 or SFR-10 respectively; or
  (ii) The area to be re-zoned is five acres or larger; or
  (iii) The subject property, and any abutting parcel(s) that is(are) in the same General Land Use Plan Map designation and is(are) vacant, when combined, total at least five acres.

(c) For zone changes to any commercial zoning district, the following criteria shall be met for the applicable zoning sought:
  (i) The overall area of the C-N zoning district shall be three acres or less in size and within, or abutting on at least one boundary, with residential zoning. In determining the overall area, all abutting property(s) zoned C-N shall be included in the size of the district.
  (ii) The overall area of the C-C zoning district shall be over three acres in size and shall front upon a collector or arterial street or state highway. In determining the overall area, all abutting property(s) zoned C-C shall be included in the size of the district.
  (iii) The overall area of the C-R zoning district shall be over three acres in size, shall front upon an arterial street or state highway, and shall be in a centralized location that does not otherwise constitute a neighborhood shopping center or portion thereof. In determining the overall area, all abutting property(s) zoned C-R shall be included in the size of the district. The C-R zone is ordinarily considered to be unsuitable if abutting any residential zones, unless the applicant can show it would be suitable pursuant to (2)(e) below.
  (iv) The C-H zone shall front upon an arterial street or state highway. The C-H zone may abut the General Industrial (I-G), Light Industrial (I-L), and/or any commercial zone. The C-H zone is ordinarily considered to be unsuitable if abutting any residential or I-H zones, unless the applicant can show it would be suitable pursuant to (2)(e) below.

(d) For zone changes to any industrial zoning district, the following criteria shall be met for the applicable zoning sought:
  (i) The I-L zone may abut residential and commercial zones, and the General Industrial (I-G) zone. The I-L zone is ordinarily considered to be unsuitable

when abutting the Heavy Industrial (I-H) zone, unless the applicant can show it would be suitable pursuant to (2)(e) below.

(ii) The I-G zone may abut the Heavy Commercial (C-H), Light Industrial (I-L), and the Heavy Industrial (I-H) zones. The I-G zone is ordinarily considered to be unsuitable when abutting the other commercial and residential zones, unless the applicant can show it would be suitable pursuant to (2)(e) below.

(iii) The I-H zone may abut the General Industrial (I-G) zone. The I-H zone is ordinarily considered to be unsuitable when abutting other zones, unless the applicant can show it would be suitable pursuant to (2)(e) below.

(e) For purposes of (2)(c) and (2)(d) above, a zone change may be found to be suitable where compliance is demonstrated with one or more of the following criteria:

(i) The subject property has been sited on the General Land Use Plan Map with a GLUP Map designation that allows only one zone;

(ii) At least 50% of the subject property's boundaries abut zones that are expressly allowed under the criteria in (2)(c) or (2)(d) above;

(iii) At least 50% of the subject property's boundaries abut properties that contain one or more existing use(s) which are permitted or conditional use(s) in the zone sought by the applicant, regardless of whether the abutting properties are actually zoned for such existing use(s); or

(iv) Notwithstanding the definition of "abutting" in Section 10.012 and for purposes of determining suitability under Subsection (2) (e), the subject property is separated from the "unsuitable" zone by a public right-of-way of at least 60 feet in width.

(f) For zone changes to apply or to remove an overlay zone (Limited Industrial, Exclusive Agricultural, Freeway, Southeast, Historic) the criteria can be found in the applicable overlay section (Sections 10.345 through 10.413).

(3) It shall be demonstrated that Category A urban services and facilities are available or can and will be provided, as described below, to adequately serve the subject property with the permitted uses allowed under the proposed zoning, except as provided in subsection (c) below. The minimum standards for Category A services and facilities are contained in Section 10.462 as well as the Public Facilities Element and Transportation System Plan in the Comprehensive Plan.

(a) Storm drainage, sanitary sewer, and water facilities must already be adequate in condition, capacity, and location to serve the property or be extended or otherwise improved to adequately serve the property at the time of issuance of a building permit for vertical construction.

(b) Adequate streets and street capacity must be provided in one of the following ways:

(i) Streets which serve the subject property, as defined in Section 10.461(2), presently exist and have adequate capacity; or

(ii) Existing and new streets that will serve the subject property will be improved and/or constructed, sufficient to meet the required condition and capacity, at the time building permits for vertical construction are issued; or

(iii) If it is determined that a street must be constructed or improved in order to provide adequate capacity for more than one proposed or anticipated land use, the Planning Commission may find the street to be adequate when the improvements needed to make the street adequate are fully funded. A street project is deemed to be fully funded when one of the following occurs:

a. the project is in the City's adopted capital improvement plan budget, or is a programmed project in the first two years of the State's current STIP (State Transportation Improvement Plan), or any other public agencies adopted capital improvement plan budget; or

b. an applicant funds the improvement through a reimbursement district pursuant to the Section 10.432. The cost of the improvements will be either the actual cost of construction, if constructed by the applicant, or the estimated cost. The "estimated cost" shall be 125% of a professional engineer's estimated cost that has been approved by the City, including the cost of any right-of-way acquisition. The method described in this paragraph shall not be used if the Public Works Department determines, for reasons of public safety, that the improvement must be constructed prior to issuance of building permits.

(iv) When a street must be improved under (b)(ii) or (b)(iii) above, the specific street improvement(s) needed to make the street adequate must be identified, and it must be demonstrated by the applicant that the improvement(s) will make the street adequate in condition and capacity.

(c) In determining the adequacy of Category A facilities, the Planning Commission may mitigate potential impacts through the imposition of special development conditions, stipulations, or restrictions attached to the zone change request. Special development conditions, stipulations, or restrictions shall be established by deed restriction or covenant, and must be recorded at the County Recorder's office with proof of recordation returned to the Planning Department. Such special development conditions shall include, but are not limited to the following:

(i) Restricted Zoning is a restriction of uses by type or intensity. In cases where such a restriction is proposed, the Planning Commission must find

that the resulting development pattern will not preclude future development, or intensification of development on the subject property or adjacent parcels. In no case shall residential densities be approved that do not meet minimum density standards;

(ii) Mixed-use, pedestrian-friendly design which qualifies for the trip reduction percentage allowed by the Transportation Planning Rule;

(iii) Transportation Demand Management (TDM) measures which can be reasonably quantified, monitored, and enforced, such as mandatory car/van pools.

(C) Removal of Special Development Conditions on Zone Changes and General Land Use Plan (GLUP) Map Amendments.

Deed restrictions, covenants, or conditions of approval on zone changes established in order to comply with Section 10.204, or General Land Use Plan (GLUP) Map amendments established in order to comply with Section 10.220, shall only be removed by the following actions:

(1) If an improvement is made to any facility that was lacking adequacy, or if a level of service standard is changed so that the facility is now determined to be adequate, the property owner(s) may submit a letter to the Planning Department requesting that development conditions be removed. If the Planning Director agrees that the facility is adequate and the condition(s) is no longer necessary, the special development condition can be removed. The letter signed by the Planning Director, shall be appended to the original approval resolution or ordinance. In making the determination of facility adequacy, the Planning Director may ask the property owner(s) for information to demonstrate facility adequacy.

(2) For Zone Change: If the development condition is not removed through the method described in (1) above, the condition may be removed pursuant to a Type III minor zone change procedure.

(3) For GLUP Map Amendments: If the development condition is not removed through the method described in (1) above, the condition may be removed pursuant to a Type IV Comprehensive Plan Map Amendment procedure.

(D) Zone Change Application Form

A zone change application shall contain the following items:

(1) Vicinity map drawn at a scale of 1" = 1,000' identifying the proposed area of change.

(2) Assessor's map with proposed zone change area identified.

(3) Legal description of area to be changed. Legal description shall be prepared by a licensed surveyor or title company.

(4) Property owner's names, addresses, and map and tax lot numbers within 200 feet of the subject site, typed on mailing labels.

(5) Findings prepared by the applicant or his representative addressing the criteria for zone changes as per Section 10.204(B) Zone Change Criteria.

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TYPE IV APPLICATIONS (10.214 – 10.228)

10.214 Type IV Land Use Actions.

(A) Type IV Actions.
Type IV actions comprise the following land use reviews:

Type IV Land Use Application
Annexation, except as provided in Section 10.216
Land Development Code Amendment
Major Comprehensive Plan Amendment
Major General Land Use Plan Map Amendment
Major Urban Growth Boundary Amendment
Major Zoning Map Amendment
Minor Comprehensive Plan Amendment
Minor General Land Use Plan Map Amendment
Minor Urban Growth Boundary Amendment
Transportation Facility Development
Vacation of Public Right-of-Way

(B) Major Type IV land use reviews including amendments to the Land Development Code are legislative actions and may only be initiated by the Planning Commission or City Council. See Review & Amendments chapter of the Comprehensive Plan for definitions of "major" and "minor."

(C) Minor Type IV land use reviews including Annexations, Transportation Facility Developments and Vacations are quasi-judicial actions and may be initiated by the Planning Commission, City Council, or property owners representing the subject area. An exception to the preceding rule is that the Planning Commission does not initiate annexations.

(D) Type IV Approving Authorities. For Type IV actions the City Council is the approving authority and the Planning Commission acts as an advisory body to City Council. At a public hearing the Planning Commission will consider the request and make a recommendation to City Council to approve or deny the request. For annexations, the City Council makes a decision without a recommendation from the Planning Commission. Following completion of a recommendation by the Planning Commission, it shall be scheduled for a public hearing before the City Council. The decision of the City Council shall be based upon the application, the evidence, comments from referral agencies, comments from affected property owners (if any), the Planning Commis-

sion's recommendation (if applicable), compliance with the Statewide Planning Goals and Guidelines, this code and the Comprehensive Plan.

10.216 **Annexation.**

(A) Annexation is the action taken to incorporate land into a city. The state requires annexation of property that is contiguous to city limits and within the city's Urban Growth Boundary.

(B) **Application for Annexation.** Except for the annexation of unincorporated territory surrounded by the city as provided in Subsection (E) below, applications for annexation shall, in addition to requirements contained in the application form, be subject to the provisions of ORS 222.111 to 222.180 or 222.840 to 222.915.

(C) Annexation Approval Criteria. The City Council must find that the following State requirements are met in order to approve an annexation:

(1) The land is within the City's Urban Growth Boundary,

(2) The land is contiguous to the current city limits, and

(3) Unless the land being considered for annexation is enclaved by the City or the City chooses to hold an election, a majority of the land owners and/or electors have consented in writing to the annexation per ORS 222.125 or ORS 222.170.

(D) Zoning of Annexed Property.

At the time of annexation, the City shall apply a City zoning designation comparable to the previous County zoning designation. Where no comparable City zoning designation exists, the SFR-00 (Single-Family Residential – one dwelling unit per existing lot) zone or the I-OO (Limited Industrial Overlay) shall be applied.

(E) Annexation of Territory Surrounded by the City.

(1) As authorized in ORS 222.750, the City Council may, by ordinance, annex territory surrounded by the corporate boundaries of Medford with or without the consent of any owner of property within the territory or resident of the territory.

(2) Such annexation may be initiated at the request of the Planning Department or City Council and shall not be subject to the requirements of Sections 10.106, 10.110(D), 10.112, 10.124, 10.214, and 10.216.

(3) A public hearing shall be held prior to the Council's adoption of an ordinance for annexation.

(4) Prior to the public hearing, notification shall be mailed to all owners of property within the area proposed for annexation.

(5) For property that is zoned for, and in, residential use when annexation is initiated by the City, the City shall specify an effective date for the annexation that is at least three years and not more than 10 years after the date the City proclaims the annexation approved.

(6) The City shall notify the Jackson County Clerk of the territory subject to delayed annexation not sooner than 120 days and not later than 90 days before the annexation takes effect.

(F) Annexation Application Form

An application for annexation shall contain the following information:
(1) Vicinity Map drawn at a scale of 1" = 1,000' identifying the proposed area of annexation and existing city limits.
(2) Assessor's Maps of the proposed annexation area. The assessor's maps shall have identified those parcels for which consents to annex have been acquired and adjacent right-of-way to be annexed.
(3) Consent to annex forms completed and signed by all consenting property owners within the proposed annexation area.
(4) Legal metes and bounds or lot and block description of the annexation area including to the centerline of the adjacent right-of-way in electronic form per the instructions of the City of Medford Planning Department.
(5) Specific information on each parcel within the proposed annexation area:
(a) Current assessed valuation shown on County Assessor's tax rolls.
(b) Acreage of both public and private property to be annexed.
(c) Map and tax lot number.
(6) Addresses of all dwelling units and businesses located within the annexation area and names of all residents and whether they are registered voters.
(7) The following information shall be supplied by the applicant:
(a) Existing land uses within annexation area.
(b) Existing zoning within the annexation area.
(c) Existing improvements:
-water system
- streets
- sanitary sewer
- storm drainage
(d) Special Districts within the area:
- water district
- irrigation district
- fire district
- school district
- Rogue Valley Sewer Services
- other
(e) A completed Census Information Sheet for all parcels being considered for annexation.
(f) Written findings indicating compliance with all of the annexation criteria 1 through 3 contained in Section 10.216(C) Annexation Approval Criteria.
(8) Property owners' (and agents') names, addresses and map and tax lot numbers within 200 feet of the subject site, typed on mailing labels.

10.218 **Land Development Code Amendment Approval Criteria.**

The Planning Commission shall base its recommendation and the City Council its decision on the following criteria:

(A) Explanation of the public benefit of the amendment.

(B) The justification for the amendment with respect to the following factors:

(1) Conformity with goals and policies of the Comprehensive Plan considered relevant to the decision.

(2) Comments from applicable referral agencies regarding applicable statutes or regulations.

(3) Public comments.

(4) Applicable governmental agreements.

10.220 **Major Type IV Amendments**

(A) Major Type IV Amendments are those land use changes that have widespread and significant impact beyond the immediate area, such as changes capable of producing large volumes of traffic, changes to the character of the land use itself, or changes that affect large areas or involve many different ownerships. Major Type IV Amendments include:

(1) Major Comprehensive Plan, including separate plans adopted by reference;

(2) Major General Land Use Plan Map;

(3) Major Urban Growth Boundary;

(4) Major Zoning Map Amendment;

(5) Urban Reserves;

(6) Urban Growth Management Agreement; or

(7) Urban Reserve Management Agreement.

(B) Major Type IV Amendment Approval Criteria.

Refer to the Review and Amendment section of the Comprehensive Plan, except in the case of the following three actions:

(1) Major Zoning Map Amendment. Refer to the approval criteria for Land Development Code Amendments in Section 10.218.

(2) Urban Growth Boundary Amendment. Refer to Urbanization Element of the Comprehensive Plan.

(3) Urban Reserve Adoption/Amendment. Refer to ORS 195.137–145 and OAR 660-021.

10.222 **Minor Type IV Amendments.**

(A) Minor Type IV Amendments typically focus on specific individual properties and are therefore considered quasi-judicial. Minor Type IV Amendments include:

(1) Minor Comprehensive Plan Amendment;

(2) Minor General Land Use Plan Map Amendment;

(3) Minor Urban Growth Boundary Amendment;
(4) Transportation Facility Development; or
(5) Vacation of Public Right-of-Way.

(B) Minor Type IV Amendment Approval Criteria. For minor amendments to the Comprehensive Plan, General Land Use Plan Map, or Urban Growth Boundary refer to the Review and Amendment section of the Comprehensive Plan. For Transportation Facility Development approval criteria refer to Section 10.226 (B). For the approval criteria for Vacation of Public Right-of-Way refer to Section 10. 228 (D).

10.224 **Minor Comprehensive Plan Application Form**

An application for a minor Comprehensive Plan amendment shall contain the following items:
(1) Vicinity map drawn at a scale of 1" = 1,000' identifying the proposed area to be changed on the General Land Use Map.
(2) Written findings which address the following:
(a) Consistency with applicable Statewide Planning Goals.
(b) Consistency with the goals and policies of the Comprehensive Plan.
(c) Consistency with the applicable provisions of the Land Development Code.

10.226 **Transportation Facility Development.**

(A) Where the City intends to improve a new or existing street and the improvement is to be built with public funds, the improvement standards set forth in this code are not binding on the City and the City Council may authorize such exceptions to the standards as it deems proper in the exercise of its sole and absolute discretion without regard to the exceptions process of Section 10.186. However, the City shall follow the procedure prescribed through this Subsection in authorizing such projects. Land use issues decided at the time of approval of the Transportation System Plan (TSP) do not have to be reexamined at the time of project development.

(B) Transportation Facility Development Approval Criteria.
Preliminary plans for transportation facility development projects shall be consistent with the following criteria:
(1) Transportation facility development projects shall be consistent with the Transportation Goals and Policies of the Comprehensive Plan.
(2) Transportation facility projects should not prevent development of the remainder of the property under the same ownership or development of adjoining land.
(3) If the project includes the creation of new streets, such streets should be laid out to conform to the plats of land divisions already approved for adjoining property.
(4) All transportation projects must be consistent with the adopted Transportation System Plan (TSP).

(C) City Council Action on Transportation Facility Development.

The resolution or ordinance approving, modifying or disapproving such development shall identify all exceptions to the design and improvement standards of this Code which are being authorized. The City Engineer shall prepare detailed final construction plans and specifications in accordance with such resolution and solicit bids for the construction of the improvements.

(D) Transportation Facility Development Application Form

Preliminary plans required for the transportation facility approval process shall show the following items:

(1) The location and alignment of the project.
(2) The number of street lanes, bike lanes or sidewalks as applicable.
(3) The extent or limits of such work.
(4) Any exceptions to the design standards established in Sections 10.437 through 10.455.

The City shall cause to be prepared six (6) copies of preliminary project plans which shall be filed with the Planning Department. Additional copies may be required for transmittal to local agencies which may be affected by the street improvement.

10.228 **Vacation of Public Right-of-Way.**

(A) Vacations of public rights-of-way are a means of returning ownership of unneeded public streets and alleys to adjacent property owners. Vacations of plats and public utility easements (PUEs) are a means of removing unnecessary easements or plat designations from a parcel of land.

(B) Vacation of Public Right-of-Way Application. A request to vacate a public street, alley, easement, plat, or public place shall, in addition to the requirements contained herein, be subject to ORS Chapter 271.

(C) Vacation of Public Right-of-Way Initiation.

Vacations of public rights-of-way shall be initiated either by petition under ORS 271.080 or by City Council under ORS 271.130.

(D) Vacation of Public Right-of-Way Approval Criteria. A request to vacate shall only be approved by City Council when the following criteria have been met:

(1) Compliance with the Public Facilities Element of the Comprehensive Plan, including the Transportation System Plan.
(2) If initiated by petition under ORS 271.080, the findings required by ORS 271.120.
(3) If initiated by the Council, the applicable criteria found in ORS 271.130.

(E) Vacation Application Form

Petitioners or persons requesting a vacation shall file an application containing the following items:

(1) Vicinity Map drawn at a scale of 1" = 1,000' identifying the proposed area of vacation.
(2) Legal description of area proposed to be vacated in electronic form per the instructions of the City of Medford Planning Department.
(3) A letter requesting City Council initiation, or, if initiated by petition rather than by Council, consent to vacate forms completed and signed by owners of all abutting property and of not less

than two-thirds in area of the real property affected as defined in ORS 271.080
(4) Assessor's maps of the proposed vacation area identifying abutting and affected properties. The assessor's maps shall identify those parcels for which consents to vacate have been acquired.
(5) Names and addresses of property owners within the area of a plat vacation or all abutting property and all attached real property within 200 feet laterally and 400 feet beyond the terminus of each right-of-way to be vacated, including map and tax lot numbers typed on mailing labels.
(6) Findings that address the approval criteria in Section 10. 228(D), Vacation Criteria.

Exhibit D Proposed Amendment – Article II (DCA-15-088) with Track Changes

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Note: Old Sections starting at 10.180 can be found after the last new proposed Section (Section 10.228 Vacation of Public Right-of-Way). For reference the changes have been summarized in Exhibit B, Summary of Proposed Changes within Article II as many of the old sections have been rearranged with minimal changes to language.

CHAPTER 10
PLANNING

[NOTE: This Chapter was enacted 12-18-86 by Ord. No. 5785. This is a revision of sections 10-005 through 10-954 which were repealed by Ord. No. 5785. The effective date of Ord. No. 5785 was 12-24-86.]

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* * *

~~ARTICLE II - PROCEDURAL REQUIREMENTS~~

PURPOSE, LAND USE REVIEW, LAND USE DECISION, PROCEDURAL TYPES, LAND USE REVIEW PROCEDURE TYPES (10.100 – 10.108)

10.100 Purpose of Article II.

It is the purpose of this article to establish land use review procedures, designate and define the responsibilities of the approving authorities, and to set forth the procedural requirements and substantive criteria and standards for each land use review necessary to obtain a development permit. ~~plan authorizations and the development permit.~~

~~10.101 **The Development Permit Application.**~~
~~The development permit is the basis for administration of this chapter. A development permit is a comprehensive permit, running with the land, setting forth the general procedural policies and improvement requirements necessary for the development of a specific property. Upon application for a development permit, the Planning Department will indicate the plan authorizations which must be obtained prior to the issuance of a development permit. The applicant for a development permit may choose to request approval of all, any one, or a combination of required plan authorizations. A request for approval of a specific plan authorization may follow, at any time, the application for other required plan authorizations.~~

~~Upon satisfactory completion of all conditions required of the plan authorizations, as identified on the development permit application, a development permit shall be issued by the Planning Director. Upon issuance of a development permit the applicant may obtain a building permit.~~

10.102 ~~Plan Authorizations~~Land Use Review.

(A) ~~A plan authorization~~A land use review is a specific planning and development ~~review~~ process ~~which sets forth specific conditions for development consistent~~ conducted in order to determine whether proposed land uses comply with the policies, standards and criteria of the Comprehensive Plan and this chapter. ~~Plan authorizations are categorized as follows:~~ A land use application shall be provided for each land use review when applicable.

(B) Each type of land use review has a designated procedural type and each procedural type has specific due process and administrative requirements that shall be followed.

(C) A land use review is complete once a land use decision, as outlined in Section 10.104, has been made by the designated approval authority.

~~**Class A**~~
~~Comprehensive Plan Amendment, Major~~
~~Land Development Code Amendment~~
~~Zoning Map Amendment, Major~~

~~**Class B**~~
~~Annexation~~

~~Comprehensive Plan Amendment, Minor~~
~~Transportation Facility Development~~
~~Vacation~~
~~*See Review & Amendments Chapter of the Comprehensive Plan for definitions of "major" and "minor" Class A and B authorizations.*~~

~~**Class C**~~
~~Conditional Use Permit~~
~~Exception~~
~~Historic Review~~
~~Land Division~~
~~Planned Unit Development (PUD)~~
~~Site Plan and Architectural Review~~
~~Zoning Map Amendment, Minor (i.e., "Zone Change")~~

~~**Class D**~~
~~Administrative Decision~~

~~**Class E**~~
~~PUD Plan, Final~~
~~Ministerial Decision (non-discretionary)~~
~~Historic Review, Minor~~
~~Property Line Adjustments~~
~~The development permit application will identify the required plan authorization(s) necessary for issuance of a development permit. The applicant for a development permit, at the time of application or any time thereafter, may request approval of any one (1) or combination of required plan authorizations as identified on the development permit application.~~

10.104 Land Use Decision.

(A) A land use decision consists of the Final Order signed by the approving authority based upon the criteria and standards considered relevant to the decision, as well as the facts contained within the record. The decision shall address such relevant criteria, standards and facts relied upon in rendering the decision. A written record of the decision shall be provided to the applicant, any person with standing (if applicable), and kept on file in the Planning Department.
(B) When the proposed land use application is inconsistent with the Comprehensive Plan or this chapter the application is either denied or specific requirements called "conditions" are included with the land use decision which when implemented will bring it into conformance.
(C) Upon receipt of an approved land use decision or upon satisfactory completion of any condition(s) of an approved land use decision that are required prior to building permits, a development permit shall be issued by the Planning Director. Upon issuance of a development permit, the applicant may obtain building permits.

(D) 120 Day Rule.

For all Type II and III land use reviews as outlined in Table 10.108-1 below, the city shall arrive at a final decision, including resolution of all appeals, within 120 days from the date the application is deemed complete, unless the applicant requests an extension in writing. The total of all extensions shall not exceed 245 days.

(E) Land Use Approval Required.

No person shall subdivide or partition, nor shall any person create any street or road for the purpose of subdividing or partitioning an area or tract of land, or to dispose of, transfer or sell any lot or parcel of land if same constitutes or is part of a process of subdivision or partitioning as herein defined, or to record a final plat thereof without first complying with all of the applicable provisions of this chapter. A building permit shall not be issued for the construction, reconstruction or the alteration, use or occupancy of a structure for which a development permit is required and has not been issued pursuant to this Section unless exempted as per Section 10.200(C) or Subsection (F) below.

F. Exemptions from Land Use Review.

(1) An exemption from land use review does not exempt the use or development from compliance with the applicable standards of this chapter, including but not limited to access, parking, riparian protection, and landscaping.

(2) The following uses or developments do not require land use review.

(a) An emergency measure resulting from fire, an act of God, or a public enemy or other calamity, which is necessary to protect and save property and lives.

(b) The reconstruction of a legal main structure or legal accessory structure which has been destroyed by fire, an act of God, or a public enemy or other calamity, and restoration is started within one year from such destruction and is diligently pursued to completion.

(c) Temporary uses as identified in Section 10.840, Temporary Uses and Structures.

(d) The erection, construction, alteration, maintenance or termination of a public utility service facility, such as a public safety communication tower.

10.106 Procedural Types.

For purposes of administering the provisions of this chapter, and other ordinances and policies of the City pertaining to land use and development, there are hereby established four types of procedures for processing land use review applications. Two factors vary for each procedural type. First, the degree of discretionary judgment involved in rendering a decision. The greater the degree of discretionary judgment, the more rigorous they are procedurally. Second, the extent of public participation which varies based upon the degree of impact(s) caused by the proposed use and development of land. The greater degree of impacts, the more the public is notified and invited to participate.

(A) Type I Ministerial Procedures.

(1) Non-discretionary administrative decisions shall be made by applying clear and objective approval criteria and standards.

(2) Decisions shall be made by the Planning Director or designee.
(3) No public notice, public comment period, or public hearing shall be required.
(4) Requested action shall be initiated by the applicant.
(5) Decisions are final, and except for Final Planned Unit Development (PUD) Plan and Minor Historic Review decisions, are not appealable. Final PUD Plan decisions are appealed to the Planning Commission per Section 10.140(F)(3). Minor Historic Review decisions are appealed to the Landmark and Historic Preservation Commission per Section 10.140(F)(4).

(B) Type II Administrative Procedures.

(1) Administrative decisions shall be made by applying clear, objective approval criteria and standards while using limited discretion to determine impact(s) on adjacent properties and the surrounding vicinity, public infrastructure and services, and the health, welfare, and safety of the community at-large.
(2) Decisions shall be made by the Planning Director or designee.
(3) Public notice and a public comment period are required according to Section 10.124 of this Chapter, but a public hearing shall not be required.
(4) Requested action shall be initiated by the applicant.
(5) Appeals of Type II decisions are heard by the Planning Commission at a public hearing per Section 10.140(G).

(C) Type III Quasi-judicial Procedures.

(1) Quasi-judicial decisions require the application of clear, objective approval criteria and standards, and a degree of discretion to determine compliance with approval criteria and the impact(s) of development on adjacent properties and the surrounding vicinity, public infrastructure and services, and the health, welfare, and safety of the community at-large. If necessary to mitigate such impacts, conditions may be imposed to bring the proposed land use into compliance and/or to mitigate impacts.
(2) Decisions are made by the designated approving authority.
(3) Public notice, a public comment period, and a public hearing are required according to Section 10.124 of this Chapter.
(4) Requested action may be initiated by City Council, the Planning Commission or an applicant.
(5) Appeals of Type III decisions are heard by the City Council per Section 10.140(H).

(D) Type IV Legislative Procedures.

(1) Legislative decisions that involve the greatest degree of discretion as they establish by law the general policies and regulations for future land use decisions and have either widespread and significant impact beyond the immediate area or change the character of the land use, or affect large areas or many different ownerships.
(2) The Planning Commission shall review Type IV land use permit applications and forward a recommendation to City Council to approve, approve with modifications, approve with conditions, deny, or to adopt an alternative. City Council shall consider and address the recommendation, but shall not be bound by it. The City Council is the approving authority and, if it so determines that a Type IV land use permit application has satisfied the standards and criteria for approval, shall approve Type IV land use applications by ordinance.

(3) Public notice(s), public comment period(s) and public hearing(s) are required according to Section 10.124 of this Chapter
(4) Requested action may be initiated by City Council and Planning Commission (except annexations) or for minor amendments, by an applicant(s).
(5) Appeals of Type IV decisions are made to the Land Use Board of Appeals (LUBA) per Section 10.140(I).

10.108 Land Use Review Procedure Types.

Table 10.108-1 identifies the procedural type, applicable standards, and approving authority for each type of land use review as well as whether the 120-day rule in Section 10.104(D) is applicable. Each procedural type is subject to specific due process and administrative requirements of this chapter.

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Table 10.108-1. Land Use Review Procedures

Land Use Review Type	Procedural Type	Applicable Standards	Approving Authority	Subject to 120 Day Rule (ORS 227.178)?
Annexation	IV	Urbanization, 10.216	City Council	No
Appeal of Final PUD Plan Decision	I	10.140(F)(3)	Planning Commission	No
Appeal of Minor Historic Review Decision	I	10.140(F)(4)	LHPC	No
Appeal of Type II Decision	III	10.140(G)	Planning Commission	Yes
Appeal of Type III Decision	IV	10.140(H)	City Council	Yes
Appeal of Type IV Decision	IV	10.140(I)	LUBA	No
Comprehensive Plan Amendment, Major	IV	Review & Amendment, 10.220	City Council	No
Comprehensive Plan Amendment, Minor	IV	Review & Amendment, 10.222	City Council	No
Conditional Use Permit	III	10.184	Planning Commission	Yes
De Minimis Revision(s) to an Approved PUD Plan	I	10.198	Planning Director	No
Exception	III	10.186	PC/LHPC/SPAC	Yes
Final PUD Plan	I	10.196	Planning Director	No
Final Plat, Subdivision or Partition	I	10.160	Planning Director	No
General Land Use Plan Map Amendment, Major	IV	GLUP, Review & Amendment, 10.220	City Council	No
General Land Use Plan Map Amendment, Minor	IV	GLUP, Review & Amendment, 10.222	City Council	No
Historic Review	III	10.188	LHPC	Yes
Land Development Code Amendment	IV	10.218	City Council	No
Minor Historic Review	I	10.148	Planning Director	No
Major Modification to a Site Plan & Architectural Review Approval	III	10.200(H)(1)	SPAC	Yes
Minor Modification to a Site Plan & Architectural Review Approval	I	10.200(H)(2)	Planning Director	No
Major Modification to an Approved Conditional Use Permit	III	10.184(D)(1)	Planning Commission	Yes
Minor Modification to an Approved Conditional Use Permit	I	10.184(D)(2)	Planning Director	No

Table 10.108-1. Land Use Review Procedures				
Land Use Review Type	Procedural Type	Applicable Standards	Approving Authority	Subject to 120 Day Rule (ORS 227.178)?
Nonconformities	I	10.032 – 10.036	Planning Director	No
Portable Storage Container	II	10.840(D)(6)	Planning Director	Yes
Pre-Application	I	10.156	Not Applicable	No
Preliminary PUD Plan	III	10.190–10.198	Planning Commission	Yes
Property Line Adjustment	I	10.158	Planning Director	No
PUD Plan Revision(s)	III	10.198	Planning Commission	Yes
PUD Plan Termination	III	10.198	Planning Commission	Yes
Riparian Corridors, Reduction or Deviation	I	10.927	Planning Director	No
Sign Permit	I	10.1000 – 10.1810	Planning Director	No
Site Plan and Architectural Review	III	10.200	SPAC	Yes[MHB4]
Tentative Plat, Partition	II	10.170	Planning Director	Yes
Tentative Plat, Subdivision	III	10.202	Planning Commission	Yes
Transportation Facility Development	IV	10.226	City Council	No[MHB5]
Urban Growth Boundary Amendment, Major	IV	Urbanization, 10.220	City Council	No
Urban Growth Boundary Amendment, Minor	IV	Urbanization, 10.222	City Council	No
Vacation of Public Right-of-Way	IV	10.226	City Council	No
Zone Change, Major	IV	Review & Amendment, 10.220	City Council	No
Zone Change, Minor	III	10.204	Planning Commission	Yes

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APPROVING AUTHORITIES AND REFERRAL AGENCIES. (10.110 & 10.112)

10.110 Designation and Duties of Approving ~~Authority~~Authorities.

(A) Approving Authorities. This article designates the authority to act on ~~planning and development~~ land use reviews ~~requests as required by this chapter to five (5) approving authorities~~ as follows:

1. The City Council
2. The Planning Commission
3. The Site Plan and Architectural Commission
4. The Landmarks and Historic Preservation Commission
5. The Planning Director

(B) Duties of the Approving Authorities. Under the provisions in Section 10.110, there is hereby designated to the approving authorities the power to:

(1) Approve, conditionally approve, or disapprove applications for land use review(s);

(2) Determine compliance or lack of compliance with the approval criteria listed under each application type.

(C.)~~10.111 Authority of the~~ City Council, Authority.

The City Council is hereby designated as the approving authority for all the following land use reviews: ~~Class A and Class B plan authorizations. The City Council shall also serve as the approving authority for all appeals as provided in Section 10.051, Appeals, Article I of this chapter.~~

Land Use Review

Annexation
Appeals (See Section 10.140)
Comprehensive Plan Amendment (Major or Minor)
General Land Use Plan Map Amendment (Major or Minor)
Land Development Code Amendment
Transportation Facility Development
Urban Growth Boundary Amendment (Major or Minor)
Vacation of Public Right-of-Way
Zoning Map Amendment (Major)

~~10.120~~(D) Planning Commission, Authority.

(1) The Planning Commission shall have all powers set forth in ORS 227.090 (Powers and Duties of Commission) except as otherwise provided by ordinance of the City Council.

~~10.122 Authority of the Planning Commission.~~

(2) The Planning Commission is hereby designated as the approving authority for the following ~~actions~~land use reviews:

~~**Plan Authorization Class**~~

~~1. Zone Changes, except when applied by the City concurrent with annexation "C"~~
~~2. Planned Unit Developments, Preliminary PUD Plan "C"~~
~~3. Conditional Use Permits "C"~~
~~4. Exceptions "C"~~
~~5. Land Divisions, Tentative Plats "C"~~

Land Use Review

Appeals (See Section 10.140)
Conditional Use Permit
Exception
Preliminary Planned Unit Development (PUD) Plan
Subdivision Tentative Plat
Zone Change (Minor)

~~The Planning Commission shall also act as the advisory agency to the City Council for all Class "A" and Class "B" actions, except annexations as set forth in Section 10.111, Authority of the City Council.~~

(E) Planning Commission, Other Duties

It shall further be the responsibility of the Planning Commission to:

(1) Study and report on all proposed code amendments referred to it by the City Council. When reviewing any such proposed amendments, the Planning Commission shall submit its recommendation and findings to the City Council.

(2) Review this chapter and report on same to the City Council at least once every five ~~(5)~~ years commencing on the date of enactment of this chapter. Specifically the Planning Commission shall:

(a) Analyze the extent to which development has occurred in the city as compared to the projected growth per the Comprehensive Plan.

(b) Recommend any changes in the mapping of zoning districts as determined necessary to accommodate the expected ~~twenty~~20-year growth as determined by the Comprehensive Plan.

(3) Serve as the Committee for Citizen Involvement (CCI) per the Comprehensive Plan.

(F) Planning Commission, Membership.

(1) **Number Appointed.**

The Planning Commission shall consist of nine ~~(9)~~ voting members appointed by the Mayor and City Council.

(2) **Length of Term.**

All terms shall be for a period of four ~~(4)~~ years beginning on February 1 of each year with not more than three terms expiring in the same year.

(3) **Position Appointments.**

The Planning Commission members shall at a minimum comply with the requirements of Oregon Revised Statutes (ORS) 227.030 (Membership) as provided below or as amended:

(a) No more than two members of a city planning commission may be city officers, who shall serve as ex officio nonvoting members.

(b) No more than two voting members of the commission may engage principally in the buying, selling, or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation, that engages principally in the buying, selling or developing of real estate for profit.

(c) No more than two members shall be engaged in the same kind of occupation, business, trade or profession.

(4) **Selection Criteria**.

All members of the Commission shall either be residents of the City of Medford or Medford Urban Growth Boundary. No more than two members of the Commission shall be appointed who reside outside the Medford city limits. A Commissioner who ceases to meet the residency requirement during their term of office shall forfeit the office and a new member shall be appointed to serve the unexpired portion of the term.

(5) **Removal Terms.**

A member may be removed by the Mayor and City Council, after a hearing, for misconduct or nonperformance of duty.

(6) **Vacancy Replacement.**

A Commissioner who ceases to meet the residency requirement during their term of office shall forfeit the office and a new member shall be appointed to serve the unexpired portion of the term. Any vacancy shall be filled by the Mayor and City Council for the unexpired term of the predecessor in the office.

(7) **Quorum.**

A quorum of the Planning Commission shall consist of ~~five or more members.~~a majority of the current membership of the Commission.

~~10.12~~(G) **Planning Commission Meeting ~~Procedure~~s**.

Except as otherwise provided by law or this ~~chapter~~Code, the Planning Commission shall conduct its meetings in accordance with *Robert~~'~~'s Rules of Order, Newly Revised*, unless other rules are adopted by the Commission.

~~10.130 [Repealed, Sec. 51, Ord. No. 7659, June 1, 1994.]~~

~~10.132 **Authority of the~~ (H) **Site Plan and Architectural Commission Authority**.

~~(1) **Approval Authority of Site Plan and Architectural Commission.**~~ The Site Plan and Architectural Commission is hereby designated as the approving authority for the following ~~plan authorizations~~land use reviews:

	~~Plan Authorization~~	~~Class~~
~~1.~~	~~Exceptions~~	~~"C"~~
~~2.~~	~~Site Plan and Architectural Review~~	~~"C"~~

Land Use Review

Exception
Major Modification of Site Plan and Architectural Review Approval
Site Plan and Architectural Review

~~(2) Other Powers of (I)~~ **Site Plan and Architectural Commission, Other Duties**. The Site Plan and Architectural Commission shall have the power to adopt design guidelines. Such guidelines may be general or specific in nature and shall be in the form of suggested approaches intended to aid applicants in preparation, presentation and implementation of development proposals in compliance with the City of Medford Comprehensive Plan and implementing ordinances. Guidelines shall be advisory and shall not limit applicants to a single approach.

~~10.133 (J)~~ **Site Plan and Architectural Commission, Membership.**

(1) **Number Appointed.**

The Site Plan and Architectural Commission shall consist of nine ~~(9)~~ voting members appointed by the Mayor and City Council.

(2) **Length of Term.**

Site Plan and Architectural Commissioner terms shall be for a period of four ~~(4)~~ years, with the exception of the member of the Planning Commission, whose initial term shall be for a period of two (2) years. Subsequent Planning Commissioner terms shall be for one ~~(1)~~ year if reappointed. Said terms shall begin on February 1 of each year with not more than two ~~(2)~~ terms expiring in the same year, exclusive of the Planning Commissioner.

(3) **Position Appointments.**

(a) One ~~(1)~~ member shall be a Planning Commissioner nominated by the Planning Commission chairperson.

(b) One ~~(1)~~ member shall be a licensed architect.

(c) One ~~(1)~~ member shall be a licensed professional engineer.

(d) One ~~(1)~~ member shall be a licensed landscaping professional.

(e) One ~~(1)~~ member shall be a licensed contractor.

When selecting persons to fill the remaining four ~~(4)~~ positions, preference should be given to applicants who have training or experience closely related to the licensed positions. At the Mayor and City Council's discretion, an appointment to any of the four ~~(4)~~ professional/licensed positions may be an individual who, in lieu of having a valid license in the profession, possesses a comparable combination of skill, education, training and experience related to the respective professional licensing category.

(4) **Selection Criteria.**

All members of the Commission shall either be residents of the City of Medford or Medford Urban Growth Boundary. No more than two members of the Commission shall be appointed who reside outside the Medford city limits. A Commissioner who ceases to meet the residency requirement during their term of office shall forfeit the office and a new member shall be appointed to serve the unexpired portion of the term.

(5) **Removal Terms.**

A member may be removed by the Mayor and City Council, after a hearing, for misconduct or nonperformance of duty.

(6) **Vacancy Replacement.**

A Commissioner who ceases to meet the residency requirement during their term of office shall forfeit the office and a new member shall be appointed to serve the unexpired portion of the term. Any vacancy shall be filled by the Mayor and City Council for the unexpired term of the member being replaced.

(7) **Quorum.**

A quorum of the Site Plan and Architectural Commission shall consist of ~~five or more members~~ a majority of the current membership of the Commission.

~~10.134~~ **(K) ~~Procedure of the~~ Site Plan and Architectural Commission Meeting Procedures.**

Except as otherwise provided by law or this ~~chapter~~Code, the Site Plan and Architectural Commission shall conduct its meetings in accordance with *Robert's Rules of Order, Newly Revised*, unless other rules are adopted by the Commission.

~~10.135 **Planning Director Authority.**~~

~~The Planning Director is hereby designated as the approving authority for Class D and Class E plan authorizations and for the development permit. The Planning Director shall also be responsible for the administration and enforcement of this chapter.~~

~~10.136~~ **(L) ~~Authority of the~~ The Landmarks and Historic Preservation Commission Authority.**

The Landmarks and Historic Preservation Commission is hereby designated as the approving authority for the following ~~plan authorizations~~land use reviews:

~~Plan Authorization~~	~~Class~~
~~Historic Review, except Minor Historic Review permitted in Section 10.258(3)~~	~~'C'~~
~~Exceptions~~	~~'C'~~

Land Use Review
Appeals (See Section 10.140)
Exceptions
Historic Review

(M) The Landmarks and Historic Preservation Commission, Other Duties

(1) To study proposed Comprehensive Plan and Land Development Code amendments relating to historic preservation, and submit recommendations regarding such proposals to the Planning Commission and City Council.

(2) To institute and support programs and projects that further the historic preservation policies of the City of Medford.

(3) To adopt approval criteria for Minor Historic Review of alterations of roofing materials, exterior colors, or sign face design for an existing sign within Historic Preservation Overlay Districts. Such criteria shall be consistent with the Secretary of the Interior's Standards for the Treatment of Historic Places as applicable.

(4) To adopt design guidelines for new construction and exterior alterations within an Historic Preservation Overlay. Such guidelines may be general or specific in nature and shall be in the form of approaches intended to aid applicants in preparation, presentation, and implementation of development proposals that comply with the Medford Comprehensive Plan and implementing ordinances. Guidelines shall be advisory and shall not limit applicants to a single approach.

(5) To adopt approval criteria and/or design guidelines for signage within the Historic Preservation Overlay. Such criteria or design guidelines may authorize signs that differ from the standards of Article VI when necessary to meet historic compatibility and preservation goals.

(N) Historic Review.

For the purposes of this section, the definitions, rules, and procedures of Sections10.401 through 10.408 shall apply.

~~A.~~ Historic Review shall include:

(1)~~.~~ **Historic Preservation Overlay Changes**. Review and investigation of any historic resource in the City of Medford that may have historic significance; initiation of proceedings to change the extent of the Historic Preservation Overlay; decisions on applications to change to the extent of the Historic Preservation Overlay; and preparation of findings substantiating or refuting the historic significance of the resource.

(2)~~.~~ **Exterior Alteration and/or New Construction Review.** Consideration of proposed exterior alteration and/or new construction within a~~n~~ Historic Preservation Overlay.

(3) ~~.~~**Demolition and/or Relocation Review.** Consideration of proposed demolition or relocation within an Historic Preservation Overlay, and authorization of either delayed or immediate issuance of a demolition or relocation permit.

~~4. Consideration of Appeals of Minor Historic Review Decisions. Should an applicant disagree with a Minor Historic Review decision made by the Planning Director, the applicant may appeal such decision to the Landmarks and Historic Preservation Commission consistent with the requirements of this Code.~~

~~B. Other powers and duties of the Landmarks and Historic Preservation Commission may include:~~

~~1. To study proposed Comprehensive Plan and Land Development Code amendments relating to historic preservation, and submit recommendations regarding such proposals to the Planning Commission and City Council.~~

~~2. To institute and support programs and projects that further the historic preservation policies of the City of Medford.~~

~~3. To adopt approval criteria for Minor Historic Review of alterations of roofing materials, exterior colors, or sign face design for an existing sign within Historic Preservation Overlay Districts. Such criteria shall be consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Places* as applicable.~~

~~4. To adopt design guidelines for new construction and exterior alternations within an Historic Preservation Overlay. Such guidelines may be general or specific in nature and shall be in the form of approaches intended to aid applicants in preparation, presentation, and implementation of development proposals that comply with the Medford Comprehensive Plan and implementing ordinances. Guidelines shall be advisory and shall not limit applicants to a single approach.~~

~~5. To adopt approval criteria and/or design guidelines for signage within the Historic Preservation Overlay. Such criteria or design guidelines may authorize signs that differ from the standards of Article VI when necessary to meet historic compatibility and preservation goals~~

(~~10.137 O~~) **Landmarks and Historic Preservation Commission, Membership.**

(1) **Number Appointed.**

The Landmarks and Historic Preservation Commission shall be made up of five ~~(5)~~ voting members appointed by the Mayor and City Council.

(2) **Length of Term.**

All regular terms of members of the Landmarks and Historic Preservation Commission shall be for a period of four years, and shall begin on February 1, with not more than three terms expiring in the same year.

(3) **Position Appointments.**

All members of the Landmarks and Historic Preservation Commission shall have demonstrated positive interest, competence, or knowledge of historic preservation. The Planning Director or designee shall serve as an *ex-officio* member of the Landmarks and Historic Preservation Commission.

(4) **Selection Criteria.** All members of the Commission shall either be residents of the City of Medford or Medford Urban Growth Boundary. No more than two members of the Commission shall be appointed who reside outside the Medford city limits. ~~A Commissioner who ceases to meet the residency requirement during their term of office shall forfeit the office and a new member shall be appointed to serve the unexpired portion of the term.~~

(5) **Removal Criteria.** A member of the Landmarks and Historic Preservation Commission may be ~~-~~removed by the Mayor and City Council, after a hearing, for misconduct or nonperformance of duty. ~~-~~Replacements shall be appointed by the Mayor and City Council for the remainder of the unexpired term. A Commissioner who ceases to meet the residency requirement during their term of office shall forfeit the office and a new member shall be appointed to serve the unexpired portion of the term.

(6) **Quorum.** A quorum of the Landmarks and Historic Preservation Commission shall consist of a majority of the currently appointed members.

(~~10.138P~~) ~~-~~**Landmarks and Historic Preservation Commission, Meeting Procedures.**

(1) Except as otherwise provided by law or this Code, the Landmarks and Historic Preservation Commission shall conduct its meetings in accordance with *Robert's Rules of Order, Newly Revised*, unless other ~~-~~rules ar~~e~~s adopted by the C~~c~~ommission.

(2) The Landmarks and Historic Preservation Commission shall meet as necessary to act on Historic Reviews in a timely manner.

(3) There shall be at least one meeting of the Landmarks and Historic Preservation Commission held each year, during the month of March.

(Q) Planning Director Authority. The Planning Director is hereby designated as the approving authority for Type I and II land use reviews as well as issuance of the Development Permit. This includes the following land use reviews:

Land Use Review

De Minimis Revision(s) to Approved PUD Plan
Final PUD Plan
Final Plat, Partition/Subdivision
Minor Historic Review
Minor Modification to Conditional Use Permit
Minor Modification to Site Plan and Architectural Review
Pre-Application
Property Line Adjustment
Riparian Corridor Reduction or Deviation
Sign Permit
Tentative Plat, Partition

(R) Planning Director, Other Duties. The Planning Director shall also be responsible for the administration and enforcement of this chapter.

~~10.140 **Duties of the Approving Authority.**~~
~~Under the provisions cited in Article II, Section 10.110, Designation of Approving Authority, through 10.135, Authority of the Planning Director, there is hereby designated to the approving authority the power to:~~
~~(1) Approve, conditionally approve, or disapprove development permits and plan authorizations;~~
~~(2) Determine compliance or lack of compliance of the proposed development, together with the provisions for its design, improvement and use with the Comprehensive Plan and all applicable specific plans, regulations, standards and criteria.~~

10.~~145~~112 Referral Agencies.

(A) It is the responsibility of a referral agency to provide timely review and comment on all proposals referred by the City. The referral agency shall be requested to determine consistency of a proposal with the referral agency's operating policies and standards and to ~~recommend~~ suggest conditions of approval on a land use review/application. ~~development.~~

~~10.146 **Referral Agencies, Distributio**~~
(B) This Chapter employs the use of referral agencies for the review of ~~of those plan authorizations indicated below, as shown on~~land use permit applications according to a Referral Agency Distribution ~~the~~ Schedule that is available and maintained by the Planning Department.~~which follows:~~

~~A. Major Comprehensive Plan Amendment~~
~~B. Land Development Code Amendment~~
~~C. Minor Comprehensive Plan Amendment~~
~~D. Annexation, except as provided in Section 10.199~~

~~E. Vacation~~
~~F. Zone Change, Major and Minor~~
~~G. Conditional Use Permit~~
~~H. Exception~~
~~I. Planned Unit Development~~
~~J. Land Division~~
~~K. Site Plan and Architectural Review~~
~~L. Transportation Facility Development~~
~~M. Historic Review~~
~~N. Administrative (Class D) plan authorization~~

~~Numerical references in the Schedule refer to the following:~~
~~1. When the proposal is within, abutting, or affecting the referral agency's jurisdiction.~~
~~2. When the proposal is within or abutting the Airport Area of Concern.~~
~~3. When the proposal includes new buildings or building additions that are within the referral agency's jurisdiction.~~
~~4. When the proposal is within the Southeast Overlay District and in a Parks or Schools land use category on the Southeast Plan Map.~~
~~5. When the proposal is within or abutting a Greenway General Land Use Plan Map designation.~~

(C) Referral agencies may be asked to review certain ~~proposals~~ applications~~not indicated on the Schedule if~~, in the judgment of the Planning Director, the agency may have an interest in the proposal. Additional referral agencies may be notified at the discretion of the Planning Director.

~~SCHEDULE OF REFERRAL AGENCY DISTRIBUTION~~

	~~A~~	~~B~~	~~C~~	~~D~~	~~E~~	~~F~~	~~G~~	~~H~~	~~I~~	~~J~~	~~K~~	~~L~~	~~M~~	~~N~~
~~CITY DEPTS.~~														
~~Building Safety~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	-	~~x~~	~~x~~
~~City Attorney~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	
~~City Manager~~	~~x~~	~~x~~	~~x~~	~~x~~	-	-	-	-	-	-	-	-	-	-
~~Engineering Division~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~3~~	-	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	-
~~Fire~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~3~~	-	~~x~~	~~x~~	~~x~~	-	~~x~~	~~x~~
~~Parks & Recreation~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~3~~	-	~~x~~	~~x~~	~~x~~	-	~~x~~	-
~~Parks Director~~	~~4~~	~~4~~	~~4~~	~~4~~	~~4~~	~~4~~	~~4~~	~~4~~	~~4~~	~~4~~	~~4~~	~~4~~	~~4~~	-
~~Planning~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~
~~Police~~	~~x~~	-	~~x~~	~~x~~	~~x~~	~~x~~	-	-	~~x~~	~~x~~	~~x~~	-	~~x~~	~~x~~
~~Public Works~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~x~~	~~3~~	-	~~x~~	~~x~~	~~x~~	-	~~x~~	~~x~~
~~AGENCIES~~														

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
Water Commission	x	x	x	x	x	x	3	-	x	x	x	x	x	-
Army Corps of Engineers	-	-	-	-	-	-	5	5	5	5	5	5	-	-
Landmarks & Historic Preservation Commission	1	1	1	-	1	1	1	1	1	1	1	1	-	-
Cable Television Co.	-	-	x	x	x	x	3	-	x	x	x	x	x	-
City of Central Point	1	1	1	1	1	1	1	1	1	1	1	1	-	-
City of Phoenix	1	1	1	1	1	1	1	1	1	1	1	1	-	-
Dept. of Land Conservation & Development	x	x	x	-	-	-	-	-	-	-	-	-	-	-
Dept. of State Lands	-	-	-	-	-	-	5	5	5	5	5	5	-	-
Federal Aviation Administration	-	2	-	-	-	-	2	2	2	2	2	2		2
Garbage Company	-	-	-	x	x	-	-	-	-	-	-	-	-	-
Jackson Co. Health Dept	-	-	-	x	-	-	-	-	-	x	-	-	-	-
Jackson Co. Planning	x	x	x	-	-	-	-	1	1	-	1	-	-	-
Medford Irrigation District	1	-	1	1	1	-	3	-	1	1	-	-	-	-
Natural Gas Company	-	-	x	x	x	x	3	-	x	x	x	x	x	-
Oregon Dept. of Aviation	-	2	-	-	-	-	2	2	2	2	2	2	-	2
Oregon Dept. of Fish & Wildlife	-	-	-	-	-	-	5	5	5	5	5	5	-	-
Oregon Dept. of Transportation	x	-	1	1	-	1	3	-	1	1	1	1	-	-
Power Company	-	-	x	x	x	x	3	-	x	x	x	x	x	-
Rogue River Valley Irrigation District	1	-	1	1	1	-	3	-	1	1	-	-	-	-
Rogue Valley Medford Airport	1	1	1	-	-	1	2	2	2	2	2	2	-	1
Rogue Valley Sewer Services	1	-	1	1	1	1	3	-	1	1	1	-	1	-
Rogue Valley Transportation District	x	-	1	1	1	x	3	-	1	1	x	x	x	-
Medford 549C Schools	1	-	1	1	-	1	3	-	1	1	-	-	-	-
Superintendent	4	4	4	4	4	4	4	4	4	4	4	4	-	-

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
Phoenix-Talent Schools	1	-	1	1	-	1	3	-	1	1	-	-	-	-
Superintendent	4	4	4	4	4	4	4	4	4	4	4	4	-	-
Telephone Company	-	-	x	x	x	x	3	-	x	x	x	x	x	-
U. S. Post Office	-	-	-	-	-	-	-	-	x	x	x	x	x	-
Urban Renewal Agency	-	-	1	-	1	1	1	1	1	1	1	1	1	-
Water Districts	1	-	1	1	-	1	-	-	1	1	-	-	-	-

10.150 **General Procedural Requirements.**
There are five (5) procedural classifications employed in the administration of this chapter:
CLASS "A" Legislative actions
CLASS "B" Council-approved quasi-judicial decisions
CLASS "C" Other quasi-judicial decisions
CLASS "D" Administrative decisions
CLASS "E" Non-discretionary, ministerial decisions
Each of the above procedural classifications is subject to the specified due process and administrative requirements of this chapter.

(D) Referral Agency Action and Decision Time.

(1) After deeming an application complete per Section 10.122, the Planning Department shall transmit one copy of the proposed legislation, or land use permit application, and necessary accompanying data for review and comment to any governmental agency or private entity that is entitled to notice per the Planning Department's Distribution Schedule.

(a) **Type IV Land Use Reviews:** Referral agencies shall have thirty working days to submit comments on all Type IV land use applications/reviews. If the referral agency does not comments within thirty working days, then the referral agency is assumed to have no comment. If requested in writing, by a referral agency, an extension of thirty working days may be granted.

(b) **Type III Land Use Reviews:** Upon receipt of a Type III land use application/review and necessary accompanying data, each referral agency shall make an investigation and submit a written report within fifteen working days, and forward same to the Planning Department, clearly specifying any recommended conditions for development or approval.

(E) Referral Agency Reports.

Upon receipt of a request for review and comment, each referral agency shall make an investigation and submit written comments to the Planning Department clearly specifying any recommended conditions for development approval.

(1) **Affected Agency Reports.** Other agencies having jurisdiction shall report to the Planning Department as to any recommendations or provisions which in their determination are required for the approval of the land use permit consistent with this code.

(2) **City Engineer's Report.** The City Engineer shall investigate and report on existing facilities and make a recommendation on the manner in which the land use is to be provided city services. The

City Engineer shall appropriately condition the land use permit to adequately provide for the provision of public infrastructure for the land constituting and surrounding the proposed land use.

(3) **Fire Department.** The Fire Department shall investigate and report on existing facilities and make a recommendation concerning the number and placement of fire hydrants and other fire protection requirements for the proposed land use.

(4) **Water Commission.** The Water Commission shall investigate and report on the applicable infrastructure that is in place, what easements pertain to the project, and what are the improvements needed to provide adequate infrastructure to the site.

(5) **Planning Department.** The Planning Department shall review the land use permit application in relation to the Comprehensive Plan, any applicable specific plans prescribed by law which affect the proposed land use and in relation to any and all criteria and standards applicable to the application type. The staff report shall either summarize, or incorporate by reference, all referral agency reports and public comments received, and shall itemize such conditions as it deems appropriate to be imposed by the approving authority if approval is to be recommended. The staff report shall be made available at no cost by the Planning Department seven days before the public hearing.

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CONCURRENT LAND USE REVIEWS, APPLICATION SUBMITTALS, FINDINGS AND CONCLUSIONS (10.114 – 10.118)

10.114 Concurrent Land Use Review

The applicant of a land use application may choose to request consideration of all, any one, or a combination of required land use reviews by the same approving authority at the same time. Otherwise, a request for consideration of a specific land use application may follow, at any time, the application for other required land use reviews.

10.116 Application Submittals.

Land use applications shall be submitted to the Planning Department and shall consist of the submittal requirements specified in this Chapter, Article II, or in other applicable sections of the Medford Land Development Code. If an application does not include all required submittals, it shall be deemed incomplete per Section 10.122.

10.118 Findings of Fact

Findings of Fact are statements of the criteria, facts, and conclusions used in making a decision. In order for the approving authority to approve a land use application, it must find that the proposal complies with the approval criteria and standards listed in this chapter. The findings must demonstrate and lead to the conclusion, based on the facts, that the criteria are being met. Findings which address applicable criteria shall accompany all actions required of this chapter for land use review. At a minimum, the findings of fact shall include:
(A) The approval criteria applicable to the specific land use application.
(B) A complete description of the project including all facts about the proposal which support approval.
(C) An analysis and rationale of how the facts demonstrate that the project meets each of the criteria.

DUE PROCESS. (10.120 – 10.138)

10.~~155~~ 120 Due Process.

Each of the procedural types outlined in Section 10.106 are subject to specific due process and administrative requirements which are outlined below in Table 10.120-1 for each land use application.

Table 10.120-1. Due Process Elements by Procedure Type

Due Process Element	Land Use Procedure Type			
	Type I	Type II	Type III	Type IV
1. Completeness Review		✓	✓	✓
2. Notification		✓	✓	✓
3. Disclosure		✓	✓	✓
4. Conflict of Interest			✓	✓
5. Public Hearing			✓	✓
6. Cross-Examination			✓	✓
7. Action, Decision Time and Notice of Decision		✓	✓	✓
8. Findings of Fact		✓	✓	✓
9. Record		✓	✓	✓

~~A. In addition to the application review requirements of Section 10.175, Application Review Procedure, there are eight basic due process elements applicable to Class A, Class B, and Class C procedural classifications. The due process requirements are:~~
~~(1) Notification~~
~~(2) Disclosure~~
~~(3) Conflict of Interest~~
~~(4) Hearing~~
~~(5) Cross-Examination~~
~~(6) Action and Decision Time~~
~~(7) Findings~~
~~(8) Record~~
~~B. Due process for Class D plan authorizations includes requirements 1, 2, 6, 7, and 8 of the preceding list, in addition to the application review requirements of Section 10.175, Application Review Procedure.~~

10.122 Due Process Element 1: Completeness Review

(A) Upon submittal of a land use application to the Planning Department, the date of receipt shall be indicated on each copy of the materials submitted.

(B) Within 30 days of receipt, the Planning Department shall determine whether a Type II, III, or IV land use application as submitted, along with the required information, is complete as per this chapter.
(C) If the Planning Department fails to provide notice of completeness to the applicant of a Type II, III, or IV land use application in writing within 30 days of receipt, the application shall be deemed complete. For purposes of this section, the date of notice to the applicant shall be the date of mailing.
(D) If it is determined that the Type II, III, or IV land use application is incomplete or otherwise does not conform to the provisions of this chapter, the Planning Department shall notify the applicant in writing to submit the missing material. The application shall be deemed complete upon receipt of (1) all of the missing information; (2) some of the missing information and written notice from the applicant that no other information will be provided; or (3) written notice from the applicant that none of the missing information will be provided.
(E) If the Type II, III, or IV land use application is deemed complete as first submitted, or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria applicable at the time the application was submitted.
(F) On the 181st day after first being submitted, the Type II, III, or IV land use application is void if the applicant has been notified of the missing information and has not submitted:
(1) all of the missing information;
(2) some of the missing information and written notice that no other information will be provided; or
(3) written notice that none of the missing information will be provided. Any applications that are resubmitted to the Planning Department shall be subject to the standards and criteria in effect at the time the application is resubmitted.

10.124~~156~~ Due Process Element 2: Notification
~~, General.~~
(A) Content of Public Hearing Notice. The Public Hearing notice ~~provided~~ shall:
(1) Explain the nature of the application and the proposed use or uses which could be authorized;
(2) List the applicable criteria from the Code and the Comprehensive Plan that apply to the application at issue;
(3) Set forth the street address or other easily understood geographical reference to the subject property;
(4) State the date, time and location of the hearing; or, for ~~Class D~~Type II applications, state the date the decision will be rendered;
(5) State that failure to raise an issue in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal ~~to the Land Use Board of Appeals~~ based on that issue;

~~(~~(6) Include the name of a local government representative to contact and the telephone number where additional information may be obtained;
(7) State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
(8) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; or for a Type II application the staff report will be available on the day the decision is rendered ~~or, for Class D, state that a copy of the staff report will be available for inspection at no cost on the day the decision is rendered~~; and
~~(~~(9) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

~~10.157 Notification, Publication and On-Site Posting.~~
~~(1) Publication. Unless otherwise indicated notification of all proposed actions shall be published in a newspaper of general circulation prior to the scheduled meeting date before the approving authority. The schedule of publication for each type plan authorization shall be as follows:~~

~~Plan Authorization Classification~~	~~Specific Type~~	~~Publication Schedule~~
~~A~~	~~All~~	~~No later than 10 days prior to the scheduled meeting date before the advisory agency.~~ ~~No later than 10 days prior to the scheduled public hearing date before the approving authority.~~
~~B~~	~~Annexation~~	~~Once each week for two successive weeks prior to the day of the hearing before the approving authority. Notice shall also be posted in four public places in the city for a like period.~~
~~B~~	~~Vacations~~	~~Once a week for two consecutive weeks prior to the date of the hearing before the approving authority. Within five days after publication of the first notice, the City Recorder shall cause to be posted at or near each end of the proposed vacation a copy of the notice which shall be headed "Notice of Street Vacation", "Notice of Plat Vacation" or "Notice of Plat and Street Vacation" as the case may be; the notice shall be posted in at least two conspicuous places in the proposed vacation area. The posting and first day of publication of such notice shall be not less than 14 days before the hearing.~~

~~B~~	~~Minor Comp. Plan Amendments [quasi-judicial], Transportation facility development~~	~~Shall be published in a newspaper of general circulation no later than 10 days prior to the scheduled meeting date before the approving authority.~~
~~C~~	~~Zone changes, Preliminary PUD plans, Conditional use permits, Exceptions, Land divisions~~	~~Shall be published in a newspaper of general circulation no later than 10 days prior to the scheduled meeting date before the approving authority.~~
~~C~~	~~Site plan and architectural review, Historic review~~	~~Shall be posted in a public place no later than five days prior to the scheduled meeting date before the approving authority.~~
~~D~~		~~None~~

~~(2)~~**(B) Public Hearing Signs.** ~~On-Site Posting.~~ Public ~~notice~~ hearing signs shall be posted on the project site for any proposed ~~Class B, C, or D~~Type II, III, or IV (minor) land use actions according to the following:

(1~~a~~) Contents of sign. ~~Notice~~ Public Hearing signs shall include a description of the proposed land use action, the date of the public hearing, and the City of Medford file number for the proposed land use action.

(2~~b~~) Location and number of signs. ~~A~~ posted notice sign must be placed on each existing street frontage of the project site. ~~If~~ a frontage is over 600 feet long, a notice sign is required for each 600 feet, or fraction thereof. Notice signs must be posted within 10 feet of a street lot line and must be visible to pedestrians and motorists. Notice signs may not be posted in a public right-of-way, unless the land use action specifically pertains to a public right-of-way. If posting must occur in the right-of-way, care should be taken to comply with Section 10.735, Clear View of Intersecting Streets.

(3~~c~~) Sign posting schedule. The required sign(s) shall be posted ~~prior to the first public hearing date of each~~as specified in Table 10.124-1 ~~body that hears the application~~. Posted signs shall be removed within 10 days following the final decision.

(4~~d~~) ~~Consequences of failing to post the property as required.~~ Failure to post the signs as required by this section is a violation of the Medford Municipal Code.

~~(10.158~~C) Notification, Affected Property Owners.

(1) **Notice of Type II Land Use Action**. In the case of Type II land use actions where there is no public hearing, notification shall be mailed to the applicant and all affected property owners within 10 working days of deeming an application complete pursuant to Section 10.122.

(a) **Notice of Public Comment Period, Type II**. The Planning Director shall provide a 14 day period for submission of written comments prior to making a decision on any application requiring a Type II land use action.

(b) **Notice Area, Type II**. The Planning Director shall mail notice of the public comment period to the following:

(i) The applicant.

(ii) Property owners within 200 feet of the entire contiguous site for which the application is made. This list shall be compiled from the most recent property tax assessment roll.

(iii) Any neighborhood or community organization recognized by the City and whose boundaries include the site.

(iv) Public agencies which provide transportation facilities and services, such as Jackson County and the Oregon Department of Transportation (ODOT), for all partitions, which affect private access to roads.

(c) **Notice of Comment Period Content, Type II.** The notice shall:

(i) 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 provide for appeal of a Type II decision to the Planning Commission through a de novo hearing, which allows new issues to be raised and allows the 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 this code allows for local appeal.*

(ii) List, by commonly used citation, the applicable criteria for the decision.

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

(iv) Provide a project description that clearly describes the proposal and what is being requested.

(v) Identify the street address or other easily understandable geographical reference of the location of the site under review.

(vi) State the place, date and time the comments are due, and the person whom the comments should be addressed.

(vii) State that copies of all evidence relied upon by the applicant are available for review at no cost, and that copies can be obtained at reasonable cost from the City.

(viii) Include the name of the Planning Director or designee to contact and the telephone number where additional information may be obtained regarding the application.

(ix) State that any person who is adversely affected or aggrieved, anyone who is entitled to written notice in Subsection (C.1.b) above, and anyone who provides written comments during the comment period may appeal the decision by filing an appeal in accordance with this Code within 14 days of the date the written notice of decision is mailed.

(x) State the decision will not become final until the period for filing a local appeal has expired.

(xi) 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.

(d) **Notice of Decision, Type II**. Upon reaching a final decision on the application, the Planning Director shall mail a copy of the decision to the applicant and any person who submits comments during the public comment period. The Planning Director shall also mail notice of the decision in writing to parties who were notified of the comment period in Subsection (C.1.b) of this Section.

(e) **Notice of Decision Content, Type II**. The content of the notice of decision shall:

(i) A description of the applicant's proposal and a summary of the City's decision on the proposal.

(ii) Identify the street address or other easily understandable geographical reference of the location of the site.

(iii) Identify a statement of where the City's decision can be obtained and contact information.

(iv) Include a statement that all persons entitled to notice may appeal the decision.

(v) State that any person who is adversely affected or aggrieved, anyone who is entitled to written notice in Subsection (C.1.b) above, and anyone who provides written comments during the comment period may appeal the decision by filing an appeal in accordance with this Code within 14 days of the date the written notice of decision is mailed.

(vi) State that copies of all evidence relied upon by the decision-maker are available for review at no cost, and that copies can be obtained at reasonable cost from the City.

(vii) State the decision will not become final until the period for filing a local appeal has expired.

(viii) 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.

(f) **Final Decision and Effective Date, Type II.** 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 decision is effective when the appeal is decided.

(g) **Appeal, Type II.** A final decision may be appealed to the Planning Commission as provided in Section 10.140 of this Code.

(2) **Notice of Type III and IV Land Use Actions.** Notification shall be mailed to the applicant and all affected property owners no later than 21 days prior to each public hearing date.

~~Notification shall be mailed to the applicant and all affected property owners no later than 20 days prior to the scheduled meeting date before the approving authority.~~ (3) All addresses for mailed notices shall be obtained from the latest property tax rolls of the Jackson County Assessor's office.

~~(4)~~ Affected property owners for each procedure type ~~of plan authorization~~ shall be determined as ~~follows:~~indicated in Table 10.124-1

(D) Publication. Unless otherwise indicated, public hearing notices for all proposed land use actions shall be published in a newspaper of general circulation prior to the scheduled public hearing date before the approving authority. The schedule of publication for each procedure type shall be as specified in Table 10.124-1.

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Table 10.124-1: Notice of Public Hearing Schedule by Procedure Type			
Procedure Type	Newspaper Publication	On-Site Public Hearing Sign	Affected Property Owners Notice
Type I	None	None	None
Type II	None	None	Within 10 working days of deeming an application complete, notice will be sent to all property owners within 200 feet of the project boundaries
Type III: Conditional Use Permit, Exception, Preliminary PUD Plan, Zone Change	Notice shall be published no later than 10 days prior to the public hearing date before the approving authority.	A sign shall be placed on the subject property 21 days prior to the public hearing date.	21 days prior to the public hearing date notice will be sent to all property owners within the project boundaries plus all property owners within 200 feet of the project boundaries. For Preliminary PUD Plans, in addition to the above, the owners of no less than 75 tax lots shall be notified. If 75 tax lots are not located within 200 feet of the exterior boundary of the PUD, the notification area shall be extended by successive 50-foot increments, until the minimum number of lots are included in the notification area.

Table 10.124-1: Notice of Public Hearing Schedule by Procedure Type			
Procedure Type	Newspaper Publication	On-Site Public Hearing Sign	Affected Property Owners Notice
Type III: Historic Review, Site Plan and Architectural Commission Review	None	A sign shall be placed on the subject property 21 days prior to the public hearing date. AND A notice shall be posted in a public place no later than five days prior to the public hearing date.	21 days prior to the public hearing date notice will be sent to all property owners within the project boundaries plus all property owners within 200 feet of the project boundaries.
Type III: Subdivision Tentative Plat	Notice shall be published no later than 10 days prior to the public hearing date.	A sign shall be placed on the subject property 21 days prior to the public hearing date.	21 days prior to the public hearing date notice will sent to all property owners within the project boundaries plus all property owners within 200 feet of the project boundaries.
Type IV: Minor Comprehensive Plan Amendment, General Land Use Plan Map Amendment, Transportation Facility Development	Notice shall be published no later than 10 days prior to the public hearing date before the Planning Commission (the advisory body) AND No later than 10 days prior to the public hearing date before City Council (the approving authority).	A sign shall be placed on the subject property 21 days prior to the first public hearing date.	21 days prior to each public hearing date notice will be sent to all property owners within the project boundaries plus all property owners within 200 feet of the project boundaries.

Table 10.124-1: Notice of Public Hearing Schedule by Procedure Type			
Procedure Type	Newspaper Publication	On-Site Public Hearing Sign	Affected Property Owners Notice
Type IV: Annexation	Notice shall be published once each week for two successive weeks prior to the public hearing date.	Notice shall be posted in four public places for two successive weeks prior to the public hearing date.	21 days prior to the public hearing date notice will be sent to all property owners within the project boundaries plus all property owners within 200 feet of the project boundaries.
Type IV: Vacation of Public Right-of-Way	Not less than 14 days before the public hearing date before the approving authority, notice shall be published once a week for two consecutive weeks.	Within five days after publication of the first notice, and not less than 14 days before the hearing, a sign shall be placed at or near each end of the proposed vacation in at least two conspicuous places in the proposed vacation area.	21 days prior to the public hearing date notice will be sent to all property owners within the area of a plat vacation or all abutting property and all attached real property within 200 feet laterally and 400 feet beyond the terminus of each right-of-way to be vacated.
Type IV: Land Development Code Amendment, Major Comprehensive Plan Amendment, Major Zone Change	Notice shall be published no later than 10 days prior to the public hearing date before the Planning Commission (the advisory body), AND No later than 10 days prior to the public hearing date before the City Council (the approving authority).	None	Generally not applicable to a legislative action unless it meets ORS 227.186 criteria (*i.e.*, the change effectively rezones property).

~~Plan Authorization Classification~~	~~Specific Types~~	~~Affected Property Owners~~
~~A~~		~~Generally not applicable to a legislative action unless it meets ORS 227.186 criteria (*i.e.*, the change effectively re-zones property.)~~
~~B~~	~~Vacations~~	~~All property owners within the area of a plat vacation or all abutting property and all attached real property within 200 feet laterally and 400 feet beyond the terminus of each right-of-way to be vacated.~~
~~B~~	~~Annexations, Minor Comp. Plan Amendments (quasi-judicial), Transportation Facility Development~~	~~All owners of property within the project boundaries plus all property owners within 200 feet of the project boundaries.~~
~~C~~	~~Zone Changes, Conditional Use Permits, Exceptions, Site Plan and Architectural Review, Land Divisions, Historic Review~~	~~All owners of property within the project boundaries plus all property owners within 200 feet of the project boundaries.~~
~~C~~	~~Preliminary PUD Plans~~	~~All owners of property within the project boundaries plus all property owners within 200 feet of the project boundaries. The owners of no less than seventy-five tax lots shall be notified. If seventy-five tax lots are not located within 200 feet of the exterior boundary of the PUD, the notification area shall be extended by successive 50-foot increments, until the minimum number of lots are included in the notification area. Owners of all tax lots within the extended notification area shall receive notice.~~
~~D~~		~~All owners of property within the project boundaries plus all property owners within 200 feet of the project boundaries.~~

10.~~159~~ 126 Due Process Element 3: Disclosure.

There shall be provided to the applicant and other interested parties adequate opportunity to review the facts, findings, staff report and other exhibits as soon as practical, but not less than seven ~~(7)~~ days prior to the time ~~in~~ at which a decision is to be made on ~~a plan authorization~~land use application by the approving authority.

10.128 Due Process Element 4: Conflict of Interest

See Section 10.130 (E) and 10.132

~~10.160 [Repealed, Sec. 2, Ord. No. 2013-31, Feb. 21, 2013.]~~

10.~~161~~130 Due Process Element 5: ~~-~~Public Hearing.

The contents of this section shall govern the conduct of all quasi-judicial public hearings before an advisory body/approving authority. A copy of this section shall be available for public inspection at each quasi-judicial hearing and in the Planning Department. The conduct of public hearings on legislative matters shall be at the discretion of the presiding officer.

(A~~1~~) **Nature of Hearing**. All parties with standing shall have an opportunity to be heard, to present and rebut evidence before an impartial tribunal, to have the proceedings recorded, and to have a decision rendered in accordance with the facts on record and the law.

(B) **Authority of Presiding Officer.** The presiding officer of the advisory body/approving authority shall have authority to:

(1~~a~~) Regulate the course and decorum of the meeting.

(2~~b~~) Dispose of procedural requests and similar matters.

(3~~c~~) Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation, questions, and rebuttal testimony.

(4~~d~~) Question any person appearing, and allow other members to question any such person.

(5~~e~~) Waive, at ~~his/her~~their discretion, the application of any rule herein where the circumstances of the hearing indicate that it would be expedient and proper to do so, provided that such waiver does not act to prejudice or deny any party ~~his/her~~their substantial rights as provided herein or otherwise by law.

(6~~f~~) Take such other action as authorized by the approving authority to appropriately conduct the hearing.

(C) **Challenge or Reversal of Presiding Officer Ruling.** A ruling of the presiding officer may be challenged by any member of that advisory body/approving authority present at the hearing. The challenge must be seconded. A ruling may be reversed by a majority of the members present and voting. A tie vote upholds the presiding officer's decision.

~~(2)~~(D) **Conduct of Participants**. Proceedings shall at all times be orderly and respectful. The presiding officer may refuse to recognize or exclude from the hearing anyone who:

(1~~a~~) Is disorderly, abusive, or disruptive;

(2~~b~~) Takes part in or encourages audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive to the hearing;

(3c) Testifies without first receiving recognition from the presiding officer and stating his their full name and residence; and,

(4d) Presents irrelevant, immaterial, or repetitious evidence.

(E3) **Order of Procedure**. The presiding officer shall conduct the hearing in an orderly fashion, within the guidelines set forth herein. The hearing shall proceed in the following manner:

(1a) **Commencement**: At the commencement of a hearing under a *Comprehensive Plan* or land use regulation, a statement shall be made to those in attendance that lists the applicable substantive criteria; states that testimony and evidence must be directed toward the criteria described in this subsection or other criteria in the plan or land use regulation which the person believes to apply to the decision; and states that failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

(2b) **Abstentions, Conflict of Interest and Challenges**. All members shall comply with ORS 244.120 and , 244.130 , and 244.135 regarding actual or potential conflicts of interest. Any member who is disqualified or wishes to abstain from participation in the hearing on a proposal shall identify the reasons for the record and shall not thereafter participate in the discussion as a member or vote on the proposal. Any challenges to the impartiality shall also be decided at this time.

(3c) **Planning Director's Report**. The presiding officer shall request that the Planning Director or staff member report on the criteria and standards and the basic factual evidence applicable to the case and indicate the action required to be taken.

(4d) **Applicant's Case**. The presiding officer shall allow the applicant or applicant's representative to present evidence in support of the application. The applicant shall be allowed to produce witnesses on his/hertheir behalf. Other parties in favor of the proposal shall thereafter be allowed to present their evidence. Applicant may then reserve time for rebuttal. The Planning Director may appear as an applicant on a staff proposal.

(5e) **Opponent's Case**. The presiding officer shall allow opponents to present evidence in opposition to the proposal. Opponents shall be allowed to produce witnesses oin their behalf.

(6f) **Questioning of Witnesses**. Cross examination shall be permitted as per Section 10.162, Cross Examination132.

(7g) **Applicant's Rebuttal if Reserved**.

(8h) **Staff Summary and Recommendations**. The Planning Director or staff person may present any additional evidence, comments and recommendations at the close of thee hearing.

(9i) **Final Discussion**. Upon conclusion of the evidence, members shall be allowed to openly discuss the proposal and further question any party appearing for or against the proposal as necessary.

(10j) Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. Such an extension shall not be subject to the limitations of ORS 227.178, "120 Day Rule."

(11k) -When the ~~City Council or Planning Commission~~advisory body/approving authority re-opens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.

(12l) The failure of the property owner to receive notice as provided in Section 10.~~158~~124 shall not invalidate such proceedings if the city can demonstrate by affidavit that such notice was mailed. The notice provisions ~~of~~ contained in Section 10.~~158~~124 shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.

(F4) **Standing**. A person has the right to appear as a party to a quasi-judicial proceeding if the person:

(1a) received official written notice of the hearing or was entitled to receive such notice, or

(~~b~~2) has interests which could be adversely affected by the decision.

10.~~162~~132 Due Process Element 6: Cross Examination.

(A) Prior to any quasi-judicial public hearing there shall be provided to all affected parties, upon request, the right to question the advisory body/approving authority, relative to any actual or potential conflict of interest. Once a member of the advisory body/approving authority is disqualified, no further questions shall be directed to ~~him/her~~them.

(B) Any witness may be questioned in an orderly fashion by any member of the advisory body/approving authority, applicant, proponent or opponent who has first been recognized by the presiding officer. Questions shall be brief and to the point. All questions shall be submitted to the witness through the presiding officer unless the presiding officer expressly permits the submission of questions directly to a witness.

10.~~163~~134 Due Process Element 7: Action, ~~and~~ Decision Time, and Notice of Decision.

(A) **Action**. After acceptance of an application, the approving authority shall approve, approve with conditions, or deny the request. The decision of the approving authority shall be based upon the application, the evidence and comments from referral agencies and the public, and compliance with this chapter.

(B) **Decision Time.** Action on all land use reviews shall be taken within the time herein prescribed.

(C) **Notice of Decision.**~~on all plan authorizations shall be taken within the time herein prescribed.~~

For all land use reviews~~authorizations~~, the Planning Department shall, within five working days of the decision date, provide written notification of the land use decision to the applicant and all persons who testify orally or in writing on the ~~plan authorization~~land use review. The notice shall indicate the date that the decision will take effect, the approval's expiration date, and the final date for appeal.

10.136 Due Process Element 8: Findings of Fact

See section 10.118.

~~10.164 Class "A", Action and Decision Time.~~

~~Following completion of a recommendation by the advisory agency (Planning Commission), the request shall be scheduled for a public hearing. The decision of the approving agency (City Council) shall be based upon the application, the evidence, comments from the referral agencies, and compliance with the Statewide Planning Goals and Guidelines and with this code and the Comprehensive Plan.~~

~~10.165 **Class "B", Action and Decision Time.**~~
~~After acceptance of an application, the approving authority (City Council) shall approve, approve with conditions, or deny the request. The decision of the approving authority (City Council) shall be based upon the application, the evidence and comments from the referral agencies, and compliance with this chapter and the Comprehensive Plan.~~

~~10.166 **Class "C", Action and Decision Time**.~~
~~The approving authority shall take final action within 120 days after the application is deemed complete and shall at that time approve, approve with conditions, or deny the request. The decision of the approving authority (Planning Commission, Site Plan and Architectural Commission, or Landmarks and Historic Preservation Commission) shall be based upon the application, the evidence, comments from the referral agencies, and compliance with this chapter and the Comprehensive Plan. An applicant may make a written request to extend the 120-day period for a specified period of time. In no case may the total extensions exceed 245 days.~~

~~10.167 **Class "D", Action and Decision Time.**~~
~~The approving authority shall take final action within 120 days after the application is deemed complete and shall at that time approve, approve with conditions, or deny the request. The decision of the approving authority shall be based upon the application, the evidence, written comments, and compliance with this chapter.~~
~~An applicant may make a written request to extend the 120-day period for a specified period of time. In no case may the total extensions exceed 245 days.~~

~~10.168 **Findings**.~~
~~Findings which address applicable criteria shall accompany all actions required of this chapter for plan authorizations.~~

10.~~169~~138 Due Process Element 9: Records.

The secretary to the advisory body/approving authority shall be present at each meeting and shall cause the proceedings to be recorded stenographically or electronically.
(A~~1~~) Testimony shall be transcribed if required for judicial review or if ordered by the advisory body/approving authority.
(B~~2~~) The total public record for any legislative or quasi-judicial action includes, but is not limited to, the application, the staff report, the hearing record, the appeal record, the decision or recommendation of all public bodies that considered the matter, and all additional information, correspondence

and other items submitted to the city by any party or by the staff prior to the closing of the record. The record shall be deemed closed at the end of the last hearing on the matter, unless kept open to a later date as otherwise provided by law. Items submitted for the record do not have to be formally introduced and admitted at the hearing. The Planning Department shall create and maintain a separate file with a unique file number for each land use action and all items received by the city for that action shall be placed in the Planning Department file.

(C~~3~~) The Planning Director shall, where practicable, retain as part of the record each item of physical or documentary evidence presented including the staff report, and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent, opponent or staff. Exhibits received into evidence shall be retained in the file until after the applicable appeal period has expired, at which time the exhibits may be released to the person identified thereon, or disposed of by the Planning Director if not claimed within 60 days of the expiration of any appeal date.

(D~~4~~) Included in the record shall be a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the criteria, standards and facts set forth.

(E~~5~~) A person shall have access to the record of the proceedings and the exhibit file during normal working hours. A person shall be entitled to copies of the record at the person's own expense. The custodian of record shall make the copies for a fee equal to the actual cost of reproduction.

~~10.175 **Application Review Procedure**.~~

~~Each procedural classification is subject to four (4) application review procedures as follows:~~

~~(1) Application, General~~

~~(2) Referral and Review~~

~~(3) Application Form~~

~~(4) Criteria~~

10.140 Appeal of Land Use Decision.

(A) Standing for Appeal.

(1) Any person with standing may appeal a land use decision of an approving authority (Planning Commission, Site Plan and Architectural Commission, Landmarks and Historic Preservation Commission, and Planning Director) which approves conditionally, approves, or disapproves an appealable land use action per Subsection (E), by filing a written notice together with the requisite filing fee with the Planning Department within 14 days after notice of the decision is mailed.

(2) A person has standing if the person:

(a) appeared in the initial proceedings orally or in writing; and

(b) was entitled to a right of notice and hearing prior to the decision to be reviewed, or is aggrieved by the decision, or has interests adversely affected by the decision.

(3) For a Type II land use decision, a person with standing is an applicant or owner of the subject property, was entitled to written notice of the decision, or participated in the proceeding by submitting written comments.

(B) Notice of Appeal.

(1) A notice of appeal shall be signed by the appellant or their agent and shall contain:

(a) An identification of the decision sought to be reviewed, including the date of the decision.

(b) A statement demonstrating that the appellant has standing to appeal as required by Subsection (A) above.

(c) A statement of the specific grounds which the appellant relies on as the basis for the appeal. If the appellant contends that the findings of fact made by the approving authority are incorrect or incomplete, the notice shall specify the factual matters omitted or disputed. If the appellant contends that the decision is contrary to ordinance, statute or other law, such errors shall be specifically identified in the notice along with the specific grounds relied upon for review.

(2) Upon timely receipt of the notice of appeal and filing fee, the Planning Department shall schedule the appeal for a hearing before the appropriate appeal body at the next regular hearing that falls not less than fourteen days after the date of filing. The Planning Department shall notify the appellant and other parties with standing, of the time and place of the hearing by first class mail, enclosing a copy of the notice of appeal.

(C) Appeal Procedure.

Only the appellant and other parties with standing may participate in the appeal hearing. Appellant shall make the initial presentation and shall be allowed rebuttal. Each participant in the appeal hearing shall present to the appeal body those portions of the record which the participant deems relevant to the appeal. If a party wishes the appeal body to review recorded testimony, the party shall present a written summary or transcript of such testimony to be read by the appeal body in lieu of actually listening to the recording.

For an appeal of a Type II land use decision, the appellant and other parties shall have an opportunity to present testimony, arguments, and evidence as they would have had in a hearing before the decision was issued. The presentation of testimony, arguments, and evidence shall not be limited to the issues raised in the notice of appeal.

(D) Scope of Appeal.

An appeal hearing shall be either 'de novo', 'limited to issues', or 'on the record' as summarized below.

(1) De novo: Anyone may testify. Issues are not limited to those raised in the appeal. New evidence and argument may be presented.

An appeal of a Type II land use decision, shall be a 'de novo' hearing as required by ORS 227.175 (10)(a)(D). The de novo hearing shall be the initial evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals.

(2) On the record: Issues are limited to those raised in the appeal. New evidence may not be presented. New arguments may be presented so long as they relate to issues raised in the initial proceedings.

(a) The appeal body shall not re-examine issues of fact and shall limit its review to determining whether there is substantial evidence to support the findings of the

approving authority, or determining if errors in law were committed. The appellant is also precluded from raising an issue on appeal to the appeal body if they could have raised the issue with the approving authority but failed to do so.

(b) The record shall consist of the application and all materials submitted with it; documentary evidence, exhibits and materials submitted at the initial hearing; recorded testimony; the decision of the approving authority, including the findings and conclusions; and the notice of appeal.

(E) Decision Regarding Appeals.

(1) Upon review of the appeal, the appeal body may by order affirm, reverse or modify in whole or in part a determination or requirement of the decision that is under review. When the appeal body modifies or renders a decision that reverses a decision of the approving authority, the appeal body, in its final order, shall set forth its finding and state its reasons for taking the action encompassed in the order. When the appeal body elects to remand the matter back to the approving authority for such further consideration as it deems necessary, it shall include a statement explaining the error to have materially affected the outcome of the original decision and the action necessary to rectify such.

(2) Action by the appeal body shall be decided by a majority vote of its members present at the meeting at which review was made and shall be taken either at that or any subsequent meeting. The appeal body shall render its decision within the time limits allowed by State law.

(F) Appeal of Type I Land Use Decision.

(1) With the exception of Riparian Corridor Reductions or Deviations, Final PUD Plan decisions and Minor Historic Review decisions, all other Type I land use decisions are final and not appealable under this chapter or any other provision of the Medford Municipal Code.

(2) Riparian Corridor Reduction or Deviation decisions made by the Planning Director or designee may be appealed to the City Council.

(3) Final PUD Plan decisions made by the Planning Director or designee may be appealed to the Planning Commission.

(4) Minor Historic Review decisions made by the Planning Director or designee may be appealed to the Landmarks and Historic Preservation Commission.

(G) Appeal of Type II Land Use Decisions.

Type II land use decisions made by the Planning Director or designee may be appealed to the Planning Commission as a de novo hearing. The Planning Commission decision on appeal shall be the final local decision on the matter.

(H) Appeal of Type III Land Use Decision.

Type III land use decisions made by the approving authority (Planning Commission, Site Plan and Architectural Commission, or Landmarks and Historic Preservation Commission) may be appealed to the City Council. The appeal shall be heard on the record.

(I) Appeal of Type IV Land Use Decision.

Type IV land use decisions made by City Council may be appealed to the Land Use Board of Appeals (LUBA) pursuant to ORS 197.830.

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TYPE I APPLICATIONS. (10.142 – 10.160)

10.142 Type I Land Use Actions.

Type I land use actions comprise the following land use reviews:

Type I Land Use Actions

De Minimis Revision(s) to an Approved PUD Plan
Final PUD Plan
Minor Historic Review
Minor Modification(s) to Approved Conditional Use Permit
Minor Modification to a Site Plan and Architectural Review Approval
Nonconformities
Pre-Application
Property Line Adjustment
Riparian Corridor Reduction or Deviation
Sign Permit
Subdivision/Partition Final Plat

10.144 De Minimis Revision(s) to an Approved PUD Plan. See Section 10.198.

10.146 Final PUD Plan. See Section 10.196.

10.148 Minor Historic Review. See Section 10.188.

10.150 Minor Modification to an Approved Conditional Use Permit. See Section 10.184.
10.152 Minor Modification to a Site Plan and Architectural Review Approval. See Section 10.200.

10.154 Nonconformities. See sections 10.032 – 10.037

10.~~176~~156 Preapplication Conference.
Prior to ~~applying for a development~~submitting a land use permit application, the applicant may ~~request~~ apply for a preapplication conference with the Planning Department. ~~When requested~~Upon receipt of an application the~~, a~~ preapplication conference shall be scheduled. At the conference there shall ~~and shall provide~~ an exchange of information regarding procedural requirements, required ~~planning authorizations~~land use applications, consistency with the Comprehensive Plan and this

Chapter, scheduling and such other technical and design assistance as will aid the applicant in preparing a complete application. Upon conclusion of the conference the Planning Department shall provide the applicant with a written summary of the conference.

10.158 Property Line Adjustment.

(A) Property Line Adjustment Purpose.

The purpose of property line adjustments is to relocate or eliminate a common property line between abutting properties.

(B) Property Line Adjustment Approval Criteria.

A property line adjustment shall be approved if it complies with the following:

(1) All properties were lawfully created;

(2) No new lots or parcels of land will result from the adjustment;

(3) The adjustment will not result in a unit of land that overlaps the city limit line, urban growth boundary, or zoning districts;

(4) The adjusted property configurations shall not create a substandard condition relative to the applicable standards of the Code. When one or more properties are less than the minimum required area or width, none of the resulting units of land shall be made smaller in area or narrower in width than the original smallest existing unit of land.

(C) Property Line Adjustment Application Form.

Property line adjustments shall be submitted to the Planning Department on application forms supplied by the Planning Department. The Planning Director or designee may waive the submittal of any of the materials or information that is deemed to be excessive, repetitive, or unnecessary. The application for property line adjustment shall require the following information:

(1) A site plan drawn to scale by a land surveyor registered in the State of Oregon showing the following:

(a) Existing and proposed property lines, including dimensions and square footage, for all properties involved;

(b) Assessor's map and tax lot identification for subject properties;

(c) Location of existing wells, septic systems, sanitary sewer, storm drain laterals, and water service;

(d) Location, name, and purpose of all existing and proposed easements; If the property line adjustment will result in any portion of a utility service, lateral, driveway, or water service being located on a different parcel than the structure served by them, an easement granting continued use of the improvement will be required;

(e) The name of public and private streets that abut or lie within the subject area;

(f) Accurate location, height, ground floor area, and use of all structures on the subject properties including the distance from all proposed property lines. If the units of land are vacant, a written statement certifying the same shall be provided;

(g) Names of subject property owners as shown on the accompanying deeds;

(h) Signature of person preparing the map, attesting to the accuracy of information contained thereon;

(i) If items above are not shown on site plan, a statement is required stating the specific items do not exist on the property;

(2) A report from a title company prepared within 30 days listing the vested owners, easements, encumbrances, and other matters of record for each property;

(3) The owners of all properties that will be modified by the property line adjustment must sign the application form or a letter of authorization.

(D) Property Line Adjustment Procedure.

(1) Preliminary Review.

Once the application has been submitted the Planning Department shall send a copy to affected agencies and City departments for review. Within 25 working days after the application has been submitted, the Planning Department shall send a written notification to the applicant indicating:

(a) The application is missing information required in Section 10.158. Once all of the missing information is submitted, the City will have 25 working days to complete the review; or

(b) The application has been preliminarily approved consistent with Section 10.158; or

(c) The application has been disapproved as it is not consistent with Section 10.158.

(2) Final Review.

(a) Within one year of the preliminary approval date, the applicant shall submit to the Planning Department all of the following:

(i) Map of survey showing the adjusted property lines prepared by an Oregon licensed surveyor in accordance with the procedures of ORS 92.060(7) and 209.250. This requirement applies to all properties regardless of size.

(ii) A report from a title company prepared within 15 days listing the current vested owners, easements of record, encumbrances, and other matters of record;

(iii) A copy of proposed easements to be recorded. Proposed easements may be included as a reservation on the property line adjustment deeds;

(iv) Deeds which include a statement that identifies the associated conveyance of property as a property line adjustment and labeled as a "Property Line Adjustment." If a property line is being eliminated, the deeds shall be labeled "Property Line Adjustment – Lot Consolidation."

(v) Property descriptions attached to the deeds shall either describe the resultant properties or otherwise specify that the conveyed land shall be consolidated with the property of the grantee. A property line adjustment deed shall contain the names of the parties, the description of the adjusted line, references to original recorded documents, and signatures of all parties with proper acknowledgment.

(b) Within 25 days of submittal, the City will conduct the final review for consistency with the preliminary approval and the approval criteria. Upon approval, the survey will be signed by the City Surveyor and the Planning Director.

(E) Property Line Adjustment Recordation and Expiration.
Within one year of the final decision date, the property line adjustment deeds must be filed with the Jackson County Recorder's Office. If the deeds are not filed within one year, the application approval will expire.

10.160 Riparian Corridors, Reduction or Deviation. See Sections 10.920 – 10.928.

10.162 Subdivision and Partition Final Plats.

(A) Final Plat Approval Required.
No person shall cause or permit the sale or development of any real property under their ownership or control, nor shall any development [MHB6]permit be issued for such development, until final approval therefor has been granted by the Planning Director in accordance with this chapter, and an approved final plat has been recorded with the Jackson County Recorder. The requirements of this section shall not be applicable to any of the following which are exempt from such provisions:

(1) Where final plat approval for the identical lot or site has been previously obtained from the City within 10 years prior to the date of application for a building permit, in accord with such ordinance requiring plat approval which was in effect at that time, and such final plat is of record evidencing such plat approval;

(2) Developments made solely for the purpose of opening or widening a public street or alley, or those involving conveyance, transfer, access, sewer, water, or public utility, provided that no partitions or parcels of land are created other than those directly caused by such action.

(3) Developments made solely because of the acquisition of lands by government agencies for freeways, parks, public buildings, flood control channels, or other public purposes, or for the sale of minor remnant parcels by such agencies to adjacent property owners where such land involved in the sale is not designated in the City's Comprehensive Plan as a recreational facility. In connection with the sale of any such minor remnant parcel, the person acquiring the property shall consolidate the acquired remnant parcel with his existing contiguous ownership;

(4) Developments involving land dedicated for cemetery purposes; or

(5) Developments caused by a conveyance for the purpose of adding land to one parcel by deducting it from another contiguous parcel, where such does not reduce the area of the parcel from which such portion is taken below the minimum area, frontage, width or depth prescribed for the zoning district in which said parcel is located, nor reduce any of the required yard spaces surrounding any structure or use on such parcel below the minimum prescribed for such zoning district.

(B) Final Plats, General.
The form and content of a final plat shall be in accord with the provisions of ORS 92.050 through 92.080, and this code. Final plats not submitted in accord with this code shall not be considered for approval.

(C) Form of Final Plat and Data to Appear Thereon.

Where identified by an "X" in table 10.162-1, the final plat of subdivisions and partitions shall conform to the following provisions:

Final Plat Form and Data – Table 10.162-1

Final Plat Provisions	Include on Subdivision Final Plat	Include on Partition Final Plat
1. **Title and subtitle of plat**. The title sheet shall contain the name as approved by the Planning Commission. Below the title sheet shall appear a subtitle giving a general location of the property being developed by reference to the plats which have previously been recorded. In case the property included within the subdivision lies wholly in the city of Medford, the following words shall appear below the title, "In the City of Medford."	X	
2. **Distances and bearings**. Sufficient data to determine readily the bearing and length of every lot line, block line, and boundary line. Dimensions of lots shall be given as total dimensions, corner to corner and shall be shown in feet and hundredths of a foot. The plat shall show the basis of bearings and lengths of straight lines and radii, and all arc lengths, central angle, or other data as necessary to define all curves within the subdivision.	X	X
3. **Boundary references and monuments**. The plat shall show clearly what monuments (type and size) or other evidence is found on the ground to determine boundaries of the subdivision. The adjoining corners of all adjoining subdivisions shall be identified by lot and block number, and subdivision name. The plat shall show the location and description of monuments found or placed in making the survey for proper reference and data sufficient for relocation and retracing of any and all exterior boundary lines and lot and block lines. Whenever the city or county engineer has established the centerline of a street adjacent to or in the proposed subdivision, the data shall be shown on the plat.	X	X
4. The plat shall note whether the subdivision or portion thereof are subject to periodic inundation by water as determined from the Federal Flood Insurance Rate Maps.	X	X
5. The centerlines and sidelines of all streets, and total width thereof, and the widths of each side of the centerline and widths	X	X

Final Plat Form and Data – Table 10.162-1

Final Plat Provisions	Include on Subdivision Final Plat	Include on Partition Final Plat
of any portion of a street being dedicated, the width of existing dedications, and the widths of any railway, drainage channel, or other rights-of-way shall be shown.		
6. The plat shall show all easements of record, or easements to be recorded, to which the lots will be subject. Such easements must be clearly labeled and identified if already of record, and record reference given. If any easement is not definitely located of record, a statement of such easement must appear on the plat. All easements other than for streets shall be denoted by fine broken lines and designated as to type. Easement widths and the lengths and bearings of the lines thereof, together with sufficient ties thereto, shall be set forth to definitely locate the easement with respect to the development.	X	X
7. City boundary lines which bound, adjoin or cross the development, shall be clearly designated and referenced.	X	X
8. Lot numbers shall begin with the number "1" and shall continue consecutively throughout the development with no omission or duplications, except that lot numbers in subsequent contiguous development units may expand the numbering sequence of the previous unit providing the commercial name of the development remains unchanged. Each block shall be shown on one sheet when possible. Where adjoining blocks appear on separate sheets, the street adjoining both blocks shall be shown on both sheets, complete with centerline and property line data. All letters and figures within the development shall be conspicuous and solid.	X	X
9. The plat shall particularly define and designate all lots and parcels, including those reserved for private purposes, all parcels and easements offered for dedication for any purpose, with all the dimensions, boundaries, and courses clearly shown and defined in each case. Ditto (" ") marks shall not be used.	X	X
10. All street names, including those designated by numbers, and including the words "Avenue", Boulevard", "Place", etc., shall be spelled out in full.	X	X

Final Plat Form and Data – Table 10.162-1

Final Plat Provisions	Include on Subdivision Final Plat	Include on Partition Final Plat
11. The plat shall also show and delineate all other data that is or may be required by other provisions of this chapter or otherwise by law.	X	X
12. **Certificates:** Areas dedicated to public use shall be free and clear of all encumbrances, except public utility easements which the City Engineer determines will not interfere with the use contemplated by the dedication. All mortgages, trust deeds, and other liens shall be released as to public use areas.	X	X
13. **Certificates:** Each final plat shall contain the requisite owner's certificate or dedication, release of liens, Surveyor's certificate, City Engineer's certificate, City Surveyor's certificate, County Recorder's certificate, and such other certificates as may hereafter be required by law. The form of each said certificate shall be prescribed by the City Attorney.	X	X
14. **Certificates:** The owner's dedication statement shall include offers of dedication of all streets and other easements shown on the final plat intended for any public use, except those parcels of land which are intended for the exclusive use of the lot owners in the development, their licensees, visitors, tenants and employees, which private streets and other private easements shall be specifically designated as such on the plat.	X	X
15. **Certificates:** The Planning Director certificate shall contain a statement that acknowledges compliance with all conditions of the development permit and recognition of same.	X	X

(D) Filing of Final Plat with City Engineer.

(1) Prior to submitting a final plat to the Planning Department, the applicant shall:

(a) Cause the proposed land division to be accurately surveyed and a final plat to be prepared substantially in accordance with the approved tentative plat;

(b) Cause a minimum of five copies of the final plat, with any and all alterations and changes required thereto, to be filed with the City Engineer for approval. At the time of filing of the final plat with the City Engineer, the developer shall also file concurrently therewith the following:

(i) A traverse sheet, giving the latitude and departures, or computer print-out, showing the mathematical closure, within allowable limits of error, of the exterior boundaries of the tract in all cases in which said boundaries are irregular or in which the tract is laid out in irregular blocks, and of the exterior boundaries of all irregular lots and blocks.

(ii) Plans, profiles, details, and specifications for improvements conforming to all ordinances of the city and to the standards of this code which must show full details of all improvements and shall be to a scale of 40 or 50 feet to the inch horizontal and four or five feet to the inch vertical.

(iii) A detailed estimate of quantities and costs of the proposed improvements for approval by the City Engineer.

(iv) A title report or subdivision guarantee by a title company doing business in Jackson County, showing names of all persons whose consent is necessary for the preparation of said plat and for any dedication to public use, and their interest therein, certified for the benefit and protection of the City that the persons therein named are all of the persons necessary to give clear title to the streets and other easements therein to be offered for dedication. Said title report shall be dated no later than 15 days from the date of submittal.

(v) Two copies of all proposed covenants, conditions, and restrictions or a statement in writing signed by the developer that no such restrictions will be established.

(vi) Instruments prohibiting traffic over the side or rear lines of any street or other public way when and if the same is required by this chapter.

(vii) Such streets, offers of dedication or other instruments affecting or conveying title or any interest in land as are required under the conditions of approval of the tentative plat.

(viii) A statement that all applicable fees required by the city code have been paid.

(ix) Two copies of the city's standard (or deferred) form of improvement agreement executed by the developer, together with two executed copies of each labor and material and improvement bond guaranteeing payment of the cost of setting monuments (ORS 92.065) and county certification that the requisite tax bond has been posted (ORS 92.095) and such other agreements and bonds as may from time to time be required by law.

(2) The City Engineer shall examine the final plat and accompanying data and shall within 15 working days determine:

(a) Whether all engineering conditions of tentative plat approval have been satisfactorily completed, or if incomplete, are matters which can be included in a regular or deferred improvement agreement with the city;

(b) Whether said plat is technically correct.

(3) Upon the City Engineer's determination that conformity with the foregoing has been made, they shall execute the City Engineer's certificate on said final plat and cause said plat to be forwarded to the Planning Department for approval by the Planning Director.

(E) Filing of the Final Plat with Planning Department.

(1) No final plat shall be accepted by the Planning Department unless, in addition to the above, the following is complied with:

(a) An accepted final plat shall be considered by the Planning Director 10 working days following acceptance.

(b) The final plat is accompanied by:
(i) A blue or black line print thereof;
(ii) The approved improvement plans signed by the City Engineer;
(iii) All documents and matters previously submitted to the City Engineer under Sub-section (D) ~~above~~ above.
(c) All required fees by the developer have been paid.
(d) A print of the final plat signed off by all affected referral agencies and involved agencies.

(2) The Planning Department shall examine the final plat and accompanying data and shall within five working days determine:
(a) Whether the land division is substantially the same as shown on the tentative plat with only approved alterations thereof;
(b) Whether bonds and agreements guaranteeing improvement of all conditions of tentative plat approval have been completed pursuant to Section 10.666, Improvement Agreements, and Section 10.667, Security for Public Improvements.

(F) Action and Decision Time: Final Plat.

(1) The Planning Director shall within a period of not more than 25 working days after a final plat is submitted to the Planning Department, approve or disapprove the final plat and acknowledge compliance with all conditions of the tentative plat.

(2) If the final plat does not conform with all local code requirements applicable at the time of approval of the tentative plat and all rulings made thereunder, the Planning Director may disapprove said plat, or approve it; said approval to become unconditional at such time as said plat is made to comply with the approved tentative plat and such code requirements.

(3) Upon disapproval of any final plat, the Planning Director shall return said plat to the applicant together with a written statement setting forth the reasons for such disapproval.

(4) Upon approval by the Planning Director becoming unconditional, the Planning Director shall sign and affix the city seal to the approving authority certificate attached to said plat.

(5) No land division will be recognized as complete until final plat is unconditionally approved by the Planning Director and no title to or interest in any property described in any offer of dedication on the final plat which is accepted by the Planning Director shall pass until recordation of said plat.

(6) Within 10 days after recordation of the final plat, the applicant at their own expense shall furnish to the Planning Department one copy.

TYPE II APPLICATIONS – ADMINISTRATIVE DECISIONS WITH NOTICE (10.168 – 10.172)

10.168 Type II Land Use Actions.

(A) Type II actions comprise the following land use reviews:

Land Use Actions
Partition, Tentative Plat
Portable Storage Containers

(B) Type II Action and Decision Time.
The Planning Director shall take final action within 120 days after the application is deemed complete. An applicant may make a written request to extend the 120-day period for a specified period of time. In no case may the total extensions exceed 245 days. At the Planning Director's discretion, an application requiring a Type II land use action may be referred directly to the Planning Commission for review through a Type III land use action.

10.170 Partition Tentative Plat.

(A) Final Plat Approval Required.
The partitioning of land shall be subject to the application requirements as herein set forth and shall include both the tentative and final platting requirements. The approval of a partition tentative plat is a Type II administrative decision with notice and the Planning Director is the approving authority. Final partition plat approval is a Type I ministerial action which relies on compliance with the requirements established at the time of tentative plat approval, and on the requirements set forth in Section 10.162.

(B) Application for Partition Tentative Plat. See Section 10.202(B).

(C) Form of Tentative Plat and Accompanying Data. See Section 10.202(C).

(D) Partition Approval Criteria.
The Planning Director shall not approve any tentative partition plat unless they can determine that the proposed land partition, together with the provisions for its design and improvement:

(1) Is consistent with the Comprehensive Plan, any other applicable specific plans thereto, including Neighborhood Circulation Plans, and all applicable design standards set forth in Article IV and V;

(2) Will not prevent development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this chapter;

(3) If it includes the creation of streets or alleys, that such streets or alleys are laid out to be consistent with existing and planned streets and alleys and with the plats of land divisions already approved for adjoining property, unless the approving authority determines it is in the public interest to modify the street pattern;

(4) If it has streets or alleys that are proposed to be held for private use, that they are distinguished from the public streets or alleys on the tentative plat, and reservations or restrictions relating to the private streets or alleys are set forth;

(5) Will not cause an unmitigated land use conflict between the land partition and adjoining agricultural lands within the EFU (Exclusive Farm Use) zoning district.

(E) Expiration of Partition Tentative Plat Approval.

Approval of a tentative partition plat application shall take effect on the date the Planning Director's decision is signed, unless appealed, and shall expire two years from the effective date unless the final plat has been approved by the Planning Director pursuant to Sections 10.162. If a request for an extension of a tentative partition plat application approval is filed with the Planning Department within two years from the date of the Planning Director's decision, an extension not to exceed one additional year shall be granted. Extensions shall be based on findings that the facts upon which the tentative partition plat application was first approved have not changed to an extent sufficient to warrant refiling of the application.

10.172 Portable Storage Containers. (See Section 10.840(d)(6)).

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TYPE III APPLICATIONS. (10.182 – 10.204)

10.182 **Type III Land Use Actions.**

(A) Type III actions comprise the following land use reviews:

Land Use Action
Conditional Use Permit
Exception
Historic Review
Preliminary PUD Plan
Site Plan and Architectural Review
Subdivision Tentative Plat
Zone Change

(B) Type III Action and Decision Time.

(1) The approving authority shall take final action within 120 days after the application is deemed complete.

(2) An applicant may make a written request to extend the 120-day period for a specified period of time. In no case may the total extensions exceed 245 days.

(C) Resubmission of Type III Application. After 60 working days of the final determination denying a Type III action, the applicant may make appropriate alterations to a proposal and resubmit along with the payment of any additional fees as required by Section 10.070.

(D) Effective Date of a Type III Application. A Type III land use decision shall take effect on the date the final order or resolution for approval is signed.

10.184 **Conditional Use Permit.**

(A) A development classified as a conditional use shall be given special review via this process in order to assure its appropriateness for the site and allow for adjustment to be made to assure its compatibility with adjacent land uses.

(B) **Conditional Use Permits Exempt of Site Plan and Architectural Commission Review.**

(1) Conditional Use Permits (CUPs) approved under this Section shall be exempt from, and there shall be no requirement to apply separately for, a Site Plan and Architectural Commission review or to demonstrate compliance with the approval criteria in Section 10.200(E). However, the Planning Director in their discretion may forward a CUP proposal or proposed revisions thereto to the Site Plan and Architectural Commission for review. When forwarded by the Planning Director, the Site Plan and Architectural Commission shall have authority to review the CUP plans and make recommendations to the Planning Commission.

(2) **Delegation of Authority.**

The Planning Commission may delegate authority to the Site Plan and Architectural Commission or to the Planning Director to approve in its name the plans for buildings or any other element of a CUP or revisions thereto after the Planning Commission has approved the CUP. The authority delegated by the Planning Commission under this Subsection shall be delimited in conditions attached to the approval. Notwithstanding any other provision of this Code, the approval of delegated matters shall be subject to a Type III Procedure as set forth in Article II.

(C) Conditional Use Permit Approval Criteria.

(1) The Planning Commission must determine that the development proposal complies with either of the following criteria before approval can be granted.

(a) The development proposal will cause no significant adverse impact on the livability, value, or appropriate development of abutting property, or the surrounding area when compared to the impacts of permitted development that is not classified as conditional.

(b) The development proposal is in the public interest, and although the development proposal may cause some adverse impacts, conditions have been imposed by the Planning Commission to produce a balance between the conflicting interests.

(2) In authorizing a conditional use permit the Planning Commission may impose any of the following conditions:

(a) Limit the manner in which the use is conducted, including restricting the time an activity may occur, and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.

(b) Establish a special yard or other open space or lot area or dimension requirement.

(c) Limit the height, size, or location of a building or other structure.

(d) Designate the size, number, location, or nature of vehicle access points.

(e) Increase the amount of street dedication, roadway width, or improvements within the street right-of-way.

(f) Designate the size, location, screening, drainage, surfacing, or other improvement of parking or truck loading areas.

(g) Limit or otherwise designate the number, size, location, height, or lighting of signs.

(h) Limit the location and intensity of outdoor lighting, or require its shielding.

(i) Require screening, landscaping, or other facilities to protect adjacent or nearby property, and designate standards for installation or maintenance thereof.

(j) Designate the size, height, location, or materials for a fence.

(k) Protect existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources.

(D) Conditional Use Permits, Mitigation of Impacts.

A conditional use requiring the mitigation of impacts under Subsection (C)(1)(b) above must do one of the following:

(1) Preserve unique assets of interest to the community.

(2) Provide a public facility or public nonprofit service to the immediate area or community.

(3) Otherwise provide a use or improvement that is consistent with the overall needs of the community in a location that is reasonably suitable for its purpose.

(E) Modifications of a Conditional Use Permit.

(1) **Major Modification of a CUP.** Any modification that is not a minor modification is a major modification. A request to substantially modify a conditional use permit shall be processed in the same manner as a request for a conditional use permit in this section. The Planning Director or designee may waive submittal requirements deemed unnecessary or inapplicable to the proposal.

(2) **Minor Modification of a CUP.** A minor modification to an approved permit may be approved provided the Planning Director can determine that the modification does not constitute a major modification. The purpose of the determination is to assure that a modification does not significantly affect other property or uses; will not cause any deterioration or loss of any natural feature, process or open space; nor significantly affect any public facility. A minor modification shall meet all of the following standards:

(a) Meets all requirements of the Land Development Code and other legal requirements.
(b) The amount of open space and landscaping is not decreased.
(c) No relocation of vehicle access points and parking areas where the change will generate an impact that would adversely affect off-site or on-site traffic circulation.
(d) No reduction or elimination of any project amenities such as recreational facilities, significant natural resources (streams, creeks, landform), fencing and other screening material.
(e) Modifications to facilities and utilities conform to the adopted facility plans.
(f) Modifications to any other components of the plan conform to standards of the Land Development Code.
(g) No modification to any condition of approval.

(F) Expiration of Conditional Use Permit.

Within one year following the final order date, issuance of building permit for vertical construction shall be completed, or if a use, the use shall have commenced. If a request for an extension is filed with the planning department within one year from the approval date of the final order, the Planning Commission, may, upon written request by the applicant, grant a single extension of the expiration date for a period not to exceed one year from the expiration date of the final order. An extension shall be based on findings that the facts upon which the conditional use permit was first approved have not changed to an extent sufficient to warrant re-filing of the conditional use permit.

(G) Conditional Use Permit Application Form

An application for a conditional use permit shall contain the following:

(1) Vicinity map drawn at a scale of 1" = 1,000' identifying the location of the proposed site.

(2) Assessor's map with subject site identified.

(3) Site plan drawn to scale on an eighteen inch by twenty-four inch (18" x 24") sheet. Site plan shall identify all existing and proposed buildings, parking, drives, vegetation or landscaping, adjacent development.

(4) Property owner's (and agent's) names, addresses, and map and tax lot numbers within 200 feet of the subject site, typed on mailing labels.
(5) Findings prepared by the applicant or his/her representative addressing the criteria set forth in Section 10.184 (C), Conditional Use Permit Approval Criteria.
(6) A conceptual stormwater facility plan with associated landscape plan, if applicable, pursuant to Sections 10.486(B) or 10.729(B).
(7) A Landscape Plan, meeting the specifications and requirements in Section 10.780, if applicable.

10.186 **Exception.**

(A) Exception, Purpose.
The purpose of this section is to empower the approving authority to vary or adapt the strict application of the public improvement and site development standards as contained in Article III, Sections 10.349 through 10.361, and 10.370 through 10.385, as well as Articles IV and V of this chapter. Exceptions may be appropriate for reasons of:
(1) exceptional narrowness or shape of a parcel; or
(2) exceptional topographic conditions; or
(3) extraordinary and exceptional building restrictions on a piece of property; or
(4) if strict applications of the public improvement or site development standards in the above-referenced Articles would result in peculiar, exceptional, and undue hardship on the owner.

(B) Criteria for an Exception.
No exception, in the strict application of the provisions of this chapter, shall be granted by the approving authority having jurisdiction over the land use review unless it finds that all of the following criteria and standards are satisfied. The power to authorize an exception from the terms of this code shall be sparingly exercised. Findings must indicate that:
(1) The granting of the exception shall be in harmony with the general purpose and intent of the regulations imposed by this code for the zoning district in which the exception request is located, and shall not be injurious to the general area or otherwise detrimental to the health, safety, and general welfare or adjacent natural resources. The approving authority shall have the authority to impose conditions to assure that this criterion is met.
(2) The granting of an exception will not permit the establishment of a use which is not permitted in the zoning district within which the exception is located.
(3) There are unique or unusual circumstances which apply to this site which do not typically apply elsewhere in the City, and that the strict application of the standard(s) for which an exception is being requested would result in peculiar, exceptional, and undue hardship on the owner.
(4) The need for the exception is not the result of an illegal act nor can it be established on this basis by one who purchases the land or building with or without knowledge of the standards of this code. It must result from the application of this chapter, and it must be suffered directly by the property in question. It is not sufficient proof in granting an exception to show that greater profit would result.

(C) Expiration of an Exception.

Within one year following the final order date, issuance of building permit for vertical construction shall be completed, or if a use, the use shall have commenced. If a request for an extension is filed with the Planning Department within one year from the approval date of the final order, the approving authority may, upon written request by the applicant, grant a single extension of the expiration date for a period not to exceed one year from the expiration date of the final order. An extension shall be based on findings that the facts upon which the exception was first approved have not changed to an extent sufficient to warrant re-filing of the exception. An exception directly related to another land use review(s), such as an exception which was filed concurrently with the other land use review(s), and/or an exception which is integrally intertwined with and necessary to the development or use authorized by the other land use review(s), shall expire when the related land use review(s) expires.

(D) Exception Application Form

An application for an exception shall be made by the owner of the property for which the exception is requested to the approving authority for the plan authorization involving the exception. An exception application shall include the following:

(1) A list of the specific standard(s) for which an exception is being requested and a description of the degree of exception(s) being requested, including findings prepared by the applicant or applicant's representative addressing the criteria as set forth in Section 10.186 (B), Criteria for an Exception.

(2) Vicinity map drawn at a scale of 1" = 1000' identifying the location of the site of the variance.

(3) Assessor's map with the subject site identified.

(4) Site plan showing in detail the circumstance(s) which justifies each exception.

10.188 **Historic Review.**

The Historic Review process is hereby established to assure compliance with the Historic Preservation Overlay, Sections 10.401 through 10.407, the Oregon Administrative Rules, Oregon Revised Statutes, and to achieve consistency with The Secretary of the Interior's Standards for the Treatment of Historic Properties.

(A) An application for Historic Review is required in the following instances:

(1) To request addition to or removal from the Historic Preservation Overlay for any area, parcel, or portion thereof. The property owner, Planning Director, Landmarks and Historic Preservation Commission, or City Council may request initiation of proceedings to change the extent of the Historic Preservation Overlay.

(2) For proposed exterior alteration and/or new construction within an Historic Preservation Overlay.

(3) Prior to application for a demolition or relocation permit for all or part of a building, structure, object or site in an Historic Preservation Overlay.

(B) Historic Review of proposed exterior alteration and/or new construction is required irrespective of whether a building permit or a development permit is required. Historic Review final actions shall be taken prior to application for a building permit or proceeding with work that does not require a permit.

(C) Historic Review, Approval Criteria.

Approval of Historic Review applications shall require findings that the proposal is consistent with the indicated approval criteria:

(1) Changes to the Historic Preservation Overlay.

The extent of the Historic Preservation Overlay may be changed to include a historic resource other than those specified in Section 10.402 (1), (2), and (3) through a Type III Historic Review process if findings can be made substantiating that the proposal is consistent with the criteria below:

(a) It has been demonstrated that the designation of the historic resource is consistent with the purposes of the Historic Preservation Overlay in Section 10.401; and,

(b) It has been demonstrated that the designation of the historic resource is appropriate, considering the historic value of the resource and any other conflicting values, and will not result in a loss of substantial beneficial use of the property; and,

(c) It has been demonstrated that the historic resource has a significance rank of "primary" or "secondary" on an historical survey conducted in conformance with the standards of the Oregon State Historic Preservation Office; or, the historic value of the resource has sufficient local significance to merit designation as a Local Historic Resource.

(2) Exterior Alteration and/or New Construction.

The Landmarks and Historic Preservation Commission shall approve a Historic Review application for exterior alteration and/or new construction within an Historic Preservation Overlay after consideration during a public hearing, if findings can be made substantiating that the proposal is consistent, or can be made consistent through the imposition of conditions, with all of the following criteria:

(a) It has been demonstrated that the proposed exterior alteration and/or new construction is consistent with the purposes of the Historic Preservation Overlay in Section 10.401; and,

(b) It has been demonstrated that the proposed exterior alteration and/or new construction will preserve the historic character, form, and integrity of the historic resource; and,

(c) It has been demonstrated that the proposed exterior alteration and/or new construction is consistent with the most current version of the The Secretary of the Interior's Standards for the Treatment of Historic Properties; and,

(d) It has been demonstrated that the proposed exterior alteration and/or new construction is compatible with the historical and architectural style of the historic resource, of adjacent historic properties, and of the historic district within which it is located, if any. Assessment of compatibility may include consideration of the design,

arrangement, proportion, detail, scale, color, texture, and materials, and the way new features will be differentiated from the old; and,

(e) It has been demonstrated that the proposed exterior alteration and/or new construction is consistent with all other applicable provisions of this Code.

(3) Minor Historic Review.

Minor Historic Review of certain exterior alterations may be conducted by the Planning Director, according to standards adopted by the Landmarks and Historic Preservation Commission. The Planning Director shall approve a Minor Historic Review application if the proposal conforms to approval criteria adopted by the Landmarks and Historic Preservation Commission. These approval criteria are available at the Planning Department.

Minor Historic Review shall be limited to the review of:

(a) Changes in roofing materials and exterior paint colors in residentially-zoned Historic Preservation Overlay Districts as per the Paint and Roofing Approval Criteria adopted in December 2007;

(b) Changes in exterior paint colors in commercially-zoned Historic Preservation Overlay Districts, when new paint colors are chosen from the adopted color palette;

(c) Changes in awning fabric materials without a change in the shape of the awning frame, in Historic Preservation Overlay Districts, if the new fabric is either solid or striped and the fabric colors are chosen from the adopted color palette;

(d) Change of sign face/copy as defined in Section 10.1010.

(4) Demolition and Relocation. The Landmarks and Historic Preservation Commission shall temporarily delay issuance of a demolition or relocation permit for all or part of a building, structure, object or site in an Historic Preservation Overlay, unless, during a public hearing:

(a) It is demonstrated that a temporary suspension of the demolition or relocation permit would not aid in avoiding the demolition or relocation of the historic resource; in informing the owner of the benefits of renovation; nor in pursuing public or private acquisition or restoration; and,

(b) In the case of a demolition, it is demonstrated that there is no practical opportunity to relocate the historic resource to another site, nor to salvage historic or architectural elements; and,

(c) It is demonstrated that the proposed demolition or relocation would not adversely affect the protection, enhancement, perpetuation, improvement, or use of any historic district or other historic resource; and,

(d) It is demonstrated that the benefits of protecting the historic resource no longer outweigh the benefits of allowing the demolition or relocation.

(5) Temporary Suspension of a Demolition or Relocation Permit.

(a) In the case of temporary suspension of a demolition or relocation permit by the Landmarks and Historic Preservation Commission, issuance of the permit shall be delayed for a period of 120 days from the date of application for Historic Review or for the demolition or relocation permit, whichever is earlier.

(b) The Landmarks and Historic Preservation Commission may invoke an extension of the suspension period for an additional period not exceeding 90 days if it determines during a subsequent public hearing that there is a program underway that could result in public or private acquisition, or preservation or restoration of such building, structure, object, or site, and that there are reasonable grounds to believe that such a program will be successful.

(c) During the period of suspension, no permit shall be issued for demolition or relocation, nor shall any person demolish or move the building, structure, object, or site.

(d) At the end of the suspension period, if all such programs have been unsuccessful, the Medford Building Safety Director shall issue a demolition or relocation permit as long as the application otherwise com-plies with all other city ordinances.

(D) Historic Review, Conditions of Approval.

In approving a Historic Review application, the Landmarks and Historic Preservation Commission may impose conditions necessary to ensure compliance with the standards of this Code and the criteria in this section, and to otherwise protect the health, safety and general welfare of the surrounding area and community as a whole. These conditions may include, but are not limited to the following:

(1) Limiting the number, height, location and size of signs;

(2) Requiring the installation of appropriate public facilities and services and dedication of land to accommodate public facilities when needed;

(3) Limiting the visibility of mechanical equipment through screening or other appropriate measures;

(4) Requiring the installation or modification of irrigated landscaping, walls, fences or other methods of screening and buffering;

(5) Limiting or altering the location, height, bulk, configuration or setback of buildings, structures and improvements;

(6) Requiring the improvement of an existing, dedicated alley which will be used for ingress or egress for a development;

(7) Controlling the number and location of parking and loading facilities, points of ingress and egress and providing for the internal circulation of motorized vehicles, bicycles, public transit and pedestrians;

(8) Requiring the retention of existing natural features;

(9) Modifying architectural design elements including exterior construction materials and their colors, roofline, fenestration and restricting openings in the exterior walls of structures;

(10) Restricting the height, directional orientation and intensity of exterior lighting.

(E) Historic Review Approval, Expiration.

(1) Approval of a Historic Review application shall take effect on the date the final order for approval is signed, unless appealed, and shall expire two years from the effective date. Within two years following the effective date, issuance of building permit for vertical construction must have occurred or an extension of the approval shall be necessary. If a request for an extension of a Historic Review application approval is filed with the Planning Department

within two years from the effective date, the Landmarks and Historic Preservation Commission may grant an extension not to exceed one additional year if based upon findings that the facts upon which the Historic Review application was first approved have not changed to an extent sufficient to warrant re-filing of the application.

(2) When it is the developer's intent to complete an approved project in phases, the Landmarks and Historic Preservation Commission may authorize a time schedule for the issuance of building permits for a period exceeding two years, but in no case shall the total time period for the issuance of building permits be greater than five years without having to re-submit a new application for Historic Review. Phases developed after the passage of two years from approval of the Historic Review application shall be required to modify the plans if necessary to avoid conflicts with changes in the Comprehensive Plan or this chapter.

(F) Major Revisions or Amendments to Historic Review Approval.

Major revisions or amendments to plans approved through Historic Review shall require re-application.

(G) Issuance of Building Permits Consistent with Historic Review Approval.

(1) All applications for a building permit, wherein Historic Review has been required, shall be consistent with the plans as approved and all conditions of approval imposed thereon and shall be accompanied by an accurate and correct plan.

(2) Security for Completion of Public Improvements: If all required public improvements, as specified in the conditions of Historic Review approval, have not been satisfactorily completed before issuance of a building permit, the developer shall enter into a written agreement (provided by the City) to secure full and faithful performance thereof, according to Sections 10.666 and 10.667(A) respectively.

(H) Historic Review Application Content

An application for Historic Review shall include the information and materials listed below:

(1) Application form.

(2) All information requested on the application form.

(3) Findings of fact demonstrating compliance with the approval criteria in Section 10.258, Historic Review, Approval Criteria.

(4) Appropriate fee.

In addition to that listed, the City may require the applicant to submit additional information deemed necessary to take action on an application in accordance with this Code and applicable State laws.

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PLANNED UNIT DEVELOPMENT, PRELIMINARY PLANS, TYPE III. (10.190 – 10.194)

10.190 Planned Unit Development (PUD) – Application and Approval Provisions.

(A) Purpose and Intent of PUDs.

The PUD approach permits flexibility to allow creative and imaginative urban development that would otherwise not be possible under the strict requirements of this Code. The intent is to promote more efficient use of urban land and urban services while protecting natural features, creating common open space, promoting the development of transit-oriented design along designated transit corridors and within designated transit-oriented development (TOD) areas, and encouraging a mixture of land uses and housing types that are thoughtfully planned and integrated.

(B) PUD Stepped Process.

Consolidated Applications Authorized: Approval of a PUD shall be a two-step process involving approval of a Preliminary PUD Plan by the Planning Commission as a Type III land use action as the first step and approval of a Final PUD Plan by the Planning Director as a Type I land use action as the second step. As used in Sections 10.190 through 10.194, the Planning Director shall mean the Director of the Medford Planning Department or their designee. Except applications for annexations and comprehensive plan amendments, applications authorized in Article II may be consolidated with an application for a Preliminary PUD Plan per Section 10.114.

(C) Application for a Preliminary PUD Plan.

(1) An application for Preliminary PUD Plan shall be on forms supplied by the City. A complete application shall include the materials and information listed in this Subsection. However, the Planning Director, in their discretion, may waive the submittal of any of the materials or information that are deemed to be excessive, repetitive or unnecessary based upon the size and nature of the PUD. Unless waived by the Planning Director, the following items shall be required to constitute a complete application for a Preliminary PUD Plan:

(a) Current assessor map with the boundaries of the proposed PUD identified.

(b) Preliminary PUD Plan (16 copies) and supplemental materials conforming to the Site Plan and Architectural Review application requirements in Section 10.200 (J). Additionally, such plans shall include preliminary plans for providing public water and sanitary sewer service. The Preliminary PUD Plan shall indicate boundaries within the property which distinguish areas devoted to different land uses pursuant to Subsections 10.190 (C)(1)(c)(vi), 10.192(B)(7) and 10.230(D)(8). Where different land uses are separated by streets, railroad rights-of-way, drainage channels or other water courses, the centerlines of such features shall be their boundaries. One copy of the Preliminary PUD Plan shall be a reduced size suitable for photocopy. If a tentative plat

for a land division is submitted concurrently with a Preliminary PUD Plan, the Preliminary PUD Plan and tentative plat shall be on separate sheets. It is further provided that:

(i) Unless otherwise required in this Code, architectural plans for single family detached dwellings and landscaping plans for lots occupied by single family detached dwellings are not subject to review or approval as part of a PUD. However, nothing shall prevent an applicant from supplying architectural or landscaping plans for single family detached housing as a means to comply with one or more approval criteria.

(ii) If private or non-city standard street lighting is proposed, a street lighting plan shall be provided which provides a detail of the proposed lighting fixture(s). The Preliminary PUD Plan shall indicate the location of proposed private or non-citystandard light fixtures.

(iii) An applicant may postpone the submission and approval of architectural plans for proposed buildings and to have such plans approved later as a separate matter under Subsection 10.192 (I) after the Preliminary PUD Plan has been approved. When the approval of architectural plans has been postponed, the Preliminary PUD Plan shall show a conceptual footprint for each planned building and each building footprint shall be separately enclosed by a dashed line which shall be called and labeled a building envelope. Building envelopes shall reasonably anticipate and define the maximum extent of the footprint for each building in the PUD.

(c) A narrative description of the PUD which shall cover:

(i) The rationale for planning this development as a PUD.

(ii) The nature, planned use, future ownership and method of perpetual maintenance of land to be left in natural or developed open space or which will be held in common ownership.

(iii) A listing of all modified applications of the Code that are proposed, followed by a brief explanation which covers the nature of, extent of, and reason for each modification.

(iv) If one or more signs are intended to vary from the provisions of this Code, then a detailed plan for all signs which require a sign permit shall be submitted. The sign plan shall specify the size, number, type, height and location of all signs which require a sign permit and shall clearly indicate all proposed modifications.

(v) A proposed development schedule. If the PUD will be constructed in phases, the development schedule for each phase shall be keyed to a plan that indicates the boundaries of each phase.

(vi) The gross acreage devoted to the various proposed land uses and housing types.

(d) Written findings of fact and conclusions of law which address the approval criteria in Subsection 10.190 (D)

(e) The names and mailing addresses of the owners of record of tax lots, obtained by the latest tax rolls of the Jackson County Assessor's Office, located within 200 feet of the exterior boundary of the whole PUD. The owners of no less than seventy-five (75) tax lots shall be notified of the pending land use hearing. If seventy-five (75) tax lots are not located within two-hundred (200) feet of the exterior boundary of the PUD, the notification area shall be extended by successive fifty (50) foot increments, until a minimum of seventy-five (75) tax lots are included in the notification area. The owners of all tax lots within the extended notification area shall receive written notice; therefore, noticing of more than seventy-five (75) tax lots may be required. The names and mailing addresses shall be typed on mailing labels and shall include the assessor map and tax lot numbers for each parcel.

(f) A conceptual stormwater facility plan with associated landscape plan, if applicable, pursuant to Sections 10.486(B) or 10.729(B).

(g) Documentation of pre-submittal PUD Neighborhood Meeting. Documentation shall include:

(i)A copy of a Certificate of Mailing for the neighborhood meeting notification mailing pursuant to Section 10.194(C);

(ii) A completed Verification of Neighborhood Meeting form attesting to the contents of the materials provided or reviewed at the meeting;

(iii) A set of the notification materials listed in Section 10.194 (B); and,

(iv)The signature sheet(s) from the Neighborhood Meeting.

(2) An applicant may postpone the submission and approval of architectural plans for proposed buildings and to have such plans approved later as a separate matter under Section 10.192(I) after the Preliminary PUD Plan has been approved. When the approval of architectural plans has been postponed, the Preliminary PUD Plan shall show a conceptual footprint for each planned building and each building footprint shall be separately enclosed by a dashed line which shall be called and labeled a building envelope. Building envelopes shall reasonably anticipate and define the maximum extent of the footprint for each building in the PUD.

(3) Extended Notification Area, PUD. The application for Preliminary PUD Plan shall include the names and mailing addresses of the owners of record of tax lots, obtained by the latest tax rolls of the Jackson County Assessor's Office, located within 200 feet of the exterior boundary of the whole PUD. The owners of no less than seventy-five (75) tax lots shall be notified of the pending land use hearing. If seventy-five (75) tax lots are not located within two-hundred (200) feet of the exterior boundary of the PUD, the notification area shall be extended by successive fifty (50) foot increments, until a minimum of seventy-five (75) tax lots are included in the notification area. The owners of all tax lots within the extended notification area shall receive written notice; therefore, noticing of more than seventy-five (75) tax lots may be required. The names and mailing addresses shall be typed on mailing labels and shall include the assessor map and tax lot numbers for each parcel.

(D) Approval Criteria for Preliminary PUD Plan.

The Planning Commission shall approve a Preliminary PUD if it concludes that compliance exists with each of the following criteria:

(1) The proposed PUD:
- (a) preserves an important natural feature of the land; or
- (b) includes a mixture of residential and commercial land uses; or
- (c) includes a mixture of housing types in residential areas; or
- (d) includes open space, common areas, or other elements intended for common use or ownership; or
- (e) is otherwise required by the Medford Land Development Code.

(2) The proposed PUD complies with the applicable requirements of this Code, or
- (a) the narrative describes the proposed modified standards of the Code and how they are related specifically to the implementation of the rationale for the PUD as described in the application, and
- (b) the proposed modifications enhance the development as a whole resulting in a more creative and desirable project, and
- (c) the proposed modifications to the limitations, restrictions, and design standards of this Code will not materially impair the function, safety, or efficiency of the circulation system or the development as a whole.

(3) The property is not subject to any of the following measures or if subject thereto the PUD can be approved under the standards and criteria thereunder:
- (a) Moratorium on Construction or Land Development pursuant to ORS 197.505 through 197.540, as amended.
- (b) Public Facilities Strategy pursuant to ORS 197.768 as amended.
- (c) Limited Service Area adopted as part of the Medford Comprehensive Plan.

(4) The location, size, shape and character of all common elements in the PUD are appropriate for their intended use and function.

(5) If the Preliminary PUD Plan includes uses not allowed in the underlying zone pursuant to Subsection 10.192(B)(7)(c), the applicant shall alternatively demonstrate that either:
- (a) Demands for the Category "A" public facilities listed below are equivalent to or less than for one or more permitted uses listed for the underlying zone, or
- (b) By the time of development the property can be supplied with the following Category "A" public facilities in sufficient condition and capacity to support development of the proposed use:
  - (i) Public sanitary sewerage collection and treatment facilities.
  - (ii) Public domestic water distribution and treatment facilities.
  - (iii) Storm drainage facilities.
  - (iv) Public streets.

Determinations of compliance with this criterion shall be based upon standards of public facility adequacy as set forth in this Code and in goals and policies of the comprehensive plan which by their language and context function as approval criteria for comprehensive plan

amendments, zone changes or new development. In instances where the Planning Commission determines that there is insufficient public facility capacity to support the development of a particular use, nothing in this criterion shall prevent the approval of early phases of a phased PUD which can be supplied with adequate public facilities.

(6) If the Preliminary PUD Plan includes uses proposed under Subsection 10.192(B)(7)(c), approval of the PUD shall also be subject to compliance with the conditional use permit criteria in Section 10.184.

(7) If approval of the PUD application includes the division of land or the approval of other concurrent land use applications as authorized in Subsection 10.190(B), approval of the PUD shall also be subject to compliance with the substantive approval criteria in Article II for each of the additional land use applications.

(E) Conditions of Preliminary PUD Plan Approval.

If the Planning Commission approves a Preliminary PUD Plan, in addition to conditions of approval authorized under Section 10.200(F), it may attach conditions to the Preliminary PUD Plan approval which are determined to be reasonably necessary to ensure:

(1) The Final PUD Plan will be substantially consistent with the approved Preliminary PUD Plan and specifications related thereto.

(2) Development of the PUD will be consistent with the approved Final PUD Plan and specifications related thereto. To ensure satisfactory completion of a PUD in compliance with the approved plans, the Planning Commission may require the developer to enter into an agreement with the City as specified under Section 10.200(I).

(3) The PUD will comply with the Comprehensive Plan, the Medford Municipal Code and all provisions of this Code except the specific provisions for which there are approved modifications.

(4) There are appropriate safeguards to protect the public health, safety and general welfare.

(5) There will be ongoing compliance with the standards and criteria in this Section.

(6) To guarantee that streets, public facilities and utilities can be appropriately extended from one PUD phase to each successive future phase in accordance with the approved Preliminary PUD Plan, the City may require the conveyance of easements or other assurances.

(F) Expiration of Preliminary PUD Plan Approval.

Preliminary PUD Plan approval shall be valid for three years and may not be extended. The three-year period shall begin the date the Final Order approving the Preliminary PUD Plan is signed by the Planning Commission Chairperson. If a Preliminary PUD Plan is appealed, the three-year period shall begin on the date on which all appeals are resolved, including the resolution of all issues on remand. Within the three-year time period, an application for a Final PUD Plan must be filed for the entire site or for the first phase if the PUD has been approved for phased development.

(G) Time Limit Between PUD Phases.

After Final PUD Plan approval for the first phase of a PUD having approved multiple phases, and for each successive phase thereafter, no more than five years shall lapse between the approval of phases. If more than five years pass between the Final PUD Plan approval of any two PUD phases after the first phase, the Planning Commission may, without the consent of the owner(s) of the PUD, initiate action to terminate undeveloped portions of the PUD under Section 10.198(B).

(H) Binding Effect; Previously Approved PUDs.
A PUD Plan approval shall run with the land and shall be binding upon all successors in interest in all land within the whole PUD. It is further provided that a Preliminary PUD Plan approval shall remain in full force and effect unless the approval expires or is terminated by action of the City pursuant to Section 10.198(B). Preliminary plans submitted prior to the adoption date of this ordinance, and final plans resulting from those preliminary plans, are subject to the regulations for PUDs in effect at the time the preliminary plan application was submitted.

10.192 **Preliminary PUD Plan – General Provisions.**

(A) Minimum Acreage for a PUD.
PUDs must contain one acre or more at the time of application filing.

(B) Modified Application of Standards Authorized for PUDs.
To fulfill the purpose and intents of the standards set forth in Section 10.190(A), authority is herewith granted for the approval of PUDs which vary from the strict standards of this Code. The nature and extent of potential modifications shall be limited to the categories below described, provided that the City, in approving such modifications, shall not violate substantive provisions of the Oregon Transportation Planning Rule:

(1) Lots and Parcels in PUDs. Limitations, restrictions and design standards pertaining to the size, dimension, location, position and coverage of lots, and restrictions related to through lots.

(2) Yards, Setbacks and Building Height in PUDs. Limitations, restrictions and design standards pertaining to the location, size, height, yards and setbacks for buildings and other structures.

(3) Parking, Bicycle and Pedestrian Standards in PUDs. Limitations, restrictions and design standards pertaining to off-street vehicle and bicycle parking and loading, and standards related to pedestrian access.

(4) Frontage, Access, Landscaping and Signs in PUDs. Limitations, restrictions and design standards pertaining to lot frontage, access, required landscaping, signs and bufferyards.

(5) Streets Generally in PUDs. Streets within PUDs may be either city streets dedicated for public use or private streets owned and maintained by an association of owners, and may exceed maximum block length and perimeter standards provided in Section 10.426(C)(1). Streets within or adjacent to a PUD shall comply with the following:

(a) Collector and arterial streets shall be dedicated city streets, the existence and general location of which shall be determined by the Comprehensive Plan.

(b) City streets shall comply fully with the strict requirements of this Code, provided that the City in approving a PUD may permit the width of parking lanes for city streets to be less than the Code otherwise requires.

(c) The City may require any proposed PUD street or segment thereof to be constructed and dedicated as a city street.

(6) Private Streets in PUDs. Private streets may vary from the limitations, restrictions and design standards pertaining to streets with respect to length, width, position, aspect, intersection standards, grades, curve radii, cul-de-sac turnarounds, street lights, easements, sidewalks, curbs and driveway approaches for streets within the PUD, provided:

(a) With respect to the amount, quality and installation of construction materials, private streets shall be structurally equivalent to or better than city-standard streets.

(b) The City Fire Marshall shall approve the design of all private streets for access by emergency vehicles before approval of the Preliminary PUD.

(c) Private streets shall be posted as private streets and shall connect to the public street system. The applicant shall convey to the City and all appropriate utility companies a perpetual easement over the private street(s) for use by emergency vehicles and employees of the City and utility company(s) in the maintenance of public facilities and utilities.

(7) Allowed Uses and Housing Types in PUDs. The following uses and housing types shall be permitted as part of a PUD subject to the following:

(a) In addition to permitted uses, any portion of a PUD may contain any housing type listed in Subsection 10.314(1-3). In approving housing types, the Planning Commission may waive or reduce any of the special use regulations or standards contained in Sections 10.811 through 10.839.

(b) Any conditional use listed for the underlying zone may be permitted without addressing the Conditional Use Permit criteria in Section 10.184 except when the conditional use is within 200 feet of the perimeter of the PUD. This exemption does not apply to conditional uses within Riparian Corridors pursuant to Section 10.925.

(c) Use(s) not permitted in the underlying zone may, nevertheless, be permitted and approved to occupy up to 20% of the gross area of the PUD provided that no portion of the use(s), including its parking, is located nearer than 200 feet from the exterior boundary of the PUD. If any portion of the use(s) is nearer than 200 feet from the exterior PUD boundary, then said use(s) shall be considered to be a conditional use and may be approved subject to compliance with the conditional use permit criteria in Section 10.184. However, this provision shall not apply where the land outside the PUD which is nearer than 200 feet from proposed use(s) is inside a zone in which the proposed use(s) is permitted.

(8) Mixed Land Use Designations in PUDs.

Unless otherwise prohibited, PUDs that have more than one General Land Use Plan designation or Southeast Plan land use category shall have the flexibility to mix or relocate such designations within the boundaries of the PUD in any manner and/or location as may be approved by the Planning Commission.

(C) Common Elements in PUDs.

A multi-family residential PUD must include a minimum of 20% of the land area as common area unless otherwise modified by the Planning Commission. This common area shall be for the purpose

of providing protection for natural features, common recreational space, landscaped area, or commonly enjoyed amenities other than parking areas or private streets. Where a PUD has open spaces, private streets, parking or other elements to be owned or maintained in common by the owners or future owners of land or improvements within the PUD, the Final PUD Plan shall not be approved and no unit shall be sold or conveyed until the PUD has been found to comply with the following requirements, as applicable:

(1) PUD Planned Community.

If the PUD is a planned community under ORS Chapter 94, the declaration and tentative plat for the planned community shall be submitted with the Final PUD Plan for approval by the Planning Director before recording in the official records of Jackson County.

(2) PUD Condominium.

If the PUD is a condominium under ORS Chapter 100, a copy of the recorded declaration and plat shall be submitted to the City after it has been approved by the Oregon Real Estate Commissioner and recorded in the official records of Jackson County. A condominium declaration and plat shall not be reviewed and approved by the Planning Director and the Planning Director shall have no authority under this Subsection to require changes thereto.

(3) PUD Common Ownership.

If the PUD contains elements intended for common ownership but ORS Chapters 94 and 100 do not apply, there shall be appropriate legal documents which assure that the common elements will be improved and perpetually maintained for their intended purposes. The legal documents in such instance shall be submitted to the Planning Director for approval as part of the Final PUD Plan before recording in the official records of Jackson County.

(4) Phased PUDs.

When a PUD is proposed to be developed in phases, the phased provision of improved common elements shall be roughly proportional with the development of housing and other elements intended for private ownership. Unless approved by the Planning Commission as part of a phasing plan or which was approved by the Planning Commission prior to the adoption of this ordinance, no significant common element shall be postponed to the final phase of a PUD. Nothing in this Subsection shall prevent the provision of improved common elements at a rate that is proportionally greater than the development of housing and other elements intended for private ownership.

(5) Public Dedications and PUDs.

Land shown on the Final PUD Plan as a common element or which is intended for public dedication shall be conveyed under one of the following options:

(a) To a public entity which shall agree in writing to perpetually maintain the common element(s) being conveyed.

(b) To an association of owners created pursuant to ORS Chapters 94 or 100 or as otherwise created under Subsection 10.192(C)(3) in which instance the legal document which establishes the association shall provide that the association cannot be terminated or discontinued without the City's prior consent.

(6) Private Streets in PUDs.

If the PUD will have private streets, the legal document which establishes the association of owners shall provide that the City may enforce the maintenance or protection of its easements or public facilities.

(D) PUDs Exempt from Site Plan and Architectural Review.

PUDs approved under this Section shall be exempt and there shall be no requirement to apply separately for Site Plan and Architectural Review or to demonstrate compliance with the criteria in Section 10.200. However, the Planning Director in their discretion may forward a Preliminary PUD Plan or proposed revisions thereto to the Site Plan and Architectural Commission for review. When forwarded by the Planning Director, the Site Plan and Architectural Commission shall have authority to review the PUD plans and make recommendations to the Planning Commission.

(E) Delegation of Authority.

The Planning Commission may delegate authority to the Site Plan and Architectural Commission or to the Planning Director to approve in its name the plans for buildings or any other element of a PUD or revisions thereto after the Planning Commission has approved the Preliminary PUD Plan. The authority delegated by the Planning Commission under this Subsection shall be delimited in conditions attached to the approval. Notwithstanding any other provision of this Code and subject to an applicant's written request, the approval of delegated matters, where eligible, shall be procedurally treated as an Expedited Land Division pursuant to ORS 197.360 through 197.380, as amended. Lacking a written request from the applicant, approval of delegated matters shall be subject to a Type III Procedure as set forth in this Article.

(F) Building Permits, Development and Operation of a PUD.

All building and construction plans submitted to the City for the purpose of obtaining building and other site improvement permits shall be consistent with the approved Final PUD Plan. The development and operation of the PUD shall conform in all respects with the approved Final PUD Plan.

G. Residential Density in PUDs.

(1) Residential Density Calculation.

Minimum and maximum residential densities in PUDs shall be calculated pursuant to Section 10.708, except, in PUDs having residential and non-residential land uses within a residential zoning district, including mixed-use buildings as defined herein, the minimum and maximum number of dwelling units shall be calculated using the gross area of the residentially zoned land including any to be occupied by non-residential uses. "Natural unbuildable areas" may be excluded at the developer's option as provided in Section 10.708.

(2) Residential Density Bonus.

In PUDs larger than five acres, the residential density may be increased by up to 20% more than the maximum density permitted by Subsection (1) above.

(H) Revised Preliminary PUD Plans.

In instances where conditions of approval result in substantial, complex or unpredictable changes to a proposed Preliminary PUD Plan, the Planning Commission, as a condition of Preliminary PUD Plan approval, may require an applicant to incorporate the changes into a revised Preliminary PUD Plan. When required, the revised plans shall be approved by the Planning Commission and when approved,

the revised plans shall become the approved Preliminary PUD Plan and any conditions satisfied by the revised plans shall be stricken or appropriately altered.

(I) Postponed Preliminary PUD Plan Approval for Building Architecture.

When the approval of architectural plans for buildings in the PUD has been postponed under Section 10.190(C)(2), no Final PUD Plan shall be approved until the architecture of buildings has been approved by the Planning Commission, or by the Site Plan and Architectural Commission pursuant to Subsection (E) above, and the Final Order for such approval has been appended to the earlier approval of the Preliminary PUD Plan.

(J) Engineering Construction Plans, Preliminary PUD Plans.

Engineering construction plans, profiles, details and specifications for all public facility and utility improvements shall be prepared by a qualified engineer registered in Oregon. The engineering plans shall be approved by the City before the start of construction. Unless specifically authorized by the Planning Commission in the Preliminary PUD Plan approval, all public facilities and utilities shall be designed and constructed in accordance with the standards and procedures of the City or other public entity to which ownership will be conveyed. The procedures for engineering design, plan approval and inspection shall in all respects be the same as for land divisions under this Code.

10.194 **Preliminary PUD Plan - Neighborhood Meeting Requirement.**

(A) **Purpose of Neighborhood Meeting Requirement for Preliminary PUD Plans.**

To ensure neighborhood knowledge of proposed development and to provide an opportunity for direct communication, the applicant shall present the development proposal at a neighborhood meeting prior to submitting the land use application to the Planning Department. The applicant shall arrange and conduct the neighborhood meeting. City staff need not attend. Attendees shall be asked to sign a signature sheet and provide their mailing address. Attendance at the neighborhood meeting does not give an attendee legal standing for appeal.

(B) Neighborhood Meeting Presentation, Preliminary PUD Plans.

The presentation at the neighborhood meeting shall include at a minimum the following:

(1) A map depicting the location of the subject property proposed for development; and,

(2) A visual description of the project including a tentative site plan, tentative subdivision plan and elevation drawings of any structures, if applicable; and,

(3) A description of the nature of the proposed uses and physical characteristics, including but not limited to, sizes and heights of structures, proposed lot sizes, density; and,

(4) A description of requested modifications to code standards; and

(5) Notification that attendance at the neighborhood meeting does not give legal standing to appeal to the City Council, the Land Use Board of Appeals, or Circuit Court.

(C) Scheduling and Noticing Neighborhood Meeting, Preliminary PUD Plans.

It shall be the responsibility of the applicant to schedule the neighborhood meeting and provide adequate notification of the meeting. The applicant shall send mailed notice of the neighborhood meeting to the owners of no less than 75 of the nearest tax lots regarding the neighborhood meeting. If 75 tax lots are not located within 200 feet of the exterior boundary of the PUD, the notification area

shall be extended by successive 50-foot increments, until a minimum of 75 tax lots are included in the notification area. The owners of all tax lots within the extended notification shall receive written notice; therefore, noticing of more than 75 tax lots may be required. In addition to the affected property owners, the applicant shall also provide notice to the Planning Department. The applicant shall use the Jackson County Tax Assessor's property owner list from the most recent property tax assessment roll. The notice shall be mailed a minimum of 15 days prior to the neighborhood meeting which shall be held in Medford on a weekday evening. A certificate of mailing attesting to the date of mailing and the name and signature of the agent responsible for mailing said notices shall be prepared and submitted to the Planning Department in accordance with the materials identified in the application for Preliminary PUD Plan. The notice for PUD neighborhood meeting shall include:

(1) Date, time and location of the neighborhood meeting; and,
(2) A brief written description of the proposal; and,
(3) The location of the subject property, including address (if applicable), nearest cross streets and any other easily understood geographical reference, and a map (such as a tax assessor's map) which depicts the subject property.

PLANNED UNIT DEVELOPMENT, FINAL PUD PLANS, TYPE I. (10.196 & 10.198)

10.196 Final PUD Plan - Application Procedures.

(A) Application for a Final PUD Plan.

Application for a Final PUD Plan shall be on forms supplied by the Planning Department. The Final PUD Plan shall contain all information and materials listed on the application unless certain items are or have been waived by the Planning Director as therein provided. However, there shall be no burden to demonstrate compliance with the criteria in Subsection 10.190(D). As appropriate, the Final PUD Plan shall incorporate all conditions imposed on the Preliminary PUD Plan approval. The application for a Final PUD Plan shall include a written narrative explaining how the Final PUD Plan complies with the Final PUD Plan approval criteria in Subsection (D) below, and the conditions of approval.

(B) Phased PUD.

The Final PUD Plan may be submitted for the entire project or for each phase consistent with the approved Preliminary PUD Plan. If a Preliminary PUD Plan was not approved as a phased project, nothing in this Section shall prevent the Planning Director from approving a Final PUD Plan in phases provided that they approve a phasing plan pursuant to Sections 10.190(G) and 10.192(C)(4) as part of the Final PUD Plan approval, and provided further that the phasing plan ensures that essential services such as roads, fire access, storm drain, and sewer are available to serve each successive phase. After Final PUD Plan approval for the first phase, Final PUD Plans for all subsequent phases must be filed with the Planning Director.

(C) Final Plat for Land Division.

Application for the approval of a Final PUD Plan may occur before or concurrent with the approval of a final plat for a land division. However, no building permits shall be issued by the City and no buildings intended for human occupancy shall be constructed and no lot shall be sold until the Final PUD Plan has been approved by the Planning Director.

(D) Approval Criteria for Final PUD Plan.

A Final PUD Plan shall be approved by the Planning Director if the Director concludes that it complies with each of the following criteria:

(1) Provisions for the establishment and maintenance of elements to be held in common ownership, if any, have or will comply with the standards in Section 10.192(C).

(2) The Final PUD Plan is substantially consistent with the Preliminary PUD Plan and with any and all conditions imposed by the Planning Commission which were attached to the approval of the Preliminary PUD Plan.

(E) The Planning Director in their discretion may forward a Final PUD Plan to the Planning Commission for written clarification regarding whether the Final PUD Plan is substantially consistent with the Preliminary PUD Plan. When forwarded by the Planning Director, the Planning Commission shall have authority to review the PUD plans and advise the Planning Director.

(F) Modification of a phasing plan shall be considered substantially consistent with the Preliminary PUD Plan unless the revised phasing plan affects the provision of essential services such as public streets, sewer or storm drain to serve the successive phases.

(G) A Final PUD Plan shall be found to be inconsistent with the Preliminary PUD Plan when any of the following apply. If such inconsistencies are identified, an application for revision to the Preliminary PUD Plan shall be required:

(1) The exterior boundaries of the PUD have changed except for slight deviations which result from the resolution of boundary errors or inconsistencies discovered when the PUD property was surveyed,

(2) The number of housing units has increased,

(3) The number of housing units has decreased by more than five percent,

(4) Modifications to the provisions of this Code have been included which were not approved as part of the Preliminary PUD Plan under Section 10.192(B).

10.198 **Revision or Termination of a PUD.**

(A) Revision of a Preliminary or Final PUD Plan.

The expansion or modification of a PUD approved under earlier PUD ordinances of the City or the revision of a Preliminary or Final PUD Plan shall follow the same procedures required for initial approval of a Preliminary PUD Plan in this Section, provided:

(1) Applicant for Revision; Filing Materials; Procedures.

An application to revise an approved PUD Plan shall be on forms supplied by the Planning Department. The application form shall bear the signature of the owner(s) who control a majority interest in more than 50% of the vacant land covered by the approved PUD and who are also the owner(s) of land and improvements within the PUD which constitute more than 50% of the total assessed value

of vacant portion of the PUD. For changes deemed by the Planning Director to be minor but not de minimis, the Planning Director shall exercise appropriate discretion under Section 10.190(C)(1) to limit or waive the submittal of filing materials deemed to be excessive, repetitive or unnecessary based upon the scope and nature of the proposed PUD revisions. PUD revisions shall follow the same procedures used for initial approval of a Preliminary PUD Plan.

(2) Consolidated Procedure.

At the discretion of the Planning Director, revisions to an approved PUD Plan may be consolidated into a single procedure, the effect of which will be the approval of both a Preliminary PUD Plan and Final PUD Plan by the Planning Commission.

(3) Burden of Proof; Criteria for Revisions.

The burden of proof and supporting findings of fact and conclusions of law for the criteria in Sections 10.190(D) or 10.196(D), as applicable, shall be strictly limited to the specific nature and magnitude of the proposed revision. However, it is further provided that the design and development aspects of the whole PUD may be relied upon in reaching findings of fact and conclusions of law for the criterion at Section 10.190(D)(5). It is further provided that before the Planning Commission can approve a PUD Plan revision, it must determine that the proposed revision is compatible with existing developed portions of the whole PUD.

(4) De Minimis Revisions.

Notwithstanding Section 10.192(E), the Planning Director may approve revisions to an approved Preliminary or Final PUD Plan that they determine is de minimis. Proposed revisions shall be considered de minimis if the Planning Director determines the changes to be slight and inconsequential and will not violate any substantive provision of this Code. The Planning Director's written approval of a de minimis revision(s) shall be appended to the Final Order of the Planning Commission or Final Approval of the Final PUD Plan. Revisions that are de minimis shall not require public notice, public hearing or an opportunity to provide written testimony. However, if, while the record is open, any party requests in writing to be notified of future de minimis revisions of a Preliminary PUD Plan, then all de minimis revisions of a Preliminary PUD Plan shall be subject to review as a Type III land use action or such other procedure as may be permitted by law.

(B) Termination of a PUD.

A PUD may be terminated by action of the Planning Commission subject to the following procedures:

(1) If issuance of building permits for vertical construction has not occurred or if no lots or units therein have been sold, the PUD may be terminated as provided in this Subsection. Termination proceedings may be initiated by filing with the City a written petition signed by the owner(s) who control a majority interest in more than 50% of the land covered by the approved PUD and which also constitutes more than 50% of the total assessed value of land and improvements of the PUD. Upon receipt of a valid petition, the Planning Commission shall consider the matter in an open meeting and shall declare the PUD terminated. The Planning Commission's termination of a PUD shall be evidenced by a Final Order declaring the same. When the Final Order is signed the PUD shall be terminated and previous PUD Plan approvals

shall be considered void and of no further effect. Termination of a PUD shall not affect other land use actions taken by the City which concern the PUD property.

(2) If issuance of building permits for vertical construction has occurred or if lots or units within the PUD have been sold, the PUD may be terminated as provided in this Subsection. Termination proceedings may be initiated by filing with the City a written petition signed by the owner(s) who control a majority interest in more than 50% of the vacant land covered by the approved PUD which also constitutes more than 50% of the total assessed value of vacant land within the PUD. If there is an association of owners established within the boundaries of the whole PUD, the owner(s) petitioning for termination of the PUD shall also supply the City with the correct mailing address of the association which shall be notified along with others entitled to notice under this Subsection. Upon receipt of the petition, the Planning Commission shall provide notification of the proposed PUD termination and conduct a public hearing on the matter. The Notice and public hearing shall be subject to Type III procedures. The Planning Commission shall declare the PUD terminated if it concludes that the termination will not produce greater than minimal harm to the public health, safety or general welfare. The Planning Commission's termination of a PUD shall be evidenced by a Final Order declaring the same and after the Final Order is signed the PUD shall be terminated and previous PUD Plan approvals shall be considered void and of no further effect. Termination of a PUD shall not affect other land use actions taken by the City which concern the PUD property.

10.200 **Site Plan and Architectural Review.**

(A) Purpose of Site Plan and Architectural Review.

The Site Plan and Architectural Review process is established in order to provide for review of the functional and aesthetic adequacy of commercial, industrial and multi-family development and to assure compliance with the standards and criteria set forth in this chapter for the development of property as applied to the improvement of individual lots or parcels of land as required by this code. Site Plan and Architectural Review considers consistency in the aesthetic design, site planning and general placement of related facilities such as street improvements, off-street parking, loading and unloading areas, points of ingress and egress as related to bordering traffic flow patterns, the design, placement and arrangement of buildings as well as any other subjects included in the code which are essential to the best utilization of land in order to preserve the public safety and general welfare, and which will encourage development and use of lands in harmony with the character of the neighborhood within which the development is proposed.

(B) Site Plan and Architectural Review Required.

Projects which are not exempt from Site Plan and Architectural Commission Review pursuant to Subsection (C) below, except that exterior alterations to a building or site and new construction in a Historic Overlay shall require Historic Review pursuant to Section 10.188, but shall not require Site Plan and Architectural Review.

(C) Exemptions from the Site Plan and Architectural Commission Review Requirement.

(1) An exemption from Site Plan and Architectural Commission (SPAC) review does not exempt the use or development from compliance with the applicable standards of this chapter, including but not limited to access, parking, riparian protection, and landscaping.

(2) The following uses or developments do not require SPAC review.

(a) Parking lots and parking lot additions, when not associated with building construction required to be reviewed by the Site Plan and Architectural Commission, except any parking lot or parking lot additions located within a Historic Overlay requires Historic Review. (Effective Dec. 1, 2013.)

(b) Construction of a new building if it does not increase motor vehicle trip generation by more than 10 average daily trips, unless within a Historic Overlay, in which case, Historic Review is required for all new construction. (Effective Dec. 1, 2013.)

(c) A building addition similar to the existing building in architectural style and exterior building materials and that is no more than a 20 percent or 2,500 square-foot increase in gross floor area, whichever is less, unless within a Historic Overlay, in which case, Historic Review is required for all building additions and exterior alterations. (Effective Dec. 1, 2013.)

(d) Detached single-family residential development on a lot within a final platted land division or on an otherwise legally created lot, unless within a Historic Overlay, in which case, Historic Review is required for all single-family residential development. (Effective Dec. 1, 2013.)

(e) Solar Photovoltaic/Solarvoltaic energy systems, as defined in ORS 757.360, except when located on historic landmarks or within historic districts, in which case the review authority shall be the Landmarks and Historic Preservation Commission.

(f) One duplex dwelling divided by a lot-line or on a single, vacant lot within a final platted land division or on an otherwise legally created lot, unless within a Historic Overlay, in which case, Historic Review is required.

(g) Airport accessory structure(s) including hangars, aircraft storage, maintenance facilities, warehouse storage, and office buildings to be located on airport property within the secured fence area (as shown on the Medford Zoning Map) not intended for public use.

(D) Site Plan and Architectural Review approval and a development permit shall be required prior to the application for a building permit.

(E) Site Plan and Architectural Review Approval Criteria.

The Site Plan and Architectural Commission shall approve a site plan and architectural review application if it can find that the proposed development conforms, or can be made to conform through the imposition of conditions, with the following criteria:

(1) The proposed development is compatible with uses and development that exist on adjacent land, and

(2) The proposed development complies with the applicable provisions of all city ordinances or the Site Plan and Architectural Commission has approved (an) exception(s) as provided in Section 10.186.

(F) Site Plan and Architectural Review Conditions of Approval. In approving a site plan and architectural review application, the Site Plan and Architectural Commission may impose, in addition to those standards expressly specified in this code, conditions determined to be reasonably necessary to ensure compliance with the standards of the code and the criteria in Subsection (E) above, and to otherwise protect the health, safety and general welfare of the surrounding area and community as a whole. These conditions may include, but are not limited to the following:

(1) Limiting the number, height, location and size of signs;

(2) Requiring the installation of appropriate public facilities and services and dedication of land to accommodate public facilities when needed;

(3) Limiting the visibility of mechanical equipment through screening or other appropriate measures;

(4) Requiring the installation or modification of irrigated landscaping, walls, fences or other methods of screening and buffering;

(5) Limiting or altering the location, height, bulk, configuration or setback of buildings, structures and improvements.

(6) Requiring the improvement of an existing, dedicated alley which will be used for ingress or egress for a development;

(7) Controlling the number and location of parking and loading facilities, points of ingress and egress and providing for the internal circulation of motorized vehicles, bicycles, public transit and pedestrians;

(8) Requiring the retention of existing natural features;

(9) Modifying architectural design elements including exterior construction materials and their colors, roofline, fenestration and restricting openings in the exterior walls of structures;

(10) Restricting the height, directional orientation and intensity of exterior lighting

(G) Expiration of a Site Plan and Architectural Review Approval.

(1) Approval of a Site Plan and Architectural Commission application shall take effect on the date the final order for approval is signed, unless appealed and shall expire two years from the effective date. Within two years following the effective date, issuance of building permit for vertical construction must have occurred or an extension of the approval will be necessary. If a request for an extension is filed with the Planning Department within two years from approval of the final order, the Site Plan and Architectural Commission shall grant an extension not to exceed one additional year. Extensions shall be based on findings that the facts upon which the Site Plan and Architectural Commission application was first approved have not changed to an extent sufficient to warrant re-filing of the application.

(2) When it is the developer's intent to complete an approved project in phases, the approving authority may authorize a time schedule for the issuance of building permits for a period exceeding one year, but in no case shall the total time period for the issuance of building permits be greater than five years without having to resubmit a new application for Site Plan and Architectural Commission review. Phases developed after the passage of one year from approval of the Site Plan and Architectural Commission application will be required to modify

the plans as necessary to avoid conflicts with changes in the Comprehensive Plan or this chapter.

(H) Modifications of an Approved Site Plan and Architectural Review.

(1) Major Modification. Any modification that is not a minor modification is a major modification. When modification to an approved plan is determined to be a Major Modification, the plan shall be processed as a Type III application for Site Plan and Architectural Review. The Planning Director may waive submittal requirements deemed unnecessary or inapplicable to the proposal.

(2) Minor Modification. A minor modification to an approved plan may be made by the Planning Director provided the Planning Director can make the determination that the modification does not constitute a major modification. A minor modification shall meet all of the following standards:

(a) Meets the exemption standards of Subsection (C) above.
(b) No increase in the number of dwelling units.
(c) The amount of open space or landscaping is decreased by no more than 10% of the previously approved area, provided the resulting area does not drop below the minimum standards as required by the code.
(d) No relocation of vehicle access points and parking areas where the change will generate an impact that would adversely affect off-site or on-site traffic circulation.
(e) No reduction or elimination of any project amenities such as recreational facilities, significant natural resources (streams, creeks, landforms), fencing and other screening material.
(f) Modifications to facilities and utilities conform to the adopted facility plans.
(g) Modifications to any other components of the plan conform to standards of the Code.
(h) No modification to any condition of approval.

(I) Issuance of Building Permits, Consistent with Site Plan and Architectural Review Approval.

All applications for a building permit, wherein Site Plan and Architectural Review has been required, shall be consistent with the plans as approved and all conditions of approval imposed thereon and shall be accompanied by an accurate and correct site plan.

(1) Security for Completion of Public Improvements. If all required public improvements, as specified in the conditions of site plan and architectural review approval, have not been satisfactorily completed before issuance of a building permit, the developer shall enter into a written agreement (provided by the City) to secure full and faithful performance thereof, according to Sections 10.666 and 10.667(A) respectively.

(2) Agreement for Completion of Private Improvements (for projects with signed agreements prior to January 1, 2015). The following regulations shall apply to all Building Site Improvement Agreements (BSIA) signed prior to January 1, 2015. After said date, the provisions of Building Site Improvement Agreements (BSIA) shall no longer be used as a means to ensure the completion of private improvements. If all required private improvements, as

specified in the conditions of site plan and architectural review approval, have not been satisfactorily completed before issuance of a building permit, the permit shall not be issued unless the owner and all other parties having an interest in the property enter into a written and recorded agreement, called a Building Site Improvement Agreement (BSIA), (provided by the City) with the City. The agreement shall be in a form acceptable to the City Attorney and shall specify that, within six months after signing the agreement or such longer time period as specified by the Site Plan and Architectural Commission, all improvement work shall be completed according to the approved plans. The Planning Director or other person designated by the City Manager shall sign the agreement on behalf of the City.

(a) **Extension.** If a request for an extension of a Building Site Improvement Agreement is filed with the Planning Department within six months after signing the agreement, the Planning Director may grant an extension not to exceed six additional months. Extensions shall be based on findings that the extension is necessary for good cause, such as: circumstances beyond the developer's control that are causing delay in completing private improvements (i.e., ODOT work, weather-related delays, building permit delays), so long as no applicable development standards have changed.

(b) **Procedure and Enforcement.** The agreement shall be recorded in the Official Records of Jackson County, and once recorded the burdens of the agreement shall run with the title of the affected property. The property affected by the agreement shall be the property depicted on the approved site plan. The agreement shall provide that, if the work is not completed in accordance with its terms within the allotted time, the property may not thereafter be occupied or used until all deficiencies are corrected. The agreement shall provide for enforcement by the City through a civil suit for injunction and provide that the prevailing party shall be awarded costs and reasonable attorney's fees. When made in substantial compliance with this section, such an agreement shall be enforceable according to its terms, regardless of whether it would be enforceable as a covenant at common law.

(c) **Satisfaction.** Once improvements have been satisfactorily completed according to the approved plans, a Satisfaction of Building Site Improvement Agreement shall be signed by the Planning Director or other person designated by the City Manager. The agreement shall be recorded in the Official Records of Jackson County.

(J) Site Plan and Architectural Review Application Form

The application for Site Plan and Architectural Review (SPAR) shall contain the following plans, submitted in the quantity and sizes specified on the Site Plan and Architectural Review application form, including legible reduced copies of all plan documents.

(1) Landscape Plan meeting the specifications and requirements in Section 10.780.

(2) Building Construction Plans: A site plan and architectural plan which are clearly and legibly drawn to scale shall be provided. Building construction plans shall include north arrow, orientation of building elevations indicating full dimensions and providing the following information:

(a) Site Plan:

(i) Lot dimensions.
(ii) All proposed and existing buildings and structures: location, size, height, proposed use.
(iii) Public and private yards and open space between buildings.
(iv) Walls and fences: location, height and material.
(v) Existing and proposed off-street parking: location, number, type and dimensions of spaces, parking area, internal circulation pattern.
(vi) Access: pedestrian, vehicular, service, points of ingress and egress.
(vii) Loading: location, dimension, number of spaces, type of space (A or B), internal circulation.
(viii) Lighting: location and general nature, hooding devices.
(ix) Street dedication and improvements.
(x) Drainage plan.
(xi) Location of existing public improvements including streets, curbs, sidewalks, street trees, utility poles, light fixtures, traffic signs and signals, and such other data as may be required to permit the Site Plan and Architectural Commission to make the required findings.
(xii) Location and screening of mechanical equipment.
(xiii) Location and screening of outdoor trash bins.

(b) Architectural Plans:
(i) Roof plan.
(ii) Floor plan.
(iii) Architectural elevations.
(iv) Materials and Colors.

(c) A conceptual stormwater facility plan with associated landscape plan, if applicable, pursuant to Sections 10.486(B) or 10.729(B).

10.202 **Subdivision Tentative Plat.**

(A) Application.
The subdividing of land shall be subject to the application requirements as herein set forth and shall include both the tentative and final platting requirements. The approval of a tentative plat is a Type III procedure, with the Planning Commission being the approving authority. Final plat approval is a Type I ministerial procedure which relies on compliance with the requirements established at the time of tentative plat approval, and on the requirements set forth in Section 10.162.

(B) Application for Tentative Plat.
The tentative plat for each proposed land division shall be filed with the Planning Department.

(C) Form of Tentative Plat and Accompanying Data.
All tentative plats shall be clearly and legibly drawn on tracing paper of good quality and prepared by a civil engineer or land surveyor registered in the State of Oregon. It shall have a dimension of not less than 18 inches by 24 inches, and the scale shall be as follows: One inch shall be equal to 50 feet

for 20 acres or less, and one inch shall be equal to 100 feet for all divisions of land over 20 acres in area. The tentative plat shall contain the following data:

(1) Proposed land division name (if a subdivision), date, north arrow, scale, total acreage, and sufficient legal information to define the boundaries of the proposed development.

(2) A key map located in the upper right hand corner identifying the location of the development relative to section and township lines and to adjacent property and major physical features such as streets, railroads, and waterways.

(3) Names of abutting property owners on all sides, names and widths of adjoining rights-of-way, topographic features and all public improvements on adjacent property located within 200 feet of the project boundary.

(4) Name and address of the owner(s) of record, developer, and engineer or land surveyor registered in the State of Oregon who prepared the tentative plat.

(5) Locations, names, widths, approximate intersection angle, centerline radii, center line slopes, and improvement section of all streets, highways and other ways in the proposed project.

(6) Number of lots, dimensions of lots (to the nearest foot), including frontage, width, and area (to the nearest 50 square feet).

(7) Location and height of all existing structures to remain on property and distance from proposed property lines.

(8) Location and character of all easements existing and proposed by the developer for drainage, sewage and public utilities.

(9) Five foot topographic contours describing the area. Where the grade of any part of the proposed land division exceeds 10%, or where the development abuts existing developed lots, an overall conceptual grading plan shall be required showing features adjacent to the development within a reasonable distance therefrom which could affect said project. Where a conceptual grading plan is required it shall show how runoff of surface water from individual lots will be achieved and the ultimate disposal of all development surface waters. All topographic information shall be based on city data.

(10) A conceptual stormwater facility plan with associated landscape plan, if applicable, pursuant to Sections 10.486(B) or 10.729(B).

(11) Location of all creeks, streams and other watercourses, showing top of existing bank and areas subject to inundation as shown on the latest Federal Flood Rate Insurance Maps.

(12) Existing wells and irrigation canals, active or abandoned, and proposed disposition.

(13) Public or common area proposed, if any.

(14) The approximate distance to, and location of, the nearest sanitary sewer main.

(15) Name of the irrigation district, if any, within which the project is located and whether it is currently being assessed.

(16) Name of the school district within which the project is located.

(D) Expiration of Tentative Plat Approval.

(1) Approval of a tentative plat application shall take effect on the date the final order for approval is signed, unless appealed, and shall expire two years from the effective date unless the final plat has been approved by the Planning Director pursuant to Section 10.158. If a

request for an extension of a tentative plat application approval is filed with the Planning Department within two years from the date of the final order, the Planning Commission shall grant an extension not to exceed one additional year. Extensions shall be based on findings that the facts upon which the tentative plat application was first approved have not changed to an extent sufficient to warrant re-filing of the application.

(2) When it is the developer's intent to record and develop a tentatively platted land division in phases, the Planning Commission may authorize a time schedule for platting the various phases in periods exceeding one year, but in no case shall the total time period for platting all phases be greater than five years without having to re-submit the tentative plan. Phases platted after the passage of one year from approval of the tentative plat will be required to modify the tentative plat as necessary to avoid conflicts with changes in the Comprehensive Plan or this chapter.

(E) Land Division Approval Criteria.

The Planning Commission shall not approve any tentative plat unless it first finds that the proposed land division, together with the provisions for its design and improvement:

(1) Is consistent with the Comprehensive Plan, any other applicable specific plans thereto, including Neighborhood Circulation Plans, and all applicable design standards set forth in Articles IV and V;

(2) Will not prevent development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this chapter;

(3) Bears a name that has been approved by the approving authority and does not use a word which is the same as, similar to, or pronounced the same as a word in the name of any other subdivision in the City of Medford; except for the words "town", "city", "place", "court", "addition", or similar words; unless the land platted is contiguous to and platted by the same applicant that platted the land division bearing that name; or unless the applicant files and records the consent of the party who platted the land division bearing that name and the block numbers continue those of the plat of the same name last filed;

(4) If it includes the creation of streets or alleys, that such streets or alleys are laid out to be consistent with existing and planned streets and alleys and with the plats of land divisions already approved for adjoining property, unless the Planning Commission determines it is in the public interest to modify the street pattern;

(5) If it has streets or alleys that are proposed to be held for private use, that they are distinguished from the public streets or alleys on the tentative plat, and reservations or restrictions relating to the private streets or alleys are set forth;

(6) Will not cause an unmitigated land use conflict between the land division and adjoining agricultural lands within the EFU (Exclusive Farm Use) zoning district.

10.204 **Zone Change.**

(A) Zone Change Initiation.

A zoning district boundary change may be initiated by the Planning Commission either on its own motion or at the request of the City Council, or by application of the property owner(s) in the area subject to the zone change.

(B) Zone Change Approval Criteria.

The Planning Commission shall approve a quasi-judicial, minor zone change if it finds that the zone change complies with subsections (1) and (2) below:

(1) The proposed zone is consistent with the Transportation System Plan (TSP) and the General Land Use Plan Map designation. A demonstration of consistency with the acknowledged TSP will assure compliance with the Oregon Transportation Planning Rule.

(2) Where applicable, the proposed zone shall also be consistent with the additional locational standards of the below sections (2)(a), (2)(b), (2)(c), or (2)(d). Where a special area plan requires a specific zone, any conflicting or additional requirements of the plan shall take precedence over the locational criteria below.

(a) For zone changes to SFR-2, the zoning shall be approved under either of the following circumstances:

(i) if at least 70% of the area proposed to be re-zoned exceeds a slope of 15%,

(ii) if other environmental constraints, such as soils, geology, wetlands, and flooding, restrict the capacity of the land to support higher densities.

(b) For zone changes to SFR-6 or SFR-10 where the permitted density is proposed to increase, one of the following conditions must exist:

(i) At least one parcel that abuts the subject property is zoned the same as the proposed zone, either SFR-6 or SFR-10 respectively; or

(ii) The area to be re-zoned is five acres or larger; or

(iii) The subject property, and any abutting parcel(s) that is(are) in the same General Land Use Plan Map designation and is(are) vacant, when combined, total at least five acres.

(c) For zone changes to any commercial zoning district, the following criteria shall be met for the applicable zoning sought:

(i) The overall area of the C-N zoning district shall be three acres or less in size and within, or abutting on at least one boundary, with residential zoning. In determining the overall area, all abutting property(s) zoned C-N shall be included in the size of the district.

(ii) The overall area of the C-C zoning district shall be over three acres in size and shall front upon a collector or arterial street or state highway. In determining the overall area, all abutting property(s) zoned C-C shall be included in the size of the district.

(iii) The overall area of the C-R zoning district shall be over three acres in size, shall front upon an arterial street or state highway, and shall be in a centralized location that does not otherwise constitute a neighborhood shopping center or portion thereof. In determining the overall area, all abutting property(s) zoned C-R shall be included in the size of the district. The C-R zone is

ordinarily considered to be unsuitable if abutting any residential zones, unless the applicant can show it would be suitable pursuant to (2)(e) below.

(iv) The C-H zone shall front upon an arterial street or state highway. The C-H zone may abut the General Industrial (I-G), Light Industrial (I-L), and/or any commercial zone. The C-H zone is ordinarily considered to be unsuitable if abutting any residential or I-H zones, unless the applicant can show it would be suitable pursuant to (2)(e) below.

(d) For zone changes to any industrial zoning district, the following criteria shall be met for the applicable zoning sought:

(i) The I-L zone may abut residential and commercial zones, and the General Industrial (I-G) zone. The I-L zone is ordinarily considered to be unsuitable when abutting the Heavy Industrial (I-H) zone, unless the applicant can show it would be suitable pursuant to (2)(e) below.

(ii) The I-G zone may abut the Heavy Commercial (C-H), Light Industrial (I-L), and the Heavy Industrial (I-H) zones. The I-G zone is ordinarily considered to be unsuitable when abutting the other commercial and residential zones, unless the applicant can show it would be suitable pursuant to (2)(e) below.

(iii) The I-H zone may abut the General Industrial (I-G) zone. The I-H zone is ordinarily considered to be unsuitable when abutting other zones, unless the applicant can show it would be suitable pursuant to (2)(e) below.

(e) For purposes of (2)(c) and (2)(d) above, a zone change may be found to be suitable where compliance is demonstrated with one or more of the following criteria:

(i) The subject property has been sited on the General Land Use Plan Map with a GLUP Map designation that allows only one zone;

(ii) At least 50% of the subject property's boundaries abut zones that are expressly allowed under the criteria in (2)(c) or (2)(d) above;

(iii) At least 50% of the subject property's boundaries abut properties that contain one or more existing use(s) which are permitted or conditional use(s) in the zone sought by the applicant, regardless of whether the abutting properties are actually zoned for such existing use(s); or

(iv) Notwithstanding the definition of "abutting" in Section 10.012 and for purposes of determining suitability under Subsection (2) (e), the subject property is separated from the "unsuitable" zone by a public right-of-way of at least 60 feet in width.

(f) For zone changes to apply or to remove an overlay zone (Limited Industrial, Exclusive Agricultural, Freeway, Southeast, Historic) the criteria can be found in the applicable overlay section (Sections 10.345 through 10.413).

(3) It shall be demonstrated that Category A urban services and facilities are available or can and will be provided, as described below, to adequately serve the subject property with the permitted uses allowed under the proposed zoning, except as provided in subsection (c) below. The minimum standards for Category A services and facilities are contained in Section 10.462

as well as the Public Facilities Element and Transportation System Plan in the Comprehensive Plan.

(a) Storm drainage, sanitary sewer, and water facilities must already be adequate in condition, capacity, and location to serve the property or be extended or otherwise improved to adequately serve the property at the time of issuance of a building permit for vertical construction.

(b) Adequate streets and street capacity must be provided in one of the following ways:

(i) Streets which serve the subject property, as defined in Section 10.461(2), presently exist and have adequate capacity; or

(ii) Existing and new streets that will serve the subject property will be improved and/or constructed, sufficient to meet the required condition and capacity, at the time building permits for vertical construction are issued; or

(iii) If it is determined that a street must be constructed or improved in order to provide adequate capacity for more than one proposed or anticipated land use, the Planning Commission may find the street to be adequate when the improvements needed to make the street adequate are fully funded. A street project is deemed to be fully funded when one of the following occurs:

c. the project is in the City's adopted capital improvement plan budget, or is a programmed project in the first two years of the State's current STIP (State Transportation Improvement Plan), or any other public agencies adopted capital improvement plan budget; or

d. an applicant funds the improvement through a reimbursement district pursuant to the Section 10.432. The cost of the improvements will be either the actual cost of construction, if constructed by the applicant, or the estimated cost. The "estimated cost" shall be 125% of a professional engineer's estimated cost that has been approved by the City, including the cost of any right-of-way acquisition. The method described in this paragraph shall not be used if the Public Works Department determines, for reasons of public safety, that the improvement must be constructed prior to issuance of building permits.

(iv) When a street must be improved under (b)(ii) or (b)(iii) above, the specific street improvement(s) needed to make the street adequate must be identified, and it must be demonstrated by the applicant that the improvement(s) will make the street adequate in condition and capacity.

(c) In determining the adequacy of Category A facilities, the Planning Commission may mitigate potential impacts through the imposition of special development

conditions, stipulations, or restrictions attached to the zone change request. Special development conditions, stipulations, or restrictions shall be established by deed restriction or covenant, and must be recorded at the County Recorder's office with proof of recordation returned to the Planning Department. Such special development conditions shall include, but are not limited to the following:

(i) Restricted Zoning is a restriction of uses by type or intensity. In cases where such a restriction is proposed, the Planning Commission must find that the resulting development pattern will not preclude future development, or intensification of development on the subject property or adjacent parcels. In no case shall residential densities be approved that do not meet minimum density standards;

(ii) Mixed-use, pedestrian-friendly design which qualifies for the trip reduction percentage allowed by the Transportation Planning Rule;

(iii) Transportation Demand Management (TDM) measures which can be reasonably quantified, monitored, and enforced, such as mandatory car/van pools.

(C) Removal of Special Development Conditions on Zone Changes and General Land Use Plan (GLUP) Map Amendments.

Deed restrictions, covenants, or conditions of approval on zone changes established in order to comply with Section 10.204, or General Land Use Plan (GLUP) Map amendments established in order to comply with Section 10.220, shall only be removed by the following actions:

(1) If an improvement is made to any facility that was lacking adequacy, or if a level of service standard is changed so that the facility is now determined to be adequate, the property owner(s) may submit a letter to the Planning Department requesting that development conditions be removed. If the Planning Director agrees that the facility is adequate and the condition(s) is no longer necessary, the special development condition can be removed. The letter signed by the Planning Director, shall be appended to the original approval resolution or ordinance. In making the determination of facility adequacy, the Planning Director may ask the property owner(s) for information to demonstrate facility adequacy.

(2) For Zone Change: If the development condition is not removed through the method described in (1) above, the condition may be removed pursuant to a Type III minor zone change procedure.

(3) For GLUP Map Amendments: If the development condition is not removed through the method described in (1) above, the condition may be removed pursuant to a Type IV Comprehensive Plan Map Amendment procedure.

(D) Zone Change Application Form

A zone change application shall contain the following items:

(1) Vicinity map drawn at a scale of 1" = 1,000' identifying the proposed area of change.

(2) Assessor's map with proposed zone change area identified.

(3) Legal description of area to be changed. Legal description shall be prepared by a licensed surveyor or title company.

(4) Property owner's names, addresses, and map and tax lot numbers within 200 feet of the subject site, typed on mailing labels.
(5) Findings prepared by the applicant or his representative addressing the criteria for zone changes as per Section 10.204(B) Zone Change Criteria.

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TYPE IV APPLICATIONS (10.214 – 10.228)

10.214 Type IV Land Use Actions.

(A) Type IV Actions.
Type IV actions comprise the following land use reviews:

Type IV Land Use Application
Annexation, except as provided in Section 10.216
Land Development Code Amendment
Major Comprehensive Plan Amendment
Major General Land Use Plan Map Amendment
Major Urban Growth Boundary Amendment
Major Zoning Map Amendment
Minor Comprehensive Plan Amendment
Minor General Land Use Plan Map Amendment
Minor Urban Growth Boundary Amendment
Transportation Facility Development
Vacation of Public Right-of-Way

(B) Major Type IV land use reviews including amendments to the Land Development Code are legislative actions and may only be initiated by the Planning Commission or City Council. See Review & Amendments chapter of the Comprehensive Plan for definitions of "major" and "minor."

(C) Minor Type IV land use reviews including Annexations, Transportation Facility Developments and Vacations are quasi-judicial actions and may be initiated by the Planning Commission, City Council, or property owners representing the subject area. An exception to the preceding rule is that the Planning Commission does not initiate annexations.

(D) Type IV Approving Authorities. For Type IV actions the City Council is the approving authority and the Planning Commission acts as an advisory body to City Council. At a public hearing the Planning Commission will consider the request and make a recommendation to City Council to approve or deny the request. For annexations, the City Council makes a decision without a recommendation from the Planning Commission. Following completion of a recommendation by the Planning Commission, it shall be scheduled for a public hearing before the City Council. The decision of the City Council shall be based upon the application, the evidence, comments from referral agencies, comments from affected property owners (if any), the Planning Commission's recommendation (if applicable), compliance with the Statewide Planning Goals and Guidelines, this code and the Comprehensive Plan.

10.216 **Annexation.**

(A) Annexation is the action taken to incorporate land into a city. The state requires annexation of property that is contiguous to city limits and within the city's Urban Growth Boundary.

(B) **Application for Annexation.** Except for the annexation of unincorporated territory surrounded by the city as provided in Subsection (E) below, applications for annexation shall, in addition to requirements contained in the application form, be subject to the provisions of ORS 222.111 to 222.180 or 222.840 to 222.915.

(C) Annexation Approval Criteria. The City Council must find that the following State requirements are met in order to approve an annexation:

(1) The land is within the City's Urban Growth Boundary,

(2) The land is contiguous to the current city limits, and

(3) Unless the land being considered for annexation is enclaved by the City or the City chooses to hold an election, a majority of the land owners and/or electors have consented in writing to the annexation per ORS 222.125 or ORS 222.170.

(D) Zoning of Annexed Property.

At the time of annexation, the City shall apply a City zoning designation comparable to the previous County zoning designation. Where no comparable City zoning designation exists, the SFR-00 (Single-Family Residential – one dwelling unit per existing lot) zone or the I-OO (Limited Industrial Overlay) shall be applied.

(E) Annexation of Territory Surrounded by the City.

(1) As authorized in ORS 222.750, the City Council may, by ordinance, annex territory surrounded by the corporate boundaries of Medford with or without the consent of any owner of property within the territory or resident of the territory.

(2) Such annexation may be initiated at the request of the Planning Department or City Council and shall not be subject to the requirements of Sections 10.106, 10.110(D), 10.112, 10.124, 10.214, and 10.216.

(3) A public hearing shall be held prior to the Council's adoption of an ordinance for annexation.

(4) Prior to the public hearing, notification shall be mailed to all owners of property within the area proposed for annexation.

(5) For property that is zoned for, and in, residential use when annexation is initiated by the City, the City shall specify an effective date for the annexation that is at least three years and not more than 10 years after the date the City proclaims the annexation approved.

(6) The City shall notify the Jackson County Clerk of the territory subject to delayed annexation not sooner than 120 days and not later than 90 days before the annexation takes effect.

(F) Annexation Application Form

An application for annexation shall contain the following information:

(1) Vicinity Map drawn at a scale of 1" = 1,000' identifying the proposed area of annexation and existing city limits.

(2) Assessor's Maps of the proposed annexation area. The assessor's maps shall have identified those parcels for which consents to annex have been acquired and adjacent right-of-way to be annexed.
(3) Consent to annex forms completed and signed by all consenting property owners within the proposed annexation area.
(4) Legal metes and bounds or lot and block description of the annexation area including to the centerline of the adjacent right-of-way in electronic form per the instructions of the City of Medford Planning Department.
(5) Specific information on each parcel within the proposed annexation area:
(a) Current assessed valuation shown on County Assessor's tax rolls.
(b) Acreage of both public and private property to be annexed.
(c) Map and tax lot number.
(6) Addresses of all dwelling units and businesses located within the annexation area and names of all residents and whether they are registered voters.
(7) The following information shall be supplied by the applicant:
(a) Existing land uses within annexation area.
(b) Existing zoning within the annexation area.
(c) Existing improvements:
-water system
- streets
- sanitary sewer
- storm drainage
(d) Special Districts within the area:
- water district
- irrigation district
- fire district
- school district
- Rogue Valley Sewer Services
- other
(e) A completed Census Information Sheet for all parcels being considered for annexation.
(f) Written findings indicating compliance with all of the annexation criteria 1 through 3 contained in Section 10.216(C) Annexation Approval Criteria.
(8) Property owners' (and agents') names, addresses and map and tax lot numbers within 200 feet of the subject site, typed on mailing labels.

10.218 **Land Development Code Amendment Approval Criteria.**

The Planning Commission shall base its recommendation and the City Council its decision on the following criteria:
(A) Explanation of the public benefit of the amendment.

(B) The justification for the amendment with respect to the following factors:
(1) Conformity with goals and policies of the Comprehensive Plan considered relevant to the decision.
(2) Comments from applicable referral agencies regarding applicable statutes or regulations.
(3) Public comments.
(4) Applicable governmental agreements.

10.220 **Major Type IV Amendments**

(A) Major Type IV Amendments are those land use changes that have widespread and significant impact beyond the immediate area, such as changes capable of producing large volumes of traffic, changes to the character of the land use itself, or changes that affect large areas or involve many different ownerships. Major Type IV Amendments include:
(1) Major Comprehensive Plan, including separate plans adopted by reference;
(2) Major General Land Use Plan Map;
(3) Major Urban Growth Boundary;
(4) Major Zoning Map Amendment;
(5) Urban Reserves;
(6) Urban Growth Management Agreement; or
(7) Urban Reserve Management Agreement.

(B) Major Type IV Amendment Approval Criteria.
Refer to the Review and Amendment section of the Comprehensive Plan, except in the case of the following three actions:
(1) Major Zoning Map Amendment. Refer to the approval criteria for Land Development Code Amendments in Section 10.218.
(2) Urban Growth Boundary Amendment. Refer to Urbanization Element of the Comprehensive Plan.
(3) Urban Reserve Adoption/Amendment. Refer to ORS 195.137–145 and OAR 660-021.

10.222 **Minor Type IV Amendments.**

(A) Minor Type IV Amendments typically focus on specific individual properties and are therefore considered quasi-judicial. Minor Type IV Amendments include:
(1) Minor Comprehensive Plan Amendment;
(2) Minor General Land Use Plan Map Amendment;
(3) Minor Urban Growth Boundary Amendment;
(4) Transportation Facility Development; or
(5) Vacation of Public Right-of-Way.

(B) Minor Type IV Amendment Approval Criteria. For minor amendments to the Comprehensive Plan, General Land Use Plan Map, or Urban Growth Boundary refer to the Review and Amendment section of the Comprehensive Plan. For Transportation Facility Development approval criteria refer to Section 10.226 (B). For the approval criteria for Vacation of Public Right-of-Way refer to Section 10. 228 (D).

10.224 **Minor Comprehensive Plan Application Form**

An application for a minor Comprehensive Plan amendment shall contain the following items:
(1) Vicinity map drawn at a scale of 1" = 1,000' identifying the proposed area to be changed on the General Land Use Map.
(2) Written findings which address the following:
(a) Consistency with applicable Statewide Planning Goals.
(b) Consistency with the goals and policies of the Comprehensive Plan.
(c) Consistency with the applicable provisions of the Land Development Code.

10.226 **Transportation Facility Development.**

(A) Where the City intends to improve a new or existing street and the improvement is to be built with public funds, the improvement standards set forth in this code are not binding on the City and the City Council may authorize such exceptions to the standards as it deems proper in the exercise of its sole and absolute discretion without regard to the exceptions process of Section 10.186. However, the City shall follow the procedure prescribed through this Subsection in authorizing such projects. Land use issues decided at the time of approval of the Transportation System Plan (TSP) do not have to be reexamined at the time of project development.

(B) Transportation Facility Development Approval Criteria.

Preliminary plans for transportation facility development projects shall be consistent with the following criteria:

(1) Transportation facility development projects shall be consistent with the Transportation Goals and Policies of the Comprehensive Plan.
(2) Transportation facility projects should not prevent development of the remainder of the property under the same ownership or development of adjoining land.
(3) If the project includes the creation of new streets, such streets should be laid out to conform to the plats of land divisions already approved for adjoining property.
(4) All transportation projects must be consistent with the adopted Transportation System Plan (TSP).

(C) City Council Action on Transportation Facility Development.

The resolution or ordinance approving, modifying or disapproving such development shall identify all exceptions to the design and improvement standards of this Code which are being authorized. The City Engineer shall prepare detailed final construction plans and specifications in accordance with such resolution and solicit bids for the construction of the improvements.

(D) Transportation Facility Development Application Form
Preliminary plans required for the transportation facility approval process shall show the following items:
(1) The location and alignment of the project.
(2) The number of street lanes, bike lanes or sidewalks as applicable.
(3) The extent or limits of such work.
(4) Any exceptions to the design standards established in Sections 10.437 through 10.455.
The City shall cause to be prepared six (6) copies of preliminary project plans which shall be filed with the Planning Department. Additional copies may be required for transmittal to local agencies which may be affected by the street improvement.

10.228 **Vacation of Public Right-of-Way.**

(A) Vacations of public rights-of-way are a means of returning ownership of unneeded public streets and alleys to adjacent property owners. Vacations of plats and public utility easements (PUEs) are a means of removing unnecessary easements or plat designations from a parcel of land.
(B) Vacation of Public Right-of-Way Application. A request to vacate a public street, alley, easement, plat, or public place shall, in addition to the requirements contained herein, be subject to ORS Chapter 271.
(C) Vacation of Public Right-of-Way Initiation.
Vacations of public rights-of-way shall be initiated either by petition under ORS 271.080 or by City Council under ORS 271.130.
(D) Vacation of Public Right-of-Way Approval Criteria. A request to vacate shall only be approved by City Council when the following criteria have been met:
(1) Compliance with the Public Facilities Element of the Comprehensive Plan, including the Transportation System Plan.
(2) If initiated by petition under ORS 271.080, the findings required by ORS 271.120.
(3) If initiated by the Council, the applicable criteria found in ORS 271.130.
(E) Vacation Application Form
Petitioners or persons requesting a vacation shall file an application containing the following items:
(1) Vicinity Map drawn at a scale of 1" = 1,000' identifying the proposed area of vacation.
(2) Legal description of area proposed to be vacated in electronic form per the instructions of the City of Medford Planning Department.
(3) A letter requesting City Council initiation, or, if initiated by petition rather than by Council, consent to vacate forms completed and signed by owners of all abutting property and of not less than two-thirds in area of the real property affected as defined in ORS 271.080
(4) Assessor's maps of the proposed vacation area identifying abutting and affected properties. The assessor's maps shall identify those parcels for which consents to vacate have been acquired.

(5) Names and addresses of property owners within the area of a plat vacation or all abutting property and all attached real property within 200 feet laterally and 400 feet beyond the terminus of each right-of-way to be vacated, including map and tax lot numbers typed on mailing labels.
(6) Findings that address the approval criteria in Section 10. 228(D), Vacation Criteria.

~~10.180 **Class "A" Actions.**~~
~~Class "A" actions comprise the following plan authorizations that involve such a substantial area and number of property owners or such broad public policy changes that administrative processing would be inappropriate:~~
~~(1) Major Comprehensive Plan Amendments;~~
~~(2) Code Amendments;~~
~~(3) Major Zoning Map Amendments;~~
~~(4) Any other change deemed legislative.~~
~~[Amd. Sec. 7, Ord. No. 2010-160, July 1, 2010 – effective Sept. 1, 2010.]~~

~~10.181 **Initiation of Class "A" Actions, General.**~~
~~Class "A" authorizations may only be initiated by the Planning Commission or City Council. Class "A" amendments are legislative actions and include adoption or revision of:~~
~~(1) The following components of the Medford Comprehensive Plan:~~
~~(a) General Land Use Plan Map, major.~~
~~(b) Comprehensive Plan Elements.~~
~~(c) Goals, policies, conclusions, or implementation strategies.~~
~~(d) Special area plans or neighborhood circulation plans.~~
~~(e) Significant resource inventories.~~
~~(f) Transportation System Plans:~~
~~Street Functional Classification Plan~~
~~Bicycle Facilities Plan~~
~~Major Pedestrian Facilities Plan~~
~~Major Transit Routes and Stops~~
~~Designated Truck Routes~~
~~(g) By reference, separate functional plans, such as public facility plans (parks, sewer, stormwater, etc.) and capital improvement plans.~~
~~(h) Urban Growth Boundary.~~
~~(i) Review and Amendments chapter.~~
~~(j) Urban Reserve.~~
~~(k) Urban Reserve Management Agreement (URMA) between the City and County.~~
~~(l) Urban Growth Boundary Management Agreement (UGMA) between the City and County.~~
~~(2) Land Development Code.~~
~~(3) Zoning Map, major.~~
~~*See Review & Amendments chapter of the Comprehensive Plan for definitions of "major" and "minor".*~~

~~10.183 **Referral and Review**.~~
~~After initiation of a Class "A" plan authorization, the Planning Department shall transmit one (1) copy of the proposed legislation to each referral agency for review and comment pursuant to Section 10.146, Referral Agencies Distribution, for Class "A" actions. If the referral agency does not comment within thirty (30) working days, then the referral agency is assumed to have no comment. If requested in writing, by a referral agency, an extension of thirty (30) working days may be granted.~~
~~Upon conclusion of the thirty (30) day period, the Planning Department shall study and investigate the proposal and prepare a Staff Report setting forth a recommended action to the approving authority based on compliance with the appropriate criteria and recommendations by the referral agencies.~~
~~10.184 **Class "A" Amendment Criteria**.~~
~~(1) Comprehensive Plan Amendment. Refer to the Review and Amendment section of the Comprehensive Plan, except in the case of the two following actions:~~
~~(a) Urban Growth Boundary Amendment. Refer to Urbanization Element of the Comprehensive Plan.~~
~~(b) Urban Reserve Adoption/Amendment. Refer to ORS 197.137–145 and OAR 660-021.~~
~~(2) Land Development Code Amendment. The Planning Commission shall base its recommendation and the City Council its decision on the following criteria:~~
~~(a) Explanation of the public benefit of the amendment.~~
~~(b) The justification for the amendment with respect to the following factors:~~
~~(1) Conformity with goals and policies of the Comprehensive Plan considered relevant to the decision.~~
~~(2) Comments from applicable referral agencies regarding applicable statutes or regulations.~~
~~(3) Public comments.~~
~~(4) Applicable governmental agreements.~~
~~(3) Zoning Map Amendment, Major. The Planning Commission shall base its recommendation and the City Council its decision on the same criteria as in subsection (2), preceding.~~

~~10.185 **Class "B" Actions**.~~
~~Class "B" actions comprise the following plan authorizations:~~
~~(1) Minor Comprehensive Plan Amendment~~
~~(2) Annexation, except as provided in Section 10.199~~
~~(3) Vacation~~
~~(4) Transportation Facility Development~~

~~10.186 **Application, General**.~~
~~Applications for Class "B" plan authorizations may be initiated by the Planning Commission, City Council, or property owners representing the subject area. An exception to the preceding rule is that the Planning Commission does not initiate annexations.~~
~~Class "B" procedural applications shall be submitted to the Planning Department and shall consist of the materials specified for each type Class "B" procedural application as set out below.~~

~~Upon submittal of the application to the Planning Department, the date of submission shall be indicated on each copy of the materials submitted. Within thirty (30) working days from the date of submission, the Planning Department shall determine whether the application as submitted, along with the required information, is complete as per this chapter.~~
~~If it is determined that the application is incomplete or otherwise does not conform to the provisions of this chapter, the Planning Department shall notify the applicant. An application which has been refused for non-compliance with this code may be resubmitted to the planning department when such application complies with this code.~~
~~At the time of acceptance of the application, the Planning Department shall indicate on the application the date of acceptance.~~

~~10.187 **Class "B", Referral and Review.**~~
~~Within five (5) working days of accepting a Class "B" application, the Planning Department shall transmit one (1) copy of the application or appropriate sections thereof to each referral agency for review and comment as specifically required of each type of Class "B" application. If a referral agency does not comment within thirty (30) working days, then the referral agency is assumed to have no comment and standard conditions of development will be applied. If requested in writing, by a referral agency or the applicant, an extension of thirty (30) working days may be granted.~~
~~Upon conclusion of the thirty (30) day comment period, the Planning Department shall study and investigate the request and prepare a Staff Report setting forth a recommended action based on compliance with the Comprehensive Plan and this chapter and also setting forth conditions of development as recommended by the referral agencies.~~
~~Except in the case of annexation, the advisory agency (Planning Commission) shall consider the request and Staff Report and make a recommendation to the approving authority (City Council). For an annexation, the City Council makes a decision without recommendation by the Planning Commission.~~

~~10.190 **Application, Minor Comprehensive Plan Amendment.**~~
~~A minor revision to the Comprehensive Plan is one typically focused on specific individual properties and therefore considered quasi-judicial. Applications for minor Comprehensive Plan amendments shall contain the information as herein required.~~

~~10.191 **Application Form.**~~
~~An application for a minor Comprehensive Plan amendment shall contain the following items:~~
~~(1) Vicinity map drawn at a scale of 1" = 1,000' identifying the proposed area to be changed on the General Land Use Map.~~
~~(2) Written findings which address the following:~~
~~(a) Consistency with applicable Statewide Planning Goals.~~
~~(b) Consistency with the goals and policies of the Comprehensive Plan.~~
~~(c) Consistency with the applicable provisions of the Land Development Code.~~

~~10.192 **Minor Comprehensive Plan Amendment Criteria**.~~
~~Refer to the Review and Amendment section of the Comprehensive Plan.~~

~~10.195 **Application for Annexation**.~~
~~Except for the annexation of unincorporated territory surrounded by the city as provided in Section 10.199, applications for annexation shall, in addition to requirements contained herein, be subject to the provisions of ORS 222.111 to 222.180 or 222.840 to 222.915.~~
~~10.196 **Application Form**.~~
~~An application for annexation shall contain the following information:~~
~~(1) Vicinity Map drawn at a scale of 1" = 1,000' identifying the proposed area of annexation and existing city limits.~~
~~(2) Assessor's Maps of the proposed annexation area. The assessor's maps shall have identified those parcels for which consents to annex have been acquired and adjacent right-of-way to be annexed.~~
~~(3) Consent to annex forms completed and signed by all consenting property owners within the proposed annexation area.~~
~~(4) Legal metes and bounds or lot and block description of the annexation area including to the centerline of the adjacent right-of-way in electronic form per the instructions of the City of Medford Planning Department.~~
~~(5) Specific information on each parcel within the proposed annexation area:~~
~~(a) Current assessed valuation shown on County Assessor's tax rolls.~~
~~(b) Acreage of both public and private property to be annexed.~~
~~(c) Map and tax lot number.~~
~~(6) Addresses of all dwelling units and businesses located within the annexation area and names of all residents and whether they are registered voters.~~
~~(7) The following information shall be supplied by the applicant:~~
~~(a) Existing land uses within annexation area.~~
~~(b) Existing zoning within the annexation area.~~
~~(c) Existing improvements:~~
~~- water system~~
~~- streets~~
~~- sanitary sewer~~
~~- storm drainage~~
~~(d) Special Districts within the area:~~
~~- water district~~
~~- irrigation district~~
~~- fire district~~
~~- school district~~
~~- Rogue Valley Sewer Services~~
~~- other~~

~~(e) A completed Census Information Sheet for all parcels being considered for annexation.~~

~~(f) Written findings indicating compliance with all of the annexation criteria 1 through 3 contained in Section 10.197, Annexation Criteria.~~

~~(8) Property owners' (and agents') names, addresses and map and tax lot numbers within 200 feet of the subject site, typed on mailing labels.~~

~~10.197 **Annexation Criteria**.~~

~~The City Council must find that the following State requirements are met in order to approve an annexation:~~

~~1. The land is within the City's Urban Growth Boundary,~~

~~2. The land is contiguous to the current city limits, and~~

~~3. Unless the land being considered for annexation is enclaved by the City or the City chooses to hold an election, a majority of the land owners and/or electors have consented in writing to the annexation per ORS 222.125 or ORS 222.170.~~

~~10.198 **Zoning of Annexed Property**.~~

~~At the time of annexation, the City will apply a City zoning designation comparable to the previous County zoning designation. Where no comparable City zoning designation exists, the SFR-00 (Single-Family Residential – one dwelling unit per existing lot) zone will be applied.~~

~~10.199 **Annexation of Territory Surrounded by the City.**~~

~~(1) As authorized in ORS 222.750, the City Council may, by ordinance, annex territory surrounded by the corporate boundaries of Medford with or without the consent of any owner of property within the territory or resident of the territory.~~

~~(2) Such annexation may be initiated at the request of the Planning Department or City Council and shall not be subject to the requirements of Sections 10.122, 10.146, 10.150, 10.157, 10.158, 10.185 to 10.187, or 10.196 to 10.198.~~

~~(3) A public hearing shall be held prior to the Council's adoption of an ordinance for annexation.~~

~~(4) Notification shall be mailed to owners of property within the area proposed for annexation no later than twenty (20) days prior to the public hearing.~~

~~10.200 **Application, Vacation**.~~

~~A request to vacate a public street, alley, easement, plat, or public place shall, in addition to the requirements contained herein, be subject to ORS Chapter 271. Vacation shall be initiated either by petition under ORS 271.080 or by City Council under ORS 271.130.~~

~~10.201 **Application Form**.~~

~~Petitioners or persons requesting a vacation shall file an application containing the following items:~~

~~(1) Vicinity Map drawn at a scale of 1" = 1,000' identifying the proposed area of vacation.~~

~~(2) Legal description of area proposed to be vacated in electronic form per the instructions of the City of Medford Planning Department.~~
~~(3) A letter requesting City Council initiation, or, if initiated by petition rather than by Council, consent to vacate forms completed and signed by owners of all abutting property and of not less than two-thirds in area of the real property affected as defined in ORS 271.080~~
~~(4) Assessor's maps of the proposed vacation area identifying abutting and affected properties. The assessor's maps shall identify those parcels for which consents to vacate have been acquired.~~
~~(5) Names and addresses of property owners within the area of a plat vacation or all abutting property and all attached real property within 200 feet laterally and 400 feet beyond the terminus of each right-of-way to be vacated, including map and tax lot numbers typed on mailing labels.~~
~~(6) Findings that address the approval criteria in Section 10.202, Vacation Criteria.~~

~~10.202 **Vacation Criteria**.~~
~~A request to vacate shall only be approved by the approving authority (City Council) when the following criteria have been met:~~
~~(1) Compliance with the Public Facilities Element of the Comprehensive Plan, including the Transportation System Plan.~~
~~(2) If initiated by petition under ORS 271.080, the findings required by ORS 271.120.~~
~~(3) If initiated by the Council, the applicable criteria found in ORS 271.130.~~

~~10.205 **Application, Transportation Facility Development**.~~
~~Where the City intends to improve a new or existing street and the improvement is to be built with public funds, the improvement standards set forth in this code are not binding on the City and the City Council may authorize such exceptions to the standards as it deems proper in the~~

~~exercise of its sole and absolute discretion without regard to the exceptions process of Section 10.251. However, the City shall follow the procedure prescribed below in Sections 10.206 through 10.208 in authorizing such projects. All transportation projects must be consistent with the adopted Transportation System Plan (TSP).~~
~~Land use issues decided at the time of approval of the TSP do not have to be reexamined at the time of project development.~~

~~10.206 **Application Form**.~~
~~Preliminary plans required for the transportation facility approval process shall show the following items.~~
~~(1) The location and alignment of the project.~~
~~(2) The number of street lanes, bike lanes or sidewalks as applicable.~~
~~(3) The extent or limits of such work.~~
~~(4) Any exceptions to the design standards established in Sections 10.437 through 10.455.~~

~~The City shall cause to be prepared six (6) copies of preliminary project plans which shall be filed with the Planning Department. Additional copies may be required for transmittal to local agencies which may be affected by the street improvement.~~

~~10.207 **Transportation Facility Development Criteria**.~~
~~Preliminary plans for transportation facility development projects shall be consistent with the following criteria:~~
~~(1) Transportation facility development projects shall be consistent with the Transportation Goals and Policies of the Comprehensive Plan.~~
~~(2) Transportation facility projects should not prevent development of the remainder of the property under the same ownership or development of adjoining land.~~
~~(3) If the project includes the creation of new streets, such streets should be laid out to conform with the plats of land divisions already approved for adjoining property.~~

~~10.208 **City Council Action on Transportation Facility Development**.~~
~~The City Council shall hold a quasi-judicial public hearing to review the preliminary project plan and the Planning Commission report and shall adopt a resolution or ordinance approving, modifying or disapproving such preliminary plan(s). The resolution or ordinance shall identify all exceptions to the design and improvement standards of this Code which are being authorized. The resolution or ordinance shall contain findings demonstrating compliance with the *Comprehensive Plan* and the *Transportation System Plan*. The City Engineer shall prepare detailed final construction plans and specifications in accordance with such resolution and solicit bids for the construction of the improvements.~~

~~10.220 **Class "C" Actions**.~~
~~Class "C" actions are comprised of the following plan authorizations:~~
~~(1) Zone Changes~~
~~(2) Planned Unit Development, Preliminary PUD Plan~~
~~(3) Conditional Use Permit~~
~~(4) Exceptions~~
~~(5) Site Plan and Architectural Review~~
~~(6) Land Divisions, Tentative Plats~~
~~(7) Historic Review~~

~~10.221 **Application, General**.~~
~~Applications for Class "C" plan authorizations may be initiated by City Council, Planning Commission, or property owners representing the subject area. Class "C" applications shall be submitted to the Planning Department and shall consist of the materials specified for each type Class "C" procedural application.~~
~~Upon submittal of the application to the Planning Department, the date of receipt shall be indicated on each copy of the materials submitted. Within thirty (30) days of receipt, the Planning Department~~

~~shall determine whether the application as submitted, along with the required information, is complete as per this chapter. If the Planning Department fails to provide notice to the applicant in writing within thirty (30) days of receipt, the application shall be deemed complete. For purposes of this section, the date of notice to the applicant shall be the date of mailing.~~

~~If it is determined that the application is incomplete or otherwise does not conform to the provisions of this chapter, the Planning Department shall notify the applicant in writing to submit the missing material. The application shall be deemed complete upon receipt of (a) all of the missing information; (b) some of the missing information and written notice from the applicant that no other information will be provided; or (c) written notice from the applicant that none of the missing information will be provided.~~

~~If the application is deemed complete when first submitted, or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria applicable at the time the application was submitted.~~

~~On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information and has not submitted (a) all of the missing information; (b) some of the missing information and written notice that no other information will be provided; or (c) written notice that none of the missing information will be provided. Any applications that are resubmitted to the Planning Department shall be subject to the standards and criteria in effect at the time the application is resubmitted.~~

~~At the time an application is deemed complete, the Planning Department shall indicate on the application the date of completion.~~

~~10.222 **Class "C", Referral and Review.**~~

~~Within five (5) working days of a Class "C" application being deemed complete, the Planning Department shall transmit one (1) copy of the application, or appropriate sections thereof, to each referral agency for review and comment as specifically required of each type of Class "C" application.~~

~~If the referral agency does not comment within ten (10) working days from the date of acceptance, then the referral agency is assumed to have no comment, and standard conditions of development will be applied. If requested in writing, by a referral agency or the applicant, an extension of ten (10) working days may be granted.~~

~~10.223 **Reports.**~~

~~Upon receipt of a Class "C" plan authorization and necessary accompanying data, each referral agency shall make an investigation and submit a written report within fifteen (15) working days, and forward same to the Planning Department clearly specifying any recommended conditions for development approval.~~

~~(1) **City Departments, Affected Agencies and Utility Company Reports.** The public works department, water commission and affected public utilities, school districts and other affected agencies~~

~~having jurisdiction, shall report to the Planning Department as to any recommendations or provisions which in their determination are required for the approval of the development consistent with this code.~~
~~(2) **City Engineer's Report**. The city engineer shall investigate and report on existing facilities and make a recommendation on the manner in which the development is to be provided city services. The city engineer shall appropriately condition the development to adequately provide for the drainage of surface water from the land constituting and surrounding the intended land division.~~
~~(3) **Fire Department/Water Commission**. The fire department/water commission shall investigate and report on existing facilities and make a recommendation concerning the number and placement of fire hydrants and other fire protection requirements for the proposed development.~~
~~(4) **Staff Report**. The Planning Department shall review the design and improvement of the proposed development in relation to the *Comprehensive Plan*, any applicable specific plans prescribed by law which affects the proposed development and in relation to any and all applicable criteria and standards as set forth in this chapter. The staff report shall either summarize, or incorporate by reference, all departmental, affected agency and utility reports received as specified herein, and shall itemize such conditions as it deems appropriate to be imposed by the approving authority if approval is to be recommended.~~

~~10.224 **Resubmission of Class "C" Application**.~~
~~After sixty (60) working days of the final determination denying a Class "C" action, the applicant may make appropriate alterations to a proposal and resubmit along with the payment of any additional fees as required by Article I, Section 10.070, Fees.~~

~~10.224-1 **Effective Date of a Class "C" Application**.~~
~~Approval of a Class "C" application shall take effect on the date the final order or resolution for approval is signed.~~

~~10.225 **Application, Zone Change**~~
~~A zoning district boundary change may be initiated by the Planning Commission either on its own motion or at the request of the City Council, or by application of the property owner(s) in the area subject to the zone change.~~

~~10.226 **Application Form**.~~
~~A zone change application shall contain the following items:~~
~~(1) Vicinity map drawn at a scale of 1" = 1,000' identifying the proposed area of change.~~
~~(2) Assessor's map with proposed zone change area identified.~~
~~(3) Legal description of area to be changed. Legal description shall be prepared by a licensed surveyor or title company.~~
~~(4) Property owner's names, addresses, and map and tax lot numbers within 200 feet of the subject site, typed on mailing labels.~~

~~(5) Findings prepared by the applicant or his representative addressing the criteria for zone changes as per Section 10.227, Zone Change Criteria.~~

~~10.227 **Zone Change Criteria**.~~
~~The approving authority (Planning Commission) shall approve a quasi-judicial zone change if it finds that the zone change complies with subsections (1) and (2) below:~~
~~(1) The proposed zone is consistent with the Transportation System Plan (TSP) and the General Land Use Plan Map designation. A demonstration of consistency with the acknowledged TSP will assure compliance with the Oregon Transportation Planning Rule. Where applicable, the proposed zone shall also be consistent with the additional locational standards of the below sections (1)(a), (1)(b), (1)(c), or (1)(d). Where a special area plan requires a specific zone, any conflicting or additional requirements of the plan shall take precedence over the locational criteria below.~~
~~(a) For zone changes to SFR-2, the zoning shall be approved under either of the following circumstances:~~
~~(i) if at least seventy percent (70%) of the area proposed to be rezoned exceeds a slope of fifteen percent (15%),~~
~~(ii) if other environmental constraints, such as soils, geology, wetlands, and flooding, restrict the capacity of the land to support higher densities.~~
~~(b) For zone changes to SFR-6 or SFR-10 where the permitted density is proposed to increase, one (1) of the following conditions must exist:~~
~~(i) At least one (1) parcel that abuts the subject property is zoned the same as the proposed zone, either SFR-6 or SFR-10 respectively; or~~
~~(ii) The area to be rezoned is five (5) acres or larger; or~~

~~(iii) The subject property, and any abutting parcel(s) that is(are) in the same General Land Use Plan Map designation and is(are) vacant, when combined, total at least five (5) acres.~~
~~(c) For zone changes to any commercial zoning district, the following criteria shall be met for the applicable zoning sought:~~
~~(i) The overall area of the C-N zoning district shall be three (3) acres or less in size and within, or abutting on at least one (1) boundary, residential zoning. In determining the overall area, all abutting property(s) zoned C-N shall be included in the size of the district.~~
~~(ii) The overall area of the C-C zoning district shall be over three (3) acres in size and shall front upon a collector or arterial street or state highway. In determining the overall area, all abutting property(s) zoned C-C shall be included in the size of the district.~~
~~(iii) The overall area of the C-R zoning district shall be over three (3) acres in size, shall front upon an arterial street or state highway, and shall be in a centralized location that does not otherwise constitute a neighborhood shopping center or portion thereof. In determining the overall area, all abutting property(s) zoned C-R shall be~~

~~included in the size of the district. The C-R zone is ordinarily considered to be unsuitable if abutting any residential zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.~~

~~(iv) The C-H zone shall front upon an arterial street or state highway. The C-H zone may abut the General Industrial (I-G), Light Industrial (I-L), and/or any commercial zone. The C-H zone is ordinarily considered to be unsuitable if abutting any residential and I-H zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.~~

~~(d) For zone changes to any industrial zoning district, the following criteria shall be met for the applicable zoning sought:~~

~~(i) The I-L zone may abut residential and commercial zones, and the General Industrial (I-G) zone. The I-L zone is ordinarily considered to be unsuitable when abutting the Heavy Industrial (I-H) zone, unless the applicant can show it would be suitable pursuant to (1)(e) below.~~

~~(ii) The I-G zone may abut the Heavy Commercial (C-H), Light Industrial (I-L), and the Heavy Industrial (I-H) zones. The I-G zone is ordinarily considered to be unsuitable when abutting the other commercial and residential zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.~~

~~(iii) The I-H zone may abut the General Industrial (I-G) zone. The I-H zone is ordinarily considered to be unsuitable when abutting other zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.~~

~~(e) For purposes of (1)(c) and (1)(d) above, a zone change may be found to be "suitable" where compliance is demonstrated with one (1) or more of the following criteria:~~

~~(i) The subject property has been sited on the General Land Use Plan Map with a GLUP Map designation that allows only one (1) zone;~~

~~(ii) At least fifty percent (50%) of the subject property's boundaries abut zones that are expressly allowed under the criteria in (1)(c) or (1)(d) above;~~

~~(iii) At least fifty percent (50%) of the subject property's boundaries abut properties that contain one(1) or more existing uses which are permitted or conditional uses in the zone sought by the applicant, regardless of whether the abutting properties are actually zoned for such existing uses; or~~

~~(iv) Notwithstanding the definition of "abutting" in Section 10.012 and for purposes of determining suitability under Section (1) (e), the subject property is separated from the "unsuitable" zone by a public right-of-way of at least sixty (60) feet in width.~~

~~(f) For zone changes to apply or remove the overlay zones (Limited Industrial, Exclusive Agricultural, Freeway, Southeast, Historic) the criteria can be found in the applicable overlay section (Sections 10.345 through 10.413).~~

~~(2) It shall be demonstrated that Category A urban services and facilities are available or can and will be provided, as described below, to adequately serve the subject property with the permitted uses allowed under the proposed zoning, except as provided in subsection (c) below. The minimum~~

~~standards for Category A services and facilities are contained in Section 10.462 and Goal 2 of the Comprehensive Plan "Public Facilities Element" and Transportation System Plan.~~

~~(a) Storm drainage, sanitary sewer, and water facilities must already be adequate in condition, capacity, and location to serve the property or be extended or otherwise improved to adequately serve the property at the time of issuance of a building permit for vertical construction.~~

~~(b) Adequate streets and street capacity must be provided in one (1) of the following ways:~~

~~(i) Streets which serve the subject property, as defined in Section 10.461(2), presently exist and have adequate capacity; or~~

~~(ii) Existing and new streets that will serve the subject property will be improved and/or constructed, sufficient to meet the required condition and capacity, at the time building permits for vertical construction are issued; or~~

~~(iii) If it is determined that a street must be constructed or improved in order to provide adequate capacity for more than one (1) proposed or anticipated development, the Planning Commission may find the street to be adequate when the improvements needed to make the street adequate are fully funded. A street project is deemed to be fully funded when one (1) of the following occurs:~~

~~(a) the project is in the City's adopted capital improvement plan budget, or is a programmed project in the first two (2) years of the State's current STIP (State Transportation Improvement Plan), or any other public agencies adopted capital improvement plan budget; or~~

~~(b) when an applicant funds the improvement through a reimbursement district pursuant to the MLDC. The cost of the improvements will be either the actual cost of construction, if constructed by the applicant, or the estimated cost. The "estimated cost" shall be 125% of a professional engineer's estimated cost that has been approved by the City, including the cost of any right-of-way acquisition. The method described in this paragraph shall not be used if the Public Works Department determines, for reasons of public safety, that the improvement must be constructed prior to issuance of building permits.~~

~~(iv) When a street must be improved under (b)(ii) or (b)(iii) above, the specific street improvement(s) needed to make the street adequate must be identified, and it must be demonstrated by the applicant that the improvement(s) will make the street adequate in condition and capacity.~~

~~(c) In determining the adequacy of Category A facilities, the approving authority (Planning Commission) may evaluate potential impacts based upon the imposition of special development conditions attached to the zone change request. Special development conditions shall be established by deed restriction or covenant, which must be recorded with proof of recordation returned to the Planning Department, and may include, but are not limited to the following:~~

~~(i) Restriction of uses by type or intensity; however, in cases where such a restriction is proposed, the Planning Commission must find that the resulting development pattern will not preclude future development, or intensification of development, on the subject property or adjacent parcels. In no case shall residential densities be approved which do not meet minimum density standards,~~
~~(ii) Mixed-use, pedestrian-friendly design which qualifies for the trip reduction percentage allowed by the Transportation Planning Rule,~~
~~(iii) Transportation Demand Management (TDM) measures which can be reasonably quantified, monitored, and enforced, such as mandatory car/van pools.~~

~~10.228 **Removal of Special Development Conditions on Zone Changes and General Land Use Plan (GLUP) Map Amendments.**~~
~~Deed restrictions, covenants, or conditions of approval on zone changes established in order to comply with Section 10.227, or General Land Use Plan (GLUP) Map amendments established in order to comply with Section 10.184, shall only be removed by the following actions:~~
~~(1) If an improvement is made to any facility that was lacking adequacy, or if a level of service standard is changed so that the facility is now determined to be adequate, the property owner(s) may submit a letter to the Planning Department requesting that development conditions be removed. If the department director agrees that the facility is adequate and the condition(s) is no longer necessary, the special development condition can be removed. The letter, with the approval signature of the department director, shall be appended to the original approval resolution or ordinance. In making the determination of facility adequacy, the department director may ask the property owner(s) for information to demonstrate facility adequacy.~~
~~(2) For Zone Change: If the development condition is not removed through the method described in (1) above, the condition may be removed pursuant to a zone change procedure.~~
~~(3) For GLUP Map Amendments: If the development condition is not removed through the method described in (1) above, the condition may be removed pursuant to a Comprehensive Plan Map Amendment procedure.~~

~~10.230 **Planned Unit Development (PUD) - General Provisions.**~~
~~A. **Purpose and Intent:** The PUD approach permits flexibility to allow creative and imaginative urban development that would otherwise not be possible under the strict requirements of this Code. The intent is to promote more efficient use of urban land and urban services while protecting natural features, creating common open space, promoting the development of transit-oriented design along designated transit corridors and within designated transit-oriented development (TOD) areas, and encouraging a mixture of land uses and housing types that are thoughtfully planned and integrated.~~
~~B. **Acreage Limitation:** PUDs must contain one (1) acre or more at the time of application filing.~~
~~C. **Stepped Process:** Consolidated Applications Authorized: Approval of a PUD shall be a two-step process involving approval of a Preliminary PUD Plan by the Planning Commission as the first step and approval of a Final PUD Plan by the Planning Director as the second step. As used in MLDC 10.230 through 10.245, the Planning Director shall mean the Director of the Medford Planning Department or his/her designee. Except applications for annexations and comprehensive plan amendments, applications authorized in Article II may be consolidated with an application for a Preliminary PUD Plan.~~

D. **Modified Application of Standards Authorized**: To fulfill the purpose and intents of the standards set forth in Section 10.230(A), authority is herewith granted for the approval of PUDs which vary from the strict standards of this Code. The nature and extent of potential modifications shall be limited to the categories below described, provided that the City, in approving such modifications, shall not violate substantive provisions of the Oregon Transportation Planning Rule:

1. **Lots and Parcels**: Limitations, restrictions and design standards pertaining to the size, dimension, location, position and coverage of lots, and restrictions related to through lots.
2. **Yards, Setbacks and Building Height**: Limitations, restrictions and design standards pertaining to the location, size, height, yards and setbacks for buildings and other structures.
3. **Parking, Bicycle and Pedestrian Standards**: Limitations, restrictions and design standards pertaining to off-street vehicle and bicycle parking and loading, and standards related to pedestrian access.
4. **Frontage, Access, Landscaping and Signs**: Limitations, restrictions and design standards pertaining to lot frontage, access, required landscaping, signs and bufferyards.
5. **Streets Generally**: Streets within PUDs may be either city streets dedicated for public use or private streets owned and maintained by an association of owners, and may exceed maximum block length and perimeter standards provided in Section 10.426 C.1. Streets within or adjacent to a PUD shall comply with the following:
   a. Collector and arterial streets shall be dedicated city streets, the existence and general location of which shall be determined by the comprehensive plan.
   b. City streets shall comply fully with the strict requirements of this Code, provided that the City in approving a PUD may permit the width of parking lanes for city streets to be less than the Code otherwise requires.
   c. The City may require any proposed PUD street or segment thereof to be constructed and dedicated as a city street.
6. **Private Streets**: Private streets may vary from the limitations, restrictions and design standards pertaining to streets with respect to length, width, position, aspect, intersection standards, grades, curve radii, cul-de-sac turnarounds, street lights, easements, sidewalks, curbs and driveway approaches for streets within the PUD, provided:
   a. With respect to the amount, quality and installation of construction materials, private streets shall be structurally equivalent to or better than city-standard streets.
   b. The City Fire Marshall shall approve the design of all private streets for access by emergency vehicles before approval of the Preliminary PUD.
   c. Private streets shall be posted as private streets and shall connect to the public street system. The applicant shall convey to the City and all appropriate utility companies a perpetual easement over the private street(s) for use by emergency vehicles and employees of the City and utility company(s) in the maintenance of public facilities and utilities.

7. **Allowed Uses; Housing Types**: The following uses and housing types shall be permitted as part of a PUD subject to the following:

a. In addition to permitted uses, any portion of a PUD may contain any housing type listed in Subsection 10.314(1-3). In approving housing types, the Planning Commission may waive or reduce any of the special use regulations or standards contained in Sections 10.811 through 10.838 ("Special Use Regulations").

b. Any conditional use listed for the underlying zone may be permitted without addressing the Conditional Use Permit criteria except when the conditional use is within 200 feet of the perimeter of the PUD. This exemption does not apply to conditional uses within Riparian Corridors pursuant to 10.925 "Conditional uses within Riparian Corridors".

c. Use(s) not permitted in the underlying zone may, nevertheless, be permitted and approved to occupy up to 20% of the gross area of the PUD provided that no portion of the use(s), including its parking, is located nearer than 200 feet from the exterior boundary of the PUD. If any portion of the use(s) is nearer than 200 feet from the exterior PUD boundary, then said use(s) shall be considered to be a conditional use and may be approved subject to compliance with the conditional use permit criteria in Section 10.248. However, this provision shall not apply where the land outside the PUD which is nearer than 200 feet from proposed use(s) is inside a zone in which the proposed use(s) is permitted.

8. **Mixed Land Use Designations**. Unless otherwise prohibited, PUDs that have more than one General Land Use Plan designation or Southeast Plan land use category shall have the flexibility to mix or relocate such designations within the boundaries of the PUD in any manner and/or location as may be approved by the Planning Commission.

E. **Common Elements**: A multi-family residential PUD must include a minimum of 20% of the land area as common area unless otherwise modified by the Planning Commission. This common area shall be for the purpose of providing protection for natural features, common recreational space, landscaped area, or commonly enjoyed amenities other than parking areas or private streets. Where a PUD has open spaces, private streets, parking or other elements to be owned or maintained in common by the owners or future owners of land or improvements within the PUD,
the Final PUD Plan shall not be approved and no unit shall be sold or conveyed until the PUD has been found to comply with the following requirements, as applicable:

1. If the PUD is a planned community under ORS Chapter 94, the declaration and tentative plat for the planned community shall be submitted with the Final PUD Plan for approval by the Planning Director before recording in the official records of Jackson County.

2. If the PUD is a condominium under ORS Chapter 100, a copy of the recorded declaration and plat shall be submitted to the City after it has been approved by the Oregon Real Estate Commissioner and recorded in the official records of Jackson County. A condominium declaration and plat shall not be reviewed and approved by the Planning Director and the Planning Director shall have no authority under this Subsection to require changes thereto.

3. If the PUD contains elements intended for common ownership but ORS Chapters 94 and 100 do not apply, there shall be appropriate legal documents which assure that the common elements will be improved and perpetually maintained for their intended

~~purposes. The legal documents in such instance shall be submitted to the Planning Director for approval as part of the Final PUD Plan before recording in the official records of Jackson County.~~

~~4. When a PUD is proposed to be developed in phases, the phased provision of improved common elements shall be roughly proportional with the development of housing and other elements intended for private ownership. Unless approved by the Planning Commission as part of a phasing plan pursuant to Subsection 10.235(A)(3)(c) or which was approved by the Planning Commission prior to the adoption of this ordinance, no significant common element shall be postponed to the final phase of a PUD. Nothing in this Subsection shall prevent the provision of improved common elements at a rate that is proportionally greater than the development of housing and other elements intended for private ownership.~~

~~5. Land shown on the Final Development Plan as a common element or which is intended for public dedication shall be conveyed under one of the following options:~~

~~a. To a public entity which shall agree in writing to perpetually maintain the common element(s) being conveyed.~~

~~b. To an association of owners created pursuant to ORS Chapters 94 or 100 or as otherwise created under Subsection 10.230(E)(3) in which instance the legal document which establishes the association shall provide that the association cannot be terminated or discontinued without the City's prior consent.~~

~~6. If the PUD will have private streets, the legal document which establishes the association of owners shall provide that the City may enforce the maintenance or protection of its easements or public facilities.~~

~~F. **PUDs exempt from Site Plan and Architectural Review**: PUDs approved under this Section shall be exempt and there shall be no requirement to apply separately for Site Plan and Architectural Review or to demonstrate compliance with the criteria in Section 10.290. However, the Planning Director in his/her discretion may forward a Preliminary PUD Plan or proposed revisions thereto to the Site Plan and Architectural Commission for review. When forwarded by the Planning Director, the Site Plan and Architectural Commission shall have authority to review the PUD plans and make recommendations to the Planning Commission.~~

~~G. **Delegation of Authority**: The Planning Commission may delegate authority to the Site Plan and Architectural Commission or to the Planning Director to approve in its name the plans for buildings or any other element of a PUD or revisions thereto after the Planning Commission has approved the Preliminary PUD Plan. The authority delegated by the Planning Commission under this Subsection shall be delimited in conditions attached to the approval. Notwithstanding any other provision of this Code and subject to an applicant's written request, the approval of delegated matters, where eligible, shall be procedurally treated as an Expedited Land Division pursuant to ORS 197.360 through 197.380, as amended. Lacking a written request from the applicant, approval of delegated matters shall be subject to a Class "C" Procedure as set forth in Article II.~~

~~H. **Building Permits**: Development and Operation of a PUD: All building and construction plans submitted to the City for the purpose of obtaining building and other site improvement permits shall be consistent with the approved Final PUD Plan. The development and operation of the PUD shall conform in all respects with the approved Final PUD Plan.~~

~~I. **Residential Density**:~~

~~(1) **Residential Density Calculation**. Minimum and maximum permitted residential densities in PUDs shall be calculated pursuant to Section 10.708, except, in PUDs having residential and non-residential land uses within a residential zoning district, including mixed-use buildings as defined herein, the minimum and maximum number of dwelling units shall be calculated using the gross area of the residentially zoned land including any to be occupied by non-residential uses. "Natural unbuildable areas" may be excluded at the developer's option as provided in Section 10.708.~~

~~(2) **Residential Density Bonus**. In PUDs larger than five (5) acres, the residential density may be increased by up to twenty percent (20%) more than the maximum density permitted by (1) above.~~

~~10.231 [Repealed, Sec. 2, Ord. No. 8393, June 19, 1997.]~~

~~10.232 [Repealed, Sec. 3, Ord. No. 8393, June 19, 1997.]~~

~~10.234 [Repealed, Sec. 4, Ord. No. 8393, June 19, 1997.]~~

~~10.235 **Preliminary PUD Plan - Application Procedures**.~~

~~A. **Neighborhood Meeting Requirement**. To ensure neighborhood knowledge of proposed development and to provide an opportunity for direct communication, the applicant shall present the development proposal at a neighborhood meeting prior to submitting the land use application to the City Planning Department. The applicant shall arrange and conduct the neighborhood meeting. City staff need not attend. Attendees shall be asked to sign a signature sheet and provide their mailing address. Attendance at the neighborhood meeting does not give an attendee legal standing for appeal.~~

~~1. The presentation at the neighborhood meeting shall include at a minimum the following:~~

~~a. A map depicting the location of the subject property proposed for development; and,~~

~~b. A visual description of the project including a tentative site plan, tentative subdivision plan and elevation drawings of any structures, if applicable; and,~~

~~c. A description of the nature of the proposed uses and physical characteristics, including but not limited to, sizes and heights of structures, proposed lot sizes, density,; and,~~

~~d. A description of requested modifications to code standards.~~

~~e. Notification that attendance at the neighborhood meeting does not give legal standing to appeal to the City Council, the Land Use Board of Appeals, or Circuit Court.~~

~~2. It shall be the responsibility of the applicant to schedule the neighborhood meeting and provide adequate notification of the meeting. The applicant shall send mailed notice of the neighborhood meeting to the owners of no less than seventy-five (75) of the nearest tax lots regarding the neighborhood meeting. If seventy-five (75) tax lots are not located within two-hundred (200) feet of the exterior boundary of the PUD, the notification area shall be extended by successive fifty (50) foot~~

~~increments, until a minimum of seventy-five (75) tax lots are included in the notification area. The owners of all tax lots within the extended notification shall receive written notice; therefore, noticing of more than seventy-five (75) tax lots may be required. In addition to the affected property owners, the applicant shall also provide notice to the City Planning Department. The applicant shall use the Jackson County Tax Assessor's property owner list from the most recent property tax assessment roll. The notice shall be mailed a minimum of fifteen (15) days prior to the neighborhood meeting which shall be held in Medford on a weekday evening. A certificate of mailing attesting to the date of mailing and the name and signature of the agent responsible for mailing said notices shall be prepared and submitted to the Planning Department in accordance with the materials identified in Section 10.235 (B)(7). The notice for PUD neighborhood meeting shall include:~~

~~a. Date, time and location of the neighborhood meeting; and,~~

~~b. A brief written description of the proposal; and,~~

~~c. The location of the subject property, including address (if applicable), nearest cross streets and any other easily understood geographical reference, and a map (such as a tax assessor's map) which depicts the subject property.~~

~~B. **Application for a Preliminary PUD Plan**: An application for Preliminary PUD Plan shall be on forms supplied by the City. A complete application shall include the materials and information listed in this Subsection. However, the Planning Director, in his/her discretion, may waive the submittal of any of the materials or information that are deemed to be excessive, repetitive or unnecessary based upon the size and nature of the PUD. If an application for a PUD is accepted by the City as complete under ORS 227.178 but the application does not contain all of the items listed below, the missing items shall be deemed to have been waived by the Planning Director. Unless waived by the Planning Director, the following items shall be required to constitute a complete application for a Preliminary PUD Plan:~~

~~1. Current assessor map with the boundaries of the proposed PUD identified.~~

~~2. Preliminary PUD Plan (16 copies) and supplemental materials conforming to the Site Plan and Architectural Review application requirements in Section 10.287. Additionally, such plans shall include preliminary plans for providing public water and sanitary sewer service. The Preliminary PUD Plan shall indicate boundaries within the property which distinguish areas devoted to different land uses pursuant to Subsections 10.235(B)(3)(f), 10.230(D)(7) and 10.230(D)(8). Where different land uses are separated by streets, railroad rights-of-way, drainage channels or other water courses, the centerlines of such features shall be their boundaries. One copy of the Preliminary PUD Plan shall be a reduced size suitable for photocopy. If a tentative plat for a land division is submitted concurrently with a Preliminary PUD Plan, the Preliminary PUD Plan and tentative plat shall be on separate sheets. It is further provided that:~~

~~a. Unless otherwise required in this Code, architectural plans for single family detached dwellings and landscaping plans for lots occupied by single family detached dwellings are not subject to review or approval as part of a PUD. However, nothing shall prevent an applicant from supplying architectural or landscaping plans for single family detached housing as a means to comply with one or more approval criteria.~~

~~b. If private or non-city standard street lighting is proposed, a street lighting plan shall be provided which provides a detail of the proposed lighting fixture(s). The Preliminary PUD Plan shall indicate the location of proposed private or non-city-standard light fixtures.~~

~~c. An applicant may postpone the submission and approval of architectural plans for proposed buildings and to have such plans approved later as a separate matter under Subsection 10.235(G) after the Preliminary PUD Plan has been approved. When the approval of architectural plans has been postponed, the Preliminary PUD Plan shall show a conceptual footprint for each planned building and each building footprint shall be separately enclosed by a dashed line which shall be called and labeled a building envelope. Building envelopes shall reasonably anticipate and define the maximum extent of the footprint for each building in the PUD.~~

~~3. A narrative description of the PUD which shall cover:~~

~~a. The rationale for planning this development as a PUD.~~

~~b. The nature, planned use, future ownership and method of perpetual maintenance of land to be left in natural or developed open space or which will be held in common ownership.~~

~~c. A listing of all modified applications of the Code that are proposed, followed by a brief explanation which covers the nature of, extent of, and reason for each modification.~~

~~d. If one or more signs are intended to vary from the provisions of this Code, then a detailed plan for all signs which require a sign permit shall be submitted. The sign plan shall specify the size, number, type, height and location of all signs which require a sign permit and shall clearly indicate all proposed modifications.~~

~~e. A proposed development schedule. If the PUD will be constructed in phases, the development schedule for each phase shall be keyed to a plan that indicates the boundaries of each phase.~~

~~f. The gross acreage devoted to the various proposed land uses and housing types.~~

~~4. Written findings of fact and conclusions of law which address the approval criteria in Subsection 10.235(D).~~

~~5. The names and mailing addresses of the owners of record of tax lots, obtained by the latest tax rolls of the Jackson County Assessor's Office, located within 200 feet of the exterior boundary of the whole PUD. The owners of no less than seventy-five (75) tax lots shall be notified of the pending land use hearing. If seventy-five (75) tax lots are not located within two-hundred (200) feet of the exterior boundary of the PUD, the notification area shall be extended by successive fifty (50) foot increments, until a minimum of seventy-five (75) tax lots are included in the notification area. The owners of all tax lots within the extended notification area shall receive written notice; therefore, noticing of more than seventy-five (75) tax lots may be required. The names and mailing addresses shall be typed on mailing labels and shall include the assessor map and tax lot numbers for each parcel.~~

6. A conceptual stormwater facility plan with associated landscape plan, if applicable, pursuant to Sections 10.486(B) or 10.729(B).

7. Documentation of pre-submittal PUD Neighborhood Meeting. Documentation shall include:

a. A copy of a Certificate of Mailing for the neighborhood meeting notification mailing pursuant to Section 10.235(2);

b. A completed Verification of Neighborhood Meeting form attesting to the contents of the materials provided or reviewed at the meeting;

c. A set of the notification materials listed in Section 10.235(A)(2); and,

d. The signature sheet(s) from the Neighborhood Meeting.

C. **Action on an Application for a Preliminary PUD Plan:** The Planning Commission may approve, approve with conditions or deny a Preliminary PUD Plan.

D. **Approval Criteria for Preliminary PUD Plan:** The Planning Commission shall approve a Preliminary PUD if it concludes that compliance exists with each of the following criteria:

1. The proposed PUD:

a. preserves an important natural feature of the land, or

b. includes a mixture of residential and commercial land uses, or

c. includes a mixture of housing types in residential areas, or

d. includes open space, common areas, or other elements intended for common use or ownership, or

e. is otherwise required by the Medford Land Development Code.

2. The proposed PUD complies with the applicable requirements of this Code, or

a. the proposed modified applications of the Code are related specifically to the implementation of the rationale for the PUD as described in Section 10.235(B)(3)(a), and

b. the proposed modifications enhance the development as a whole resulting in a more creative and desirable project, and

c. the proposed modifications to the limitations, restrictions, and design standards of this Code will not materially impair the function, safety, or efficiency of the circulation system or the development as a whole.

3. The property is not subject to any of the following measures or if subject thereto the PUD can be approved under the standards and criteria thereunder:

a. Moratorium on Construction or Land Development pursuant to ORS 197.505 through 197.540, as amended.

b. Public Facilities Strategy pursuant to ORS 197.768 as amended.

c. Limited Service Area adopted as part of the Medford Comprehensive Plan.

4. The location, size, shape and character of all common elements in the PUD are appropriate for their intended use and function.

5. If the Preliminary PUD Plan includes uses not allowed in the underlying zone pursuant to Subsection 10.230(D)(7)(c), the applicant shall alternatively demonstrate that either: 1) demands for the Category "A" public facilities listed below are equivalent to or less than for one or more permitted uses listed for the underlying zone, or 2) the property can be supplied by the time of development with the

~~following Category "A" public facilities which can be supplied in sufficient condition and capacity to support development of the proposed use:~~

~~a. Public sanitary sewerage collection and treatment facilities.~~

~~b. Public domestic water distribution and treatment facilities.~~

~~c. Storm drainage facilities.~~

~~d. Public streets.~~

~~Determinations of compliance with this criterion shall be based upon standards of public facility adequacy as set forth in this Code and in goals and policies of the comprehensive plan which by their language and context function as approval criteria for comprehensive plan amendments, zone changes or new development. In instances where the Planning Commission determines that there is insufficient public facility capacity to support the development of a particular use, nothing in this criterion shall prevent the approval of early phases of a phased PUD which can be supplied with adequate public facilities.~~

~~6. If the Preliminary PUD Plan includes uses proposed under Subsection 10.230(D)(7)(c), approval of the PUD shall also be subject to compliance with the conditional use permit criteria in Section 10.248.~~

~~7. If approval of the PUD application includes the division of land or the approval of other concurrent development permits applications as authorized in Subsection 10.230(C), approval of the PUD shall also be subject to compliance with the substantive approval criteria in Article II for each of the additional development applications.~~

~~E. **Conditions**: If the Planning Commission approves a Preliminary PUD Plan, in addition to conditions authorized under Section 10.291, it may attach conditions to the approval which are determined to be reasonably necessary to ensure:~~

~~1. The Final PUD Plan will be substantially consistent with the approved Preliminary PUD Plan and specifications related thereto.~~

~~2. Development of the PUD will be consistent with the approved Final PUD Plan and specifications related thereto. To ensure satisfactory completion of a PUD in compliance with the approved plans, the Planning Commission may require the developer to enter into an agreement with the City as specified under Section 10.296.~~

~~3. The PUD will comply with the Comprehensive Plan, the Medford Municipal Code and all provisions of this Code except the specific provisions for which there are approved modifications.~~

~~4. There are appropriate safeguards to protect the public health, safety and general welfare.~~

~~5. There will be ongoing compliance with the standards and criteria in this Section.~~

~~6. To guarantee that streets, public facilities and utilities can be appropriately extended from one PUD phase to each successive future phase in accordance with the approved Preliminary PUD Plan, the City may require the conveyance of easements or other assurances.~~

~~F. **Revised Plans**: In instances where approval conditions result in substantial, complex or unpredictable changes to a proposed Preliminary PUD Plan, the Planning Commission, as a condition of Preliminary PUD Plan approval, may require an applicant to incorporate the changes into a revised~~

~~Preliminary PUD Plan. When required, the revised plans shall be approved by the Planning Commission and when approved, the revised plans shall become the approved Preliminary PUD Plan and any conditions satisfied by the revised plans shall be stricken or appropriately altered.~~

~~G. **Postponed Preliminary PUD Plan Approval for Building Architecture**: When the approval of architectural plans for buildings in the PUD has been postponed under Subsection 10.235(B)(2)(c), no Final PUD Plan shall be approved until the architecture of buildings has~~

~~been approved by the Planning Commission, or by the Site Plan and Architectural Commission pursuant to MLDC 10.230(G), and the Final Order for such approval has been appended to the earlier approval of the Preliminary PUD Plan.~~

~~H. **Engineering Construction Plans**: Engineering construction plans, profiles, details and specifications for all public facility and utility improvements shall be prepared by a qualified engineer registered in Oregon. The engineering plans shall be approved by the City before the start of construction. Unless specifically authorized by the Planning Commission in the Preliminary PUD Plan approval, all public facilities and utilities shall be designed and constructed in accordance with the standards and procedures of the City or other public entity to which ownership will be conveyed. The procedures for engineering design, plan approval and inspection shall in all respects be the same as for land divisions under this Code.~~

~~10.236 [Repealed, Sec. 6, Ord. No. 8393, June 19, 1997.]~~

~~10.237 [Repealed, Sec. 7, Ord. No. 8393, June 19, 1997.]~~

~~10.238 [Repealed, Sec. 8, Ord. No. 8393, June 19, 1997.]~~

~~10.239 [Repealed, Sec. 9, Ord. No. 8393, June 19, 1997.]~~

~~10.240 **Final PUD Plan - Application Procedures.**~~

~~A. **Application for a Final PUD Plan**: Application for a Final PUD Plan shall be on forms supplied by the City. The Final PUD Plan shall contain in final form all information and materials required by Subsection 10.235(B) unless certain items are or have been waived by the Planning Director as therein provided. However, there shall be no burden to demonstrate compliance with the criteria in Subsection 10.235(D). As appropriate, the Final PUD Plan shall incorporate all conditions imposed in the Preliminary PUD Plan approval. The application for a Final PUD Plan shall include a written narrative explaining how the Final PUD Plan complies with 10.240(G), Approval Criteria for Final PUD Plan, including compliance with the conditions of approval.~~

~~B. **Time Limit for Preliminary PUD Plan Approval**: Preliminary PUD Plan approval shall be valid for three (3) years and may not be extended. The three-year period shall be the date the Final Order approving the Preliminary PUD Plan was signed by the Planning Commission Chairperson. If a Preliminary PUD Plan is appealed, the three-year period shall begin on the date on which all appeals were resolved, including the resolution of all issues on remand. Within the three-year time period, an application for a Final PUD Plan must be filed for the entire site or for the first phase if the PUD has been approved for phased development.~~

~~C. **Phased PUD**: The Final PUD Plan may be submitted for the entire project or for each phase consistent with the approved Preliminary PUD Plan. If a Preliminary PUD Plan was not approved as a phased project, nothing in this Subsection shall prevent the Planning Director from approving a Final PUD Plan in phases provided that the Planning Director approves a phasing plan pursuant to Subsections 10.235(B)(3)(c) and 10.230(E)(4) as part of the Final PUD Plan approval, and provided further that the phasing plan ensure that essential services such as roads, fire access, storm drain, and sewer are available to serve each successive phase. After Final PUD Plan approval for the first phase, Final PUD Plans must be filed with the City for any subsequent phases.~~

~~D. **Time Limit Between Phases**: After Final PUD Plan approval for the first phase of a PUD having approved multiple phases, and for each successive phase thereafter, no more than five (5) years shall lapse between the approval of phases. If more than five (5) years pass between the Final PUD Plan approval of any two (2) PUD phases after the first phase, the Planning Commission may, without the consent of the owners of the PUD, initiate action to terminate undeveloped portions of the PUD under Subsection 10.245(B).~~

~~E. **Binding Effect; Previously Approved PUDs**: A PUD Plan approval shall run with the land and shall be binding upon all successors in interest in all land within the whole PUD. It is further provided that a Preliminary PUD Plan approval shall remain in full force and effect unless the approval expires or is terminated by action of the City pursuant to Subsection 10.245(B). Preliminary plans submitted prior to the adoption date of this ordinance, and final plans resulting from those preliminary plans, are subject to the regulations for PUDs in effect at the time the preliminary plan application was submitted.~~

~~F. **Final Plat for Land Division**: Application for the approval of a Final PUD Plan may occur before or concurrent with the approval of a final plat for a land division. However, no building permits shall be issued by the City and no buildings intended for human occupancy shall be constructed and no lot shall be sold until the Final PUD Plan has been approved by the Planning Director.~~

~~G. **Approval Criteria for Final PUD Plan**: A Final PUD Plan shall be approved by the Planning Director if the Director concludes that compliance exists with each of the following criteria:~~

~~1. Provisions for the establishment and maintenance of elements to be held in common ownership, if any, have or will comply with the standards in Subsection 10.230(E).~~

~~2. The Final PUD Plan is substantially consistent with the Preliminary PUD Plan and with any and all conditions imposed by the Planning Commission which were attached to the approval of the Preliminary PUD Plan.~~

~~The Planning Director in his/her discretion may forward a Final PUD Plan to the Planning Commission for written clarification regarding whether the Final PUD Plan is substantially consistent with the Preliminary PUD Plan. When forwarded by the Planning Director, the Planning Commission shall have authority to review the PUD plans and advise the Planning Director.~~

~~Modification of a phasing plan shall be considered substantially consistent with the Preliminary PUD Plan unless the revised phasing plan affects the provision of essential services such as public streets, sewer or storm drain to serve the successive phases.~~

~~A Final PUD Plan shall be found to be inconsistent with the Preliminary PUD Plan when any of the following are found to apply. If such inconsistencies are identified, an application for revision to the Preliminary PUD Plan shall be required:~~

a. The exterior boundaries of the PUD have changed except for slight deviations which result from the resolution of boundary errors or inconsistencies discovered when the PUD property was surveyed,
b. The number of housing units has increased,
c. The number of housing units has decreased by more than five percent (5%),
d. Modifications to the provisions of this Code have been included which were not approved as part of the Preliminary PUD Plan under Section 10.230(D).

10.241 [Repealed, Sec. 11, Ord. No. 8393, June 19, 1997.] [Replaced May 17, 2007].

Action and Decision Time; Appeal Rights; Final PUD Plan.

A. Upon submittal of the Final PUD Plan application to the Planning Director, the date of receipt shall be indicated on each copy of the materials submitted. Within thirty (30) days of receipt, the Planning Director shall determine whether the application as submitted, along with the required information, is complete as per this chapter. If the Planning Director fails to provide notice to the applicant in writing within thirty (30) days of receipt, the application shall be deemed complete. For purposes of this section, the date of notice to the applicant shall be the date of mailing.

B. If it is determined that the application is incomplete or otherwise does not conform to the provisions of this chapter, the Planning Director shall notify the applicant in writing to submit the missing material. The application shall be deemed complete upon receipt of (a) all of the missing information; (b) some of the missing information and written notice from the applicant that no other information will be provided; or (c) written notice from the applicant that none of the missing information will be provided.

C. Within twenty-five (25) working days after an application is deemed complete, the Planning Director shall approve or disapprove the Final PUD Plan and acknowledge compliance with all conditions of the Preliminary PUD Plan. If the Final PUD Plan is not substantially consistent with the Preliminary PUD Plan and all conditions thereto, the Planning Director may disapprove the Final PUD Plan, and require the applicant to apply for a revision to the Preliminary PUD Plan. Upon disapproval of any Final PUD Plan, the Planning Director shall return the Final PUD Plan to the applicant together with a final order of denial setting forth the reasons for such denial and advising the applicant of the applicant's appeal rights pursuant to Section 10.241(E).

D. Upon approval by the Planning Director, the Planning Director shall prepare and sign a final order of approval.

E. Within fourteen (14) days of the date of the final order for denial, an applicant may submit a written notice of appeal to the Planning Department. The notice of appeal shall be signed by the appellant or his agent and shall contain:

(1) An identification of the decision sought to be reviewed, including the date of decision; and

(2) A statement of the specific grounds upon which the appellant relies as a basis for appeal. Within thirty (30) days of the Planning Department receiving the notice of appeal, the Planning Department shall set the appeal as a written communication before the Planning Commission. The Planning Commission, on appeal, shall review

~~the application for Final PUD Plan approval de novo, pursuant to the provisions of Section 10.240(G) and shall approve or deny said application. Appellant shall not have the right to a public hearing on appeal. The decision of the Planning Commission upon appeal is final.~~

~~10.242 [Repealed, Sec. 12, Ord. No. 8393, June 19, 1997.]~~

~~10.243 [Repealed, Sec. 13, Ord. No. 8393, June 19, 1997.]~~

~~10.244 [Repealed, Sec. 14, Ord. No. 8393, June 19, 1997.]~~

~~10.245 **Revision or Termination of a PUD**.~~

~~A. **Revision of a Preliminary or Final PUD Plan**: The expansion or modification of a PUD approved under earlier PUD ordinances of the City or the revision of a Preliminary or Final PUD Plan shall follow the same procedures required for initial approval of a Preliminary PUD Plan in this Section, provided:~~

~~1. **Applicant for Revision; Filing Materials; Procedures**: An application to revise an approved PUD Plan shall be on forms supplied by the City. The application form shall bear the signature of the owner(s) who control a majority interest in more than fifty percent (50%) of the vacant land covered by the approved PUD and who are also the owner(s) of land and improvements within the PUD which constitute more than fifty percent (50%) of the total assessed value of vacant portion of the PUD. For changes deemed by the Planning Director to be minor but not de minimis, the Planning Director shall exercise appropriate discretion under Section 10.235(B) to limit or waive the submittal of filing materials deemed to be excessive, repetitive or unnecessary based upon the scope and nature of the proposed PUD revisions. PUD revisions shall follow the same procedures used for initial approval of a Preliminary PUD Plan.~~

~~2. **Consolidated Procedure**: At the discretion of the Planning Director, revisions to an approved PUD Plan may be consolidated into a single procedure, the effect of which will be the approval of both a Preliminary PUD Plan and Final PUD Plan by the Planning Commission.~~

~~3. **Burden of Proof; Criteria for Revisions**: The burden of proof and supporting findings of fact and conclusions of law for the criteria in Subsections 10.235(D) or 10.240(G), as applicable, shall be strictly limited to the specific nature and magnitude of the proposed revision. However, it is further provided that the design and development aspects of the whole PUD may be relied upon in reaching findings of fact and conclusions of law for the criterion at Subsection 10.235(D)(5). It is further provided that before the Planning Commission can approve a PUD Plan revision, it must determine that the proposed revision is compatible with existing developed portions of the whole PUD.~~

~~4. **De minimis Revisions**: Notwithstanding Subsection 10.230(G), the Planning Director may approve revisions to an approved Preliminary or Final PUD Plan that he/she determines are de minimis. Proposed revisions shall be considered de minimis if the Planning Director determines the changes to be slight and inconsequential and will not violate any substantive provision of this Code. The Planning Director's written approval of a de minimis revision(s) shall be appended to the Final Order of the Planning Commission or Final Approval of the Planning Director of the Final PUD Plan. Revisions that are de minimis shall not require public notice, public hearing or an opportunity to~~

provide written testimony. However, if, while the record is open, any party requests in writing to be notified of future de minimis revisions of a Preliminary PUD Plan, then all de minimis revisions of a Preliminary PUD Plan shall be subject to review as a Class 'C' Procedure or such other procedure as may be permitted by law.

B. **Termination of a PUD**: A PUD may be terminated by action of the Planning Commission subject to the following procedures:

1. If substantial development of the PUD has not occurred or if no lots or units therein have been sold, the PUD may be terminated as provided in this Subsection 10.245(B)(1). Termination proceedings may be initiated by filing with the City a written petition signed by the owner(s) who control a majority interest in more than fifty percent (50%) of the land covered by the approved PUD and which also constitutes more than fifty percent (50%) of the total assessed value of land and improvements of the PUD. Upon receipt of a valid petition, the Planning Commission shall consider the matter in open meeting and shall declare the PUD terminated. The Planning Commission's termination of a PUD shall be evidenced by a Final Order declaring the same. When the Final Order is signed the PUD shall be terminated and previous PUD Plan approvals shall be considered void and of no further effect. Termination of a PUD shall not affect other land use actions taken by the City which concern the PUD property.

2. If substantial development of the PUD has occurred or if lots or units within the PUD have been sold, the PUD may be terminated as provided in this Subsection 10.245(B)(2). Termination proceedings may be initiated by filing with the City a written petition signed by the owner(s) who control a majority interest in more than fifty percent (50%) of the vacant land covered by the approved PUD which also constitutes more than fifty percent (50%) of the total assessed value of vacant land within the PUD. If there is an association of owners established within the boundaries of the whole PUD, the owner(s) petitioning for termination of the PUD shall also supply the City with the correct mailing address of the association which shall be notified along with others entitled to notice under this Subsection. Upon receipt of the petition, the Planning Commission shall give public notice of the proposed PUD termination and conduct a public hearing on the matter. Notice and public hearing shall be subject to Class "C" Procedure. The Planning Commission shall declare the PUD terminated if it concludes that the termination will not produce greater than minimal harm to the public health, safety or general welfare. The Planning Commission's termination of a PUD shall be evidenced by a Final Order declaring the same and after the Final Order is signed the PUD shall be terminated and previous PUD Plan approvals shall be considered void and of no further effect. Termination of a PUD shall not affect other land use actions taken by the City which concern the PUD property.

10.246 **Application, Conditional Use Permit.**

A development classified as a conditional use shall be given special review via this process in order to assure its appropriateness for the site and allow for adjustment to be made to assure its compatibility with adjacent land uses.

10.247 **Application Form.**

An application for a conditional use permit shall contain the following:

(1) Vicinity map drawn at a scale of 1" = 1,000' identifying the location of the proposed site.

(2) Assessor's map with subject site identified.

~~(3) Site plan drawn to scale on an eighteen inch by twenty-four inch (18" x 24") sheet. Site plan shall identify all existing and proposed buildings, parking, drives, vegetation or landscaping, adjacent development.~~
~~(4) Property owner's (and agent's) names, addresses, and map and tax lot numbers within 200 feet of the subject site, typed on mailing labels.~~
~~(5) Findings prepared by the applicant or his/her representative addressing the criteria set forth in Section 10.248, Conditional Use Permit Criteria.~~
~~(6) A conceptual stormwater facility plan with associated landscape plan, if applicable, pursuant to Sections 10.486(B) or 10.729(B).~~
~~(7) A Landscape Plan, meeting the specifications and requirements in Section 10.780, if applicable.~~

~~10.247a **CUPs Exempt from Site Plan and Architectural Commission Review.**~~
~~CUPs approved under this Section shall be exempt and there shall be no requirement to apply separately for Site Plan and Architectural Commission review or to demonstrate compliance with the criteria in Section 10.290. However, the Planning Director in his/her discretion may forward a CUP proposal or proposed revisions thereto to the Site Plan and Architectural Commission for review. When forwarded by the Planning Director, the Site Plan and Architectural Commission shall have authority to review the CUP plans and make recommendations to the Planning Commission.~~
~~(1) Delegation of Authority: The Planning Commission may delegate authority to the Site Plan and Architectural Commission or to the Planning Director to approve in its name the plans for buildings or any other element of a CUP or revisions thereto after the Planning Commission has approved the CUP. The authority delegated by the Planning Commission under this Subsection shall be delimited in conditions attached to the approval. Notwithstanding any other provision of this Code, the approval of delegated matters shall be subject to a Class "C" Procedure as set forth in Article II.~~

~~10.248 **Conditional Use Permit Criteria**.~~
~~The approving authority (Planning Commission) must determine that the development proposal complies with either of the following criteria before approval can be granted.~~
~~(1) The development proposal will cause no significant adverse impact on the livability, value, or appropriate development of abutting property, or the surrounding area when compared to the impacts of permitted development that is not classified as conditional.~~
~~(2) The development proposal is in the public interest, and although the development proposal may cause some adverse impacts, conditions have been imposed by the approving authority (Planning Commission) to produce a balance between the conflicting interests.~~
~~In authorizing a conditional use permit the approving authority (Planning Commission) may impose any of the following conditions:~~
~~(1) Limit the manner in which the use is conducted, including restricting the time an activity may take place, and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.~~
~~(2) Establish a special yard or other open space or lot area or dimension requirement.~~
~~(3) Limit the height, size, or location of a building or other structure.~~
~~(4) Designate the size, number, location, or nature of vehicle access points.~~

~~(5) Increase the amount of street dedication, roadway width, or improvements within the street right-of-way.~~
~~(6) Designate the size, location, screening, drainage, surfacing, or other improvement of parking or truck loading area.~~
~~(7) Limit or otherwise designate the number, size, location, height, or lighting of signs.~~
~~(8) Limit the location and intensity of outdoor lighting, or require its shielding.~~
~~(9) Require screening, landscaping, or other facilities to protect adjacent or nearby property, and designate standards for installation or maintenance thereof.~~
~~(10) Designate the size, height, location, or materials for a fence.~~
~~(11) Protect existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources.~~

~~10.249 **Conditional Use Permits, Mitigation of Impacts**.~~
~~Development requiring the mitigation of impacts under Section 10.248(2), Conditional Use Permit Criteria, must do one (1) of the following:~~
~~(1) Preserve unique assets of interest to the community.~~
~~(2) Provide a public facility or public nonprofit service to the immediate area or community.~~
~~(3) Otherwise provide a use or improvement that is consistent with the overall needs of the community in a location that is reasonably suitable for its purpose.~~

~~10.250 **Modifications and Expiration of a Conditional Use Permit**.~~
~~A. Modifications.~~
~~1. Major Modification.~~
~~Any modification that is not a minor modification is a major modification. A request to substantially modify a conditional use permit shall be processed in the same manner as a request for a conditional use permit in 10.246. The Planning Director may waive submittal requirements deemed unnecessary or inapplicable to the proposal.~~
~~2. Minor Modification.~~
~~A minor modification to an approved permit may be approved by the Planning Director provided the Planning Director determines that the modification does not constitute a major modification. The purpose of the determination is to assure that a modification does not significantly affect other property or uses; will not cause any deterioration or loss of any natural feature, process or open space; nor significantly affect any public facility. A minor modification shall meet all of the following standards:~~
~~(a) Meets all requirements of the Land Development Code and other legal requirements.~~
~~(b) The amount of open space and landscaping is not decreased.~~
~~(c) No relocation of vehicle access points and parking areas where the change will generate an impact that would adversely affect off-site or on-site traffic circulation.~~
~~(d) No reduction or elimination of any project amenities such as recreational facilities, significant natural resources (streams, creeks, landform), fencing and other screening material.~~

~~(e) Modifications to facilities and utilities conform to the adopted facility plans.~~
~~(f) Modifications to any other components of the plan conform to standards of the Land Development Code.~~
~~(g) No modification to any condition of approval.~~
~~B. Expiration: Within one (1) year following the final order date, substantial construction on the development shall be completed, or if a use, the use shall have commenced operation. If a request for an extension is filed with the planning department within one (1) year from the approval date of the final order, the approving authority (Planning Commission), may, upon written request by the applicant, grant a single extension of the expiration date for a period not to exceed one (1) year from the expiration date of the final order. An extension shall be based on findings that the facts upon which the conditional use permit was first approved have not changed to an extent sufficient to warrant refiling of the conditional use permit.~~

~~10.251 **Application, Exception**.~~
~~The purpose of Sections 10.251 to 10.253 is to empower the approving authority to vary or adapt the strict application of the public improvement and site development standards as contained in Article III, Sections 10.349 through 10.361, and 10.370 through 10.385, as well as Articles IV and V of this chapter. Exceptions may be appropriate for reasons of exceptional narrowness or shape of a parcel; for reasons of exceptional topographic conditions, extraordinary and exceptional building restrictions on a piece of property; or if strict applications of the public improvement or site development standards in the above-referenced Articles would result in peculiar, exceptional, and undue hardship on the owner.~~

~~10.252 **Application Form**.~~
~~An application for an exception shall be made by the owner of the property for which the exception is requested to the approving authority for the plan authorization involving the exception. An exception application shall include the following:~~
~~(1) A list of the specific standard(s) for which an exception is being requested and a description of the degree of exception(s) being requested, including findings prepared by the applicant or applicant's representative addressing the criteria as set forth in Section 10.253, Criteria for an Exception.~~
~~(2) Vicinity map drawn at a scale of 1" = 1000' identifying the location of the site of the variance.~~
~~(3) Assessor's map with the subject site identified.~~
~~(4) Site plan showing in detail the circumstance(s) which justifies each exception.~~

~~10.253 **Criteria for an Exception**.~~
~~No exception, in the strict application of the provisions of this chapter, shall be granted by the approving authority having jurisdiction over the plan authorization unless it finds that all of the following criteria and standards are satisfied. The power to authorize an exception from the terms of this code shall be sparingly exercised. Findings must indicate that:~~
~~(1) The granting of the exception shall be in harmony with the general purpose and intent of the regulations imposed by this code for the zoning district in which the exception request is located, and shall not be injurious to the general area or otherwise detrimental to the health, safety, and general~~

welfare or adjacent natural resources. The approving authority shall have the authority to impose conditions to assure that this criterion is met.
(2) The granting of an exception will not permit the establishment of a use which is not permitted in the zoning district within which the exception is located.
(3) There are unique or unusual circumstances which apply to this site which do not typically apply elsewhere in the City, and that the strict application of the standard(s) for which an exception is being requested would result in peculiar, exceptional, and undue hardship on the owner.
(4) The need for the exception is not the result of an illegal act nor can it be established on this basis by one who purchases the land or building with or without knowledge of the standards of this code. It must result from the application of this chapter, and it must be suffered directly by the property in question. It is not sufficient proof in granting an exception to show that greater profit would result.

10.254 **Expiration of an Exception.**
Within one (1) year following the final order date, substantial construction on the development shall be completed, or if a use, the use shall have commenced operation. If a request for an

extension is filed with the Planning Department within one (1) year from the approval date of the final order, the approving authority may, upon written request by the applicant, grant a single extension of the expiration date for a period not to exceed one (1) year from the expiration date of the final order. An extension shall be based on findings that the facts upon which the exception was first approved have not changed to an extent sufficient to warrant refiling of the exception. An exception directly related to another plan authorization, such as an exception which was filed concurrently with the other plan authorization, and/or an exception which is integrally intertwined with and necessary to the development or use authorized by the other plan authorization, shall expire when the related plan authorization expires.

10.255 [Repealed, Sec. 7, Ord. No. 2012-137, Sept. 6. 2012.]

10.256 **Historic Review.**
The Historic Review process is hereby established to assure compliance with the Historic Preservation Overlay, Sections 10.401 through 10.407, the *Oregon Administrative Rules, Oregon Revised Statutes,* and to achieve consistency with *The Secretary of the Interior's Standards for the Treatment of Historic Properties.*
(1) An application for Historic Review is required in the following instances:
(a) To request addition to or removal from the Historic Preservation Overlay for any area, parcel, or portion thereof. The property owner, Planning Director, Landmarks and Historic Preservation Commission, or City Council may request initiation of proceedings to change the extent of the Historic Preservation Overlay.
(b) For proposed exterior alteration and/or new construction within an Historic Preservation Overlay.
(c) Prior to application for a demolition or relocation permit for all or part of a building, structure, object or site in an Historic Preservation Overlay.

~~(2) Historic Review of proposed exterior alteration and/or new construction is required irrespective of whether a building permit or a development permit is required. Historic Review final actions shall be taken prior to application for a building permit or proceeding with work that does not require a permit.~~

~~10.257 **Historic Review, Application Content.**~~
~~An application for Historic Review shall include the information and materials listed below:~~
~~(1) Application form.~~
~~(2) All information requested on the application form.~~
~~(3) Findings of fact demonstrating compliance with the approval criteria in Section 10.258, Historic Review, Approval Criteria.~~
~~(4) Appropriate fee.~~
~~In addition to that listed, the City may require the applicant to submit additional information deemed necessary to take action on an application in accordance with this Code and applicable State laws.~~

~~10.258 **Historic Review, Approval Criteria.**~~
~~Approval of Historic Review applications shall require findings that the proposal is consistent with the indicated approval criteria:~~
~~(1) Changes to the Historic Preservation Overlay. The extent of the Historic Preservation Overlay may be changed to include an historic resource other than those specified in Section 10.402 (1), (2), and (3) through a Class 'C' Historic Review process if findings can be made substantiating that the proposal is consistent with the criteria below:~~
~~(a) It has been demonstrated that the designation of the historic resource is consistent with the purposes of the Historic Preservation Overlay in Section 10.401; and,~~
~~(b) It has been demonstrated that the designation of the historic resource is appropriate, considering the historic value of the resource and any other conflicting values, and will not result in a loss of substantial beneficial use of the property; and,~~
~~(c) It has been demonstrated that the historic resource has a significance rank of "primary" or "secondary" on an historical survey conducted in conformance with the standards of the Oregon State Historic Preservation Office; or, the historic value of the resource has sufficient local significance to merit designation as a Local Historic Resource.~~
~~(2) Exterior Alteration and/or New Construction. The approving authority (Landmarks and Historic Preservation Commission) shall approve an Historic Review application for exterior alteration and/or new construction within an Historic Preservation Overlay after consideration during a public hearing, if findings can be made substantiating that the proposal is consistent, or can be made consistent through the imposition of conditions, with all of the following criteria:~~
~~(a) It has been demonstrated that the proposed exterior alteration and/or new construction is consistent with the purposes of the Historic Preservation Overlay in Section 10.401; and,~~
~~(b) It has been demonstrated that the proposed exterior alteration and/or new construction will preserve the historic character, form, and integrity of the historic resource; and,~~

~~(c) It has been demonstrated that the proposed exterior alteration and/or new construction is consistent with the most current version of the *The Secretary of the Interior's Standards for the Treatment of Historic Properties*; and,~~

~~(d) It has been demonstrated that the proposed exterior alteration and/or new construction is compatible with the historical and architectural style of the historic resource, of adjacent historic properties, and of the historic district within which it is located, if any. Assessment of compatibility may include consideration of the design, arrangement, proportion, detail, scale, color, texture, and materials, and the way new features will be differentiated from the old; and,~~

~~(e) It has been demonstrated that the proposed exterior alteration and/or new construction is consistent with all other applicable provisions of this Code.~~

~~(3) Minor Historic Review. Minor Historic Review of certain exterior alterations may be conducted by the Planning Director, according to standards adopted by the Landmarks and Historic Preservation Commission. The Planning Director shall approve a Minor Historic Review application if the proposal conforms to approval criteria adopted by the Landmarks and Historic Preservation Commission. These approval criteria are available at the Planning Department.~~

~~Minor Historic Review shall be limited to the review of:~~

~~A. Changes in roofing materials and exterior paint colors in residentially-zoned Historic Preservation Overlay Districts as per the *Paint and Roofing Approval Criteria* adopted in December 2007;~~

~~B. Changes in exterior paint colors in commercially-zoned Historic Preservation Overlay Districts, when new paint colors are chosen from the adopted color palette;~~

~~C. Changes in awning fabric materials without a change in the shape of the awning frame, in Historic Preservation Overlay Districts, if the new fabric is either solid or striped and the fabric colors are chosen from the adopted color palette;~~

~~D. Change of sign face/copy as defined in Section 10.1010.~~

~~(4) Demolition and Relocation. The Landmarks and Historic Preservation Commission shall temporarily delay issuance of a demolition or relocation permit for all or part of a building, structure, object or site in an Historic Preservation Overlay, unless, during a public hearing:~~

~~(a) It is demonstrated that a temporary suspension of the demolition or relocation permit would not aid in avoiding the demolition or relocation of the historic resource; in informing the owner of the benefits of renovation; nor in pursuing public or private acquisition or restoration; and,~~

~~(b) In the case of a demolition, it is demonstrated that there is no practical opportunity to relocate the historic resource to another site, nor to salvage historic or architectural elements; and,~~

~~(c) It is demonstrated that the proposed demolition or relocation would not adversely affect the protection, enhancement, perpetuation, improvement, or use of any historic district or other historic resource; and,~~

~~(d) It is demonstrated that the benefits of protecting the historic resource no longer outweigh the benefits of allowing the demolition or relocation.~~

~~(5) Temporary Suspension of a Demolition or Relocation Permit.~~

~~(a) In the case of temporary suspension of a demolition or relocation permit by the Landmarks and Historic Preservation Commission, issuance of the permit shall be delayed for a period of 120 days from the date of application for Historic Review or for the demolition or relocation permit, whichever is earlier.~~

~~(b) The Landmarks and Historic Preservation Commission may invoke an extension of the suspension period for an additional period not exceeding ninety (90) days if it determines during a subsequent public hearing that there is a program underway that could result in public or private acquisition, or preservation or restoration of such building, structure, object, or site, and that there are reasonable grounds to believe that such a program will be successful.~~

~~(c) During the period of suspension, no permit shall be issued for demolition or relocation, nor shall any person demolish or move the building, structure, object, or site.~~

~~(d) At the end of the suspension period, if all such programs have been unsuccessful, the Medford Building Safety Director shall issue a demolition or relocation permit as long as the application otherwise complies with all other city ordinances.~~

~~10.259 **Historic Review, Conditions of Approval.**~~

~~In approving an Historic Review application, the Landmarks and Historic Preservation Commission may impose conditions necessary to ensure compliance with the standards of this Code and the criteria in Section 10.258, and to otherwise protect the health, safety and general welfare of the surrounding area and community as a whole. These conditions may include, but are not limited to the following:~~

~~(1) Limiting the number, height, location and size of signs;~~

~~(2) Requiring the installation of appropriate public facilities and services and dedication of land to accommodate public facilities when needed;~~

~~(3) Limiting the visibility of mechanical equipment through screening or other appropriate measures;~~

~~(4) Requiring the installation or modification of irrigated landscaping, walls, fences or other methods of screening and buffering;~~

~~(5) Limiting or altering the location, height, bulk, configuration or setback of buildings, structures and improvements;~~

~~(6) Requiring the improvement of an existing, dedicated alley which will be used for ingress or egress for a development;~~

~~(7) Controlling the number and location of parking and loading facilities, points of ingress and egress and providing for the internal circulation of motorized vehicles, bicycles, public transit and pedestrians;~~

~~(8) Requiring the retention of existing natural features;~~

~~(9) Modifying architectural design elements including exterior construction materials and their colors, roofline, fenestration and restricting openings in the exterior walls of structures;~~

~~(10) Restricting the height, directional orientation and intensity of exterior lighting.~~

~~10.260 **Historic Review, Appeal.**~~
~~Final Historic Review decisions by the Landmarks and Historic Preservation Commission may be appealed to the City Council pursuant to Sections 10.051 through 10.056. Minor Historic Review decisions by the Planning Director may be appealed to the Landmarks and Historic Preservation Commission.~~

~~10.261 **Historic Review Approval, Expiration.**~~
~~A. Approval of a Historic Review application shall take effect on the date the final order for approval is signed, unless appealed, and shall expire two (2) years from the effective date. Within two (2) years following the effective date, substantial construction must have occurred or an extension of the approval shall be necessary. If a request for an extension of a Historic Review application approval is filed with the Planning Department within two (2) years from the effective date, the Landmarks and Historic Preservation Commission may grant an extension not to exceed one (1) additional year if based upon findings that the facts upon which the Historic Review application was first approved have not changed to an extent sufficient to warrant re-filing of the application.~~
~~B. When it is the developer's intent to complete an approved project in phases, the approving authority may authorize a time schedule for the issuance of building permits for a period exceeding two (2) years, but in no case shall the total time period for the issuance of building permits be greater than five (5) years without having to re-submit a new application for Historic Review. Phases developed after the passage of two (2) years from approval of the Historic Review application shall be required to modify the plans if necessary to avoid conflicts with changes in the *Comprehensive Plan* or this chapter.~~

~~10.262 **Major Revisions or Amendments to Historic Review Approval.**~~
~~Major revisions or amendments to plans approved through Historic Review shall require re-application.~~

~~10.263 **Issuance of Building Permits, Consistent with Historic Review Approval.**~~
~~A. All applications for a building permit, wherein Historic Review has been required, shall be consistent with the plans as approved and all conditions of approval imposed thereon and shall be accompanied by an accurate and correct plan.~~
~~B. Security for Completion of Public Improvements: If all required public improvements, as specified in the conditions of Historic Review approval, have not been satisfactorily completed before issuance of a building permit, the developer shall enter into a written agreement (provided by the City) to secure full and faithful performance thereof, according to Sections 10.666 and 10.667(A) respectively.~~

~~10.264 [Repealed, Sec. 51, Ord. No. 7659, June 2, 1994.]~~

~~10.264-1 [Repealed, Sec. 51, Ord. No. 7659, June 2, 1994.]~~

~~10.265 **Application, Land Divisions.**~~

~~The partitioning or subdividing of land shall be subject to the application requirements as herein set forth and shall include both the tentative and final platting requirements. The approval of a tentative plat is a procedural Class "C" quasi-judicial decision, with the Planning Commission being the approving authority. Final plat approval is a ministerial action which relies on compliance with the requirements established at the time of tentative plat approval, and on the requirements set forth in Code Sections 10.273, Final Plat Approval Required, through 10.280, Action and Decision Time: Final Plat.~~

~~10.266 **Application for Tentative Plat**.~~
~~Twenty-five (25) copies of the tentative plat for each proposed land division shall be filed with the Planning Department. Additional copies may be requested for the transmittal to the designated official of any affected local agency which has requested the same as provided in ORS 92.044.~~

~~10.267 **Form of Tentative Plat and Accompanying Data**.~~
~~All tentative plats shall be clearly and legibly drawn on tracing paper of good quality and prepared by a civil engineer or land surveyor registered in the State of Oregon. It shall have a dimension of not less than eighteen (18) inches by twenty-four (24) inches, and the scale shall be as follows: One (1) inch shall be equal to fifty (50) feet for twenty (20) acres or less, and one (1) inch shall be equal to one hundred (100) feet for all divisions of land over twenty (20) acres in area. The tentative plat shall contain the following data:~~
~~(1) Proposed land division name (if a subdivision), date, north arrow, scale, total acreage, and sufficient legal information to define the boundaries of the proposed development.~~
~~(2) A key map located in the upper right hand corner identifying the location of the development relative to section and township lines and to adjacent property and major physical features such as streets, railroads, and waterways.~~
~~(3) Names of abutting property owners on all sides, names and widths of adjoining rights-of-way, topographic features and all public improvements on adjacent property located within 200 feet of the project boundary.~~
~~(4) Name and address of the owner(s) of record, developer, and engineer or land surveyor registered in the State of Oregon who prepared the tentative plat.~~
~~(5) Locations, names, widths, approximate intersection angle, centerline radii, center line slopes, and improvement section of all streets, highways and other ways in the proposed project.~~
~~(6) Number of lots, dimensions of lots (to the nearest foot), including frontage, width, and area (to the nearest fifty [50] square feet).~~
~~(7) Location and height of all existing structures to remain on property and distance from proposed property lines.~~
~~(8) Location and character of all easements existing and proposed by the developer for drainage, sewage and public utilities.~~
~~(9) Five (5) foot topographic contours describing the area. Where the grade of any part of the proposed land division exceeds ten percent (10%), or where the development abuts existing developed lots, an overall conceptual grading plan shall be required showing features adjacent to the development within a reasonable distance therefrom which could affect said project.~~

~~Where a conceptual grading plan is required it shall show how runoff of surface water from individual lots will be achieved and the ultimate disposal of all development surface waters. All topographic information shall be based on city data.~~
~~(10) A conceptual stormwater facility plan with associated landscape plan, if applicable, pursuant to Sections 10.486(B) or 10.729(B).~~
~~(11) Location of all creeks, streams and other watercourses, showing top of existing bank and areas subject to inundation as shown on the latest Federal Flood Rate Insurance Maps.~~
~~(12) Existing wells and irrigation canals, active or abandoned, and proposed disposition.~~
~~(13) Public or common area proposed, if any.~~
~~(14) The approximate distance to, and location of, the nearest sanitary sewer main.~~
~~(15) Name of the irrigation district, if any, within which the project is located and whether it is currently being assessed.~~
~~(16) Name of the school district within which the project is located.~~

~~10.268 **Reports**.~~
~~Upon receipt of a tentative plat and necessary accompanying data, each referral agency shall make an investigation and submit a written report within ten (10) working days, and forward same to the Planning Department clearly specifying any recommended conditions for development approval.~~
~~(1) **City Departments, Affected Agencies and Utility Company Reports**. The Public Works Department, water commission, affected public utilities, school districts and other affected agencies having jurisdiction, shall report to the Planning Department as to any recommendations or provisions which in their determination are required for the approval of the development consistent with this code.~~
~~(2) **City Engineer's Report**. The City Engineer shall investigate and make a recommendation on the manner in which development is to be provided city services. The City Engineer shall appropriately condition the development to adequately provide for the drainage of surface water from the land constituting and surrounding the intended land division.~~
~~(3) **Fire Department/Water Commission**. The Fire Department/Water Commission shall investigate and make a recommendation concerning the number and placement of fire hydrants and other fire protection requirements for the proposed development.~~
~~(4) **Staff Report**. The Planning Department shall review the design and improvement of the proposed development in relation to the Comprehensive Plan, any applicable specific plans prescribed by law which affect the proposed development, and in relation to any and all applicable criteria and standards as set forth in this chapter. The staff report shall either summarize, or incorporate by reference, all departmental, affected agency, and utility reports received as specified herein, and shall itemize such conditions as it deems appropriate to be imposed by the approving agency if approval is to be recommended.~~

~~10.269 **Expiration of Tentative Plat approval**.~~
~~(1) Approval of a tentative plat application shall take effect on the date the final order for approval is signed, unless appealed, and shall expire two (2) years from the effective date unless the final plat has been approved by the Planning Director pursuant to Sections 10.276 - 10.280. If a request for an extension of a tentative plat application approval is filed with the Planning Department within two~~

~~(2) years from the date of the final order, the Planning Commission shall grant an extension not to exceed one (1) additional year. Extensions shall be based on findings that the facts upon which the tentative plat application was first approved have not changed to an extent sufficient to warrant re-filing of the application. All approvals made prior to the adoption of this ordinance shall expire one (1) year from the date of adoption of this ordinance, notwithstanding permitted extensions and previous phasing authorizations.~~

~~(2) When it is the developer's intent to record and develop a tentatively platted land division in phases, the approving authority may authorize a time schedule for platting the various phases in periods exceeding one (1) year, but in no case shall the total time period for platting all phases be greater than five (5) years without having to resubmit the tentative plan. Phases platted after the passage of one (1) year from approval of the tentative plat will be required to modify the tentative plat as necessary to avoid conflicts with changes in the Comprehensive Plan or this chapter.~~

~~10.270 **Land Division Criteria**.~~

~~The approving authority (Planning Commission) shall not approve any tentative plat unless it first finds that the proposed land division, together with the provisions for its design and improvement:~~

~~(1) Is consistent with the Comprehensive Plan, any other applicable specific plans thereto, including Neighborhood Circulation Plans, and all applicable design standards set forth in Article IV and V;~~

~~(2) Will not prevent development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this chapter;~~

~~(3) Bears a name that has been approved by the approving authority and does not use a word which is the same as, similar to, or pronounced the same as a word in the name of any other subdivision in the City of Medford; except for the words "town", "city", "place", "court", "addition", or similar words; unless the land platted is contiguous to and platted by the same applicant that platted the land division bearing that name; or unless the applicant files and records the consent of the party who platted the land division bearing that name and the block numbers continue those of the plat of the same name last filed;~~

~~(4) If it includes the creation of streets or alleys, that such streets or alleys are laid out to be consistent with existing and planned streets and alleys and with the plats of land divisions already approved for adjoining property, unless the approving authority determines it is in the public interest to modify the street pattern;~~

~~(5) If it has streets or alleys that are proposed to be held for private use, that they are distinguished from the public streets or alleys on the tentative plat, and reservations or restrictions relating to the private streets or alleys are set forth;~~

~~(6) Will not cause an unmitigated land use conflict between the land division and adjoining agricultural lands within the EFU (Exclusive Farm Use) zoning district.~~

~~10.273 **Final Plat Approval Required**. No person shall cause or permit the sale or development of any real property under his ownership or control, nor shall any development permit be issued for such development, until final approval therefor has been granted by the approving authority (Planning Director) in accord with this chapter, and an approved final plat has been recorded with the Jackson County Recorder. The requirements of this section shall not be applicable to any of the following which are exempt from such provisions:~~

~~(1) Where final plat approval for the identical lot or site has been previously obtained from the City within ten (10) years prior to the date of application for a building permit, in accord with such ordinance requiring plat approval which was in effect at that time, and such final plat is of record evidencing such plat approval;~~
~~(2) Developments made solely for the purpose of opening or widening a public street or alley, or those involving conveyance, transfer, access, sewer, water, or public utility, provided that no divisions or parcels of land are created other than those directly caused by such action.~~
~~(3) Developments made solely because of the acquisition of lands by government agencies for freeways, parks, public buildings, flood control channels, or other public purposes, or for the sale of minor remnant parcels by such agencies to adjacent property owners where such land involved in the sale is not designated in the City's Comprehensive Plan as a recreational facility. In connection with the sale of any such minor remnant parcel, the person acquiring the property shall consolidate the acquired remnant parcel with his existing contiguous ownership;~~
~~(4) Developments involving land dedicated for cemetery purposes; or~~
~~(5) Developments caused by a conveyance for the purpose of adding land to one parcel by deducting it from another contiguous parcel, where such does not reduce the area of the parcel from which such portion is taken below the minimum area, frontage, width or depth prescribed for the zoning district in which said parcel is located, nor reduce any of the required yard spaces surrounding any structure or use on such parcel below the minimum prescribed for such zoning district.~~

~~SUBMITTAL OF FINAL PLATS. (10.276 - 10.280)~~

~~10.276 **Final Plats, General.**~~
~~The form and content of a final plat shall be in accord with the provisions of ORS 92.050 through 92.080, and in addition shall comply with all the provisions of this code. Final plats not submitted in accord with this code shall not be considered for approval.~~

~~10.277 **Form of Final Plat and Data to Appear Thereon.**~~
~~Where identified by an "X", the final plat of subdivisions and partitions shall conform with the following provisions:~~

~~SUBD~~	~~PART~~	
~~X~~		~~1. **Title and subtitle of plat.** The title sheet shall contain the name as approved by the Planning Commission. Below the title sheet shall appear a subtitle giving a general location of the property being developed by reference to the plats which have previously been recorded. In case the property included within the subdivision lies wholly in the city of Medford, the following words shall appear below the title, "In the City of Medford".~~
~~X~~	~~X~~	~~2. **Distances and bearings.** Sufficient data to determine readily the bearing and length of every lot line, block line, and boundary line. Dimensions of lots shall be given as total dimensions, corner to corner and shall be shown in feet and hundredths of a~~

~~foot. The plat shall show the basis of bearings and lengths of straight lines and radii, and all arc lengths, central angle, or other data as necessary to define all curves within the subdivision.~~

~~X X 3. **Boundary references and monuments.** The plat shall show clearly what monuments (type and size) or other evidence is found on the ground to determine boundaries of the subdivision. The adjoining corners of all adjoining subdivisions shall be identified by lot and block number, and subdivision name. The plat shall show the location and description of monuments found or placed in making the survey for proper reference and data sufficient for relocation and retracing of any and all exterior boundary lines and lot and block lines. Whenever the city or county engineer has established the centerline of a street adjacent to or in the proposed subdivision, the data shall be shown on the plat.~~

~~**SUBD PART**~~

~~4. **Additional information.**~~

~~X X a. The plat shall note whether the subdivision or portion thereof are subject to periodic inundation by water as determined from the Federal Flood Insurance Rate Maps.~~

~~X X b. The centerlines and sidelines of all streets, and total width thereof, and the widths of each side of the centerline and widths of any portion of a street being dedicated, the width of existing dedications, and the widths of any railway, drainage channel, or other rights-of-way shall be shown.~~

~~X X c. The plat shall show all easements of record, or easements to be recorded, to which the lots will be subject. Such easements must be clearly labeled and identified if already of record, and record reference given. If any easement is not definitely located of record, a statement of such easement must appear on the plat. All easements other than for streets shall be denoted by fine broken lines and designated as to type. Easement widths and the lengths and bearings of the lines thereof, together with sufficient ties thereto, shall be set forth to definitely locate the easement with respect to the development.~~

~~X X d. City boundary lines which bound, adjoin or cross the development, shall be clearly designated and referenced.~~

~~X X e. Lot numbers shall begin with the number "1" and shall continue consecutively throughout the development with no omission or duplications, except that lot num-~~

~~bers in subsequent contiguous development units may expand the numbering sequence of the previous unit providing the commercial name of the development remains unchanged. Each block shall be shown on one (1) sheet when possible. Where adjoining blocks appear on separate sheets, the street adjoining both blocks shall be shown on both sheets, complete with centerline and property line data.~~
~~All letters and figures within the development shall be conspicuous and solid.~~

~~X X f. The plat shall particularly define and designate all lots and parcels, including those reserved for private purposes, all parcels and easements offered for dedication for any purpose, with all the dimensions, boundaries, and courses clearly shown and defined in each case. Ditto (" ") marks shall not be used.~~

~~X X g. All street names, including those designated by numbers, and including the words "Avenue", Boulevard", "Place", etc., shall be spelled out in full.~~

~~**SUBD PART**~~

~~X X h. The plat shall also show and delineate all other data that is or may be required by other provisions of this chapter or otherwise by law.~~

~~5. **Certificates on final plat.**~~

~~X a. Areas dedicated to public use shall be free and clear of all encumbrances, except public utility easements which the City Engineer determines will not interfere with the use contemplated by the dedication. All mortgages, trust deeds, and other liens shall be released as to public use areas.~~

~~b. Each final plat shall contain the requisite owner's certificate or dedication, release of liens, City Recorder's certificate, Surveyor's certificate, City Engineer's certificate, City Surveyor's certificate, County Recorder's certificate, and such other certificates as may hereafter be required by law. The form of each said certificate shall be prescribed by the City Attorney.~~

~~X X c. The owner's dedication statement shall include offers of dedication of all streets and other easements shown on the final plat intended for any public use, except those parcels of land which are intended for the exclusive use of the lot owners in the development, their licensees, visitors, tenants and employees, which private streets and other private easements shall be specifically designated as such on the plat.~~

~~X X d. The approving authority (Planning Director) certificate shall contain a statement that acknowledges compliance with all conditions of the development permit and recognition of same.~~

~~10.278 **Filing of Final Plat with City Engineer**.~~

~~Prior to filing a final plat with the Planning Department, the applicant shall:~~

~~(1) Cause the proposed land division to be accurately surveyed and a final plat to be prepared substantially in accord with the approved tentative plat;~~

~~(2) Cause a minimum of five (5) copies of the final plat, with any and all alterations and changes required thereto, to be filed with the City Engineer for his approval. At the time of filing of the final plat with the City Engineer, the developer shall also file concurrently therewith the following:~~

~~(a) A traverse sheet, giving the latitude and departures, or computer print-out, showing the mathematical closure, within allowable limits of error, of the exterior boundaries of the tract in all cases in which said boundaries are irregular or in which the tract is laid out in irregular blocks, and of the exterior boundaries of all irregular lots and blocks.~~

~~(b) Plans, profiles, details, and specifications for improvements conforming to all ordinances of the city and to the standards of this code which must show full details of all improvements and shall be to a scale of forty (40) or fifty (50) feet to the inch horizontal and four (4) or five (5) feet to the inch vertical.~~

~~(c) A detailed estimate of quantities and costs of the proposed improvements for approval by the City Engineer.~~

~~(d) A title report or subdivision guarantee by a title company doing business in Jackson County, showing names of all persons whose consent is necessary for the preparation of said plat and for any dedication to public use, and their interest therein, certified for the benefit and protection of the City that the persons therein named are all of the persons necessary to give clear title to the streets and other easements therein to be offered for dedication. Said title report shall be dated no later than fifteen (15) days from the date of submittal.~~

~~(e) Two (2) copies of all proposed covenants, conditions, and restrictions or a statement in writing signed by the developer that no such restrictions will be established.~~

~~(f) Instruments prohibiting traffic over the side or rear lines of any street or other public way when and if the same is required by this chapter.~~

~~(g) Such streets, offers of dedication or other instruments affecting or conveying title or any interest in land as are required under the conditions of approval of the tentative plat.~~

~~(h) A statement that all applicable fees required by the city code have been paid.~~

~~(i) Two (2) copies of the city's standard (or deferred) form of improvement agreement executed by the developer, together with two (2) executed copies of each labor and material and improvement bond guaranteeing payment of the cost of setting monuments (ORS 92.065) and county certification that the requisite tax bond has been posted (ORS 92.095) and such other agreements and bonds as may from time to time be required by law.~~

~~The City Engineer shall examine the final plat and accompanying data and shall within fifteen (15) working days determine:~~

~~(1) Whether all engineering conditions of tentative plat approval have been satisfactorily completed, or if incomplete, are matters which can be included in a regular or deferred improvement agreement with the city;~~
~~(2) Whether said plat is technically correct.~~
~~Upon the City Engineer's determination that conformity with the foregoing has been made, he shall execute the City Engineer's certificate on said final plat and cause said plat to be forwarded to the Planning Department for action by the approving authority.~~

~~10.279 **Filing of the Final Plat with Planning Department.**~~
~~No final plat shall be accepted for filing by the planning department unless, in addition to the above, the following is complied with:~~
~~(1) An accepted final plat shall be considered by the approving authority (Planning Director) ten (10) or more working days following acceptance.~~
~~(2) The final plat is accompanied by:~~
~~(a) A blue or black line print thereof;~~
~~(b) The approved improvement plans signed by the City Engineer;~~
~~(c) All documents and matters previously submitted to the City Engineer under Section 10.278, Filing of Final Plat with City Engineer.~~
~~(3) All required fees by the developer have been paid.~~
~~(4) A print of the final plat signed off by all affected referral agencies and involved agencies.~~
~~The Planning Department shall examine the final plat and accompanying data and shall within five (5) working days determine:~~
~~(a) Whether the land division is substantially the same as shown on the tentative plat with only approved alterations thereof;~~
~~(b) Whether bonds and agreements guaranteeing improvement of all conditions of tentative plat approval have been completed pursuant to Section 10.666, Improvement Agreements, and Section 10.667, Faithful Performance Bond.~~

~~10.280 **Action and Decision Time: Final Plat.**~~
~~The approving authority (Planning Director) shall within a period of not more than twenty-five (25) working days after filing with the Planning Department, approve or disapprove the final plat and acknowledge compliance with all conditions of the tentative plat. If the final plat does not conform with all local code requirements applicable at the time of approval of the tentative plat and all rulings made thereunder, the approving authority (Planning Director) may disapprove said plat, or approve it; said approval to become unconditional at such time as said plat is made to comply with the approved tentative plat and such code requirements.~~
~~Upon disapproval of any final plat, the approving authority (Planning Director) shall return said plat to the applicant together with a written statement setting forth the reasons for such disapproval.~~
~~Upon approval by the approving authority (Planning Director) becoming unconditional, the Planning Director shall sign and have affixed the city seal to the approving authority certificate attached to said plat.~~
~~No land division will be recognized as complete until final plat is unconditionally approved by the approving authority (Planning Director) and no title to or interest in any property described in any~~

~~offer of dedication on the final plat which is accepted by the approving authority (Planning Director) shall pass until recordation of said plat.~~
~~Within ten (10) days after recordation of the final plat, the applicant at his own expense shall furnish to the Planning Department one (1) mylar transparency and one (1) blue line print.~~

~~10.285 **Application, Site Plan and Architectural Review.**~~
~~A. Purpose. The Site Plan and Architectural Review process is established in order to provide for review of the functional and aesthetic adequacy of development and to assure compliance with the standards and criteria set forth in this chapter for the development of property as applied to the improvement of individual lots or parcels of land as required by this code. Site Plan and~~

~~Architectural Review considers consistency in the aesthetic design, site planning and general placement of related facilities such as street improvements, off-street parking, loading and unloading areas, points of ingress and egress as related to bordering traffic flow patterns, the design, placement and arrangement of buildings as well as any other subjects included in the code which are essential to the best utilization of land in order to preserve the public safety and general welfare, and which will encourage development and use of lands in harmony with the character of the neighborhood within which the development is proposed.~~
~~B. Site Plan and Architectural Review is required for:~~
~~Projects which are not exempt from a Development Permit pursuant to Section 10.031, except that exterior alterations to a building or site and new construction in a Historic Overlay shall require Historic Review pursuant to Section 10.256, but shall not require Site Plan and Architectural Review.~~
~~C. Site Plan and Architectural Review applications shall be submitted to the Planning Department prior to the application for a building permit.~~

~~10.287 **Site Plan and Architectural Review Application Form.**~~
~~The application for Site Plan and Architectural Review (SPAR) shall contain the following plans, submitted in the quantity and sizes specified on the Site Plan and Architectural Review application form, including legible reduced copies of all plan documents.~~
~~A. Landscape Plan meeting the specifications and requirements in Section 10.780.~~
~~B. Building Construction Plans: A site plan and architectural plan which are clearly and legibly drawn to scale shall be provided. Building construction plans shall include north arrow, orientation of building elevations indicating full dimensions and providing the following information:~~
~~(1) Site Plan:~~
~~(a) Lot dimensions.~~
~~(b) All proposed and existing buildings and structures: location, size, height, proposed use.~~
~~(c) Public and private yards and open space between buildings.~~
~~(d) Walls and fences: location, height and material.~~
~~(e) Existing and proposed off-street parking: location, number, type and dimensions of spaces, parking area, internal circulation pattern.~~
~~(f) Access: pedestrian, vehicular, service, points of ingress and egress.~~

~~(g) Loading: location, dimension, number of spaces, type of space (A or B), internal circulation.~~
~~(h) Lighting: location and general nature, hooding devices.~~
~~(i) Street dedication and improvements.~~
~~(j) Drainage plan.~~
~~(k) Location of existing public improvements including streets, curbs, sidewalks, street trees, utility poles, light fixtures, traffic signs and signals, and such other data as may be required to permit the Site Plan and Architectural Commission to make the required findings.~~
~~(l) Location and screening of mechanical equipment.~~
~~(m) Location and screening of outdoor trash bins.~~
~~(2) Architectural Plans:~~
~~(a) Roof plan.~~
~~(b) Floor plan.~~
~~(c) Architectural elevations.~~
~~(d) Materials and Colors.~~
~~(3) A conceptual stormwater facility plan with associated landscape plan, if applicable, pursuant to Sections 10.486(B) or 10.729(B).~~

~~10.290 **Site Plan and Architectural Review Criteria.**~~
~~The Site Plan and Architectural Commission shall approve a site plan and architectural review application if it can find that the proposed development conforms, or can be made to conform through the imposition of conditions, with the following criteria:~~
~~(1) The proposed development is compatible with uses and development that exist on adjacent land, and~~
~~(2) The proposed development complies with the applicable provisions of all city ordinances or the Site Plan and Architectural Commission has approved (an) exception(s) as provided in MLDC Section 10.253.~~

~~10.291 **Conditions of Approval.**~~
~~In approving a site plan and architectural review application, the Site Plan and Architectural Commission may impose, in addition to those standards expressly specified in this code, conditions determined to be reasonably necessary to ensure compliance with the standards of the code and the criteria in Section 10.290, and to otherwise protect the health, safety and general welfare of the surrounding area and community as a whole. These conditions may include, but are not limited to the following:~~
~~(1) Limiting the number, height, location and size of signs;~~
~~(2) Requiring the installation of appropriate public facilities and services and dedication of land to accommodate public facilities when needed;~~
~~(3) Limiting the visibility of mechanical equipment through screening or other appropriate measures;~~
~~(4) Requiring the installation or modification of irrigated landscaping, walls, fences or other methods of screening and buffering;~~

~~(5) Limiting or altering the location, height, bulk, configuration or setback of buildings, structures and improvements.~~
~~(6) Requiring the improvement of an existing, dedicated alley which will be used for ingress or egress for a development;~~
~~(7) Controlling the number and location of parking and loading facilities, points of ingress and egress and providing for the internal circulation of motorized vehicles, bicycles, public transit and pedestrians;~~
~~(8) Requiring the retention of existing natural features;~~

~~(9) Modifying architectural design elements including exterior construction materials and their colors, roofline, fenestration and restricting openings in the exterior walls of structures;~~
~~(10) Restricting the height, directional orientation and intensity of exterior lighting.~~

~~10.292 **Expiration of a Site Plan and Architectural Commission approval.**~~
~~(1) Approval of a Site Plan and Architectural Commission application shall take effect on the date the final order for approval is signed, unless appealed and shall expire two (2) years from the effective date. Within two (2) years following the effective date, substantial construction must have occurred or an extension of the approval will be necessary. If a request for an extension of a Site Plan and Architectural Commission application approval is filed with the Planning Department within two (2) years from approval of the final order, the Site Plan and Architectural Commission shall grant an extension not to exceed one (1) additional year. Extensions shall be based on findings that the facts upon which the Site Plan and Architectural Commission application was first approved have not changed to an extent sufficient to warrant refiling of the application. All approvals made prior to the adoption of this ordinance shall expire one (1) year from the date of adoption of this ordinance, notwithstanding permitted extensions and previous phasing authorizations.~~
~~(2) When it is the developer's intent to complete an approved project in phases, the approving authority may authorize a time schedule for the issuance of building permits for a period exceeding one (1) year, but in no case shall the total time period for the issuance of building permits be greater than five (5) years without having to resubmit a new application for Site Plan and Architectural Commission review. Phases developed after the passage of one (1) year from approval of the Site Plan and Architectural Commission application will be required to modify~~
~~the plans as necessary to avoid conflicts with changes in the *Comprehensive Plan* or this chapter.~~

~~10.294 **Modification of a Site Plan and Architectural Review.**~~
~~A. Major Modification.~~
~~Any modification that is not a minor modification is a major modification. When modification to an approved plan is determined to be a Major Modification, the plan shall be processed in the same manner as a request for a site plan and architectural review in 10.285. The Planning Director may waive submittal requirements deemed unnecessary or inapplicable to the proposal.~~
~~B. Minor Modification.~~
~~A minor modification to an approved plan may be made by the Planning Director provided the Planning Director determines that the modification does not constitute a major modification. A minor modification shall meet all of the following standards:~~
~~(1) Meets the exemption standards of 10.031.~~
~~(2) No increase in the number of dwelling units.~~
~~(3) The amount of open space or landscaping is decreased by no more than 10% of the previously approved area, provided the resulting area does not drop below the minimum standards as required by the code.~~

~~(4) No relocation of vehicle access points and parking areas where the change will generate an impact that would adversely affect off-site or on-site traffic circulation.~~
~~(5) No reduction or elimination of any project amenities such as recreational facilities, significant natural resources (streams, creeks, landform), fencing and other screening material.~~
~~(6) Modifications to facilities and utilities conform to the adopted facility plans.~~
~~(7) Modifications to any other components of the plan conform to standards of the Land Development Code.~~
~~(8) No modification to any condition of approval.~~

~~10.296 **Issuance of Building Permits, Consistent with Site Plan and Architectural Review Approval.**~~
~~All applications for a building permit, wherein site plan and architectural review has been required, shall be consistent with the site and architectural plans as approved and all conditions of approval imposed thereon and shall be accompanied by an accurate and correct site plan.~~
~~A. **Security for Completion of Public Improvements**: If all required public improvements, as specified in the conditions of site plan and architectural review approval, have not been satisfactorily completed before issuance of a building permit, the developer shall enter into a written agreement (provided by the City) to secure full and faithful performance thereof, according to Sections 10.666 and 10.667(A) respectively.~~
~~B. **Agreement for Completion of Private Improvements**: (for projects with signed agreements prior to January 1, 2015): The following regulations shall apply to all Building Site Improvement Agreements (BSIA) signed prior to January 1, 2015. After said date, the provisions of Building Site Improvement Agreements (BSIA) shall no longer be used as a means to ensure the completion of private improvements. If all required private improvements, as specified in the conditions of site plan and architectural review approval, have not been satisfactorily completed before issuance of a building permit, the permit shall not be issued unless the owner and all other parties having an interest in the property enter into a written and recorded agreement, called a Building Site Improvement Agreement (BSIA), (provided by the City) with the City. The agreement shall be in a form acceptable to the City Attorney and shall specify that, within six (6) months after signing the agreement or such longer time period as specified by the Site Plan and Architectural Commission, all improvement work shall be completed according to the approved plans. The Planning Director or other person designated by the City Manager shall sign the agreement on behalf of the City. If a request for an extension of a Building Site Improvement Agreement is filed with the Planning Department within six (6) months after signing the agreement, the Planning Director may grant an extension not to exceed~~

~~six (6) additional months. Extensions shall be based on findings that the extension is necessary for good cause, such as: circumstances beyond the developer's control that are causing~~

~~delay in completing private improvements (i.e., ODOT work, weather-related delays, building permit delays), so long as no applicable development standards have changed.~~
~~The agreement shall be recorded in the Official Records of Jackson County, and once recorded, the burdens of the agreement shall run with the title of the affected property. The property affected by the agreement shall be the property depicted on the approved site plan. The agreement shall provide that, if the work is not completed in accordance with its terms within the allotted time, the property may not thereafter be occupied or used until all deficiencies are corrected. The agreement shall provide for enforcement by the City through a civil suit for injunction and provide that the prevailing party shall be awarded costs and reasonable attorney's fees. When made in substantial compliance with this section, such an agreement shall be enforceable according to its terms, regardless of whether it would be enforceable as a covenant at common law.~~
~~Once improvements have been satisfactorily completed according to the approved plans, a Satisfaction of Building Site Improvement Agreement shall be signed by the Planning Director or other person designated by the City Manager. The agreement shall be recorded in the Official Records of Jackson County.~~

~~10.297 **Property Line Adjustments**.~~
~~A. Property Line Adjustment Purpose.~~
~~The purpose of property line adjustments is to relocate or eliminate a common property line between abutting properties.~~
~~B. Property Line Adjustment Approval Criteria.~~
~~A property line adjustment shall be approved if it complies with the following:~~
~~(1) All properties were lawfully created;~~
~~(2) No new lots or parcels of land will result from the adjustment;~~
~~(3) The adjustment will not result in a unit of land that overlaps the city limit line, urban growth boundary, or zoning districts;~~
~~(4) The adjusted property configurations shall not create a substandard condition relative to the applicable standards of the Code. When one or more properties are less than the minimum required area or width, none of the resulting units of land shall be made smaller in area or narrower in width than the original smallest existing unit of land.~~
~~C. Property Line Adjustment Application Form.~~
~~Property line adjustments shall be submitted to the Planning Department on application forms supplied by the Planning Department. The Planning Director may waive the submittal of any of the materials or information that is deemed to be excessive, repetitive, or unnecessary. The application for property line adjustment shall require the following information:~~
~~(1) A site plan drawn to scale by a land surveyor registered in the State of Oregon showing the following:~~
~~(a) Existing and proposed property lines, including dimensions and square footage, for all properties involved;~~
~~(b) Assessor's map and tax lot identification for subject properties;~~

~~(c) Location of existing wells, septic systems, sanitary sewer, storm drain laterals, and water service;~~

~~(d) Location, name, and purpose of all existing and proposed easements; If the property line adjustment will result in any portion of a utility service, lateral, driveway, or water service being located on a different parcel than the structure served by them, an easement granting continued use of the improvement will be required;~~

~~(e) The name of public and private streets that abut or lie within the subject area;~~

~~(f) Accurate location, height, ground floor area, and use of all structures on the subject properties including the distance from all proposed property lines. If the units of land are vacant, a written statement certifying the same shall be provided;~~

~~(g) Names of subject property owners as shown on the accompanying deeds;~~

~~(h) Signature of person preparing the map, attesting to the accuracy of information contained thereon;~~

~~(i) If items above are not shown on site plan, a statement is required stating the specific items do not exist on the property;~~

~~(2) A report from a title company prepared within thirty (30) days listing the vested owners, easements, encumbrances, and other matters of record for each property;~~

~~(3) The owners of all properties that will be modified by the property line adjustment must sign the application form or a letter of authorization.~~

~~D. Property Line Adjustment Procedure.~~

~~(1) Preliminary Review. Once the application has been submitted, the Planning Department shall send a copy to affected agencies and City departments for review. Within twenty-five (25) working days after the application has been submitted, the Planning Department shall send a written notification to the applicant indicating:~~

~~(a) The application is missing information required in Section 10.297. Once all of the missing information is submitted, the City will have twenty-five (25) working days to complete the review; or~~

~~(b) The application has been preliminarily approved consistent with Section 10.297; or~~

~~(c) The application has been disapproved as it is not consistent with Section 10.297.~~

~~(2) Final Review.~~

~~(a) Within one year of the preliminary approval date, the applicant shall submit to the Planning Department all of the following:~~

~~(i) Map of survey showing the adjusted property lines prepared by an Oregon licensed surveyor in accordance with the procedures of ORS 92.060(7) and 209.250. This requirement applies to all properties regardless of size.~~

~~(ii) A report from a title company prepared within fifteen (15) days listing the current vested owners, easements of record, encumbrances, and other matters of record;~~

~~(iii) A copy of proposed easements to be recorded. Proposed easements may be included as a reservation on the property line adjustment deeds;~~

~~(iv) Deeds which include a statement that identifies the associated conveyance of property as a property line adjustment and labeled as a Property Line Adjustment. If a property line is being eliminated, the deeds shall be labeled Property Line Adjustment – Lot Consolidation.~~

~~(v) Property descriptions attached to the deeds shall either describe the resultant properties or otherwise specify that the conveyed land shall be consolidated with the property of the grantee. A property line adjustment deed shall contain the names of the parties, the description of the adjusted line, references to original recorded documents, and signatures of all parties with proper acknowledgment.~~

~~(b) Within twenty-five (25) days of submittal, the City will conduct the final review for consistency with the preliminary approval and the approval criteria. Upon approval, the survey will be signed by the City Surveyor and the Planning Director.~~

~~E. Property Line Adjustment Recordation and Expiration.~~

~~Within one year of the final decision date, the property line adjustment deeds must be filed with the Jackson County Recorder's Office. If the deeds are not filed within the one year, the application approval will expire.~~

Exhibit E Proposed Amendment – Affected Sections (DCA-15-088)

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AFFECTED SECTIONS

ARTICLE I

10.012 Definitions, Specific.
When used in this chapter, the following terms shall have the meanings as herein ascribed:

* * *

Appeal. A means of obtaining review of a decision, determination, order, or failure to act pursuant to the terms of this chapter as expressly authorized by the provisions of Article II, Section~~s~~ 10.140 ~~10.051, Appeals~~.

* * *

Approving Authority. The designated official or official body charged with the duty of investigating and reporting on the design, improvement and use of proposed developments of real property, the imposing of requirements or conditions thereon and the authority to approve, conditionally approve or disapprove development permits and ~~plan authorizations~~land use reviews as per this chapter.

* * *

Development permit. The written acknowledgment by the city that a specific development proposal has complied with all required ~~plan authorizations~~land use reviews determined necessary for development.

* * *

Exceptions. Permission to depart from the literal requirements of this code granted pursuant to Article II, Section 10.186~~251, Application for Exceptions.~~

* * *

Land Development Committee. A land use/development review and advisory committee comprised of representatives from all referral agencies as identified in Article II, Section 10.~~145~~112.

* * *

Planned Unit Development (PUD). A planned unit development (PUD) is any development approved by the City under Sections 10.~~230~~190 through 10.198 or under earlier PUD ordinances of the City.

* * *

Site plan. A plan, prepared to scale, showing accurately and with complete dimensioning, all of the uses as required ~~by Article II, Section 10.287, Application Generalin~~ the land use review applications.

* * *

Street, private. A street providing public access to more than one lot. It is a separate tax lot that is owned and maintained by private parties. Private streets are only allowed in Planned Unit Developments (PUDs) (See Section 10.~~230(D)(5)~~ 192(B)(6)).

* * *

~~**10.021 Development Permit Required.**~~

~~No person shall engage in or cause a development nor shall any person create any street for the purpose of subdividing or partitioning an area or tract of land, or to dispose of, transfer or sell any lot or parcel of land if same constitutes or is part of a process of subdivision or partitioning as herein defined, or to record a final plat thereof without first complying with all of the applicable provisions of this chapter. A building permit shall not be issued for the construction, reconstruction or the alteration, use or occupancy of a structure for which a development permit is required and has not been issued pursuant to Section 10.101, The Development Permit Application, or unless exempted as per Section 10.031, Exceptions to the Development Permit Requirement.~~

10.031 Exemptions from the Development Permit Requirement.

A. An exemption from the development permit requirement does not exempt the use or development from compliance with the applicable standards of this chapter, including but not limited to access, parking, riparian protection, and landscaping.

B. Exemptions under this section do not apply to uses subject to a conditional use permit or major modifications thereof.

C. The following uses or developments do not require a development permit.

(1) Parking lots and parking lot additions, when not associated with building construction required to be reviewed by the Site Plan and Architectural Commission, except any parking lot or parking lot additions located within a Historic Overlay requires Historic Review. (Effective Dec. 1, 2013.)

(2) Construction of a new building if it does not increase motor vehicle trip generation by more than ten (10) average daily trips, unless within a Historic Overlay, in which case, Historic Review is required for all new construction. (Effective Dec. 1, 2013.)

(3) A building addition similar to the existing building in architectural style and exterior building materials and that is no more than a 20 percent or 2,500 square foot increase in gross floor area, whichever is less, unless within a Historic Overlay, in which case, Historic Review is required for all building additions and exterior alterations. (Effective Dec. 1, 2013.)

(4) An emergency measure resulting from fire, an act of God, or a public enemy or other calamity, which is necessary to protect and save property and lives.

(5) The reconstruction of a legal main structure or legal accessory structure which has been destroyed by fire, an act of God, or a public enemy or other calamity, and restoration is started within one (1) year from such destruction and is diligently pursued to completion.

(6) Temporary uses as identified in Section 10.840, Temporary Uses and Structures.

(7) The erection, construction, alteration, maintenance or termination of a public utility service facility, such as a public safety communication tower, that is being developed to provide service to development authorized by this chapter.

(8) Detached single-family residential development on a lot within a final platted land division or on an otherwise legally created lot, unless within a Historic Overlay, in which case, Historic Review is required for all single-family residential development. (Effective Dec. 1, 2013.)

(9) Solar Photovoltaic/Solarvoltaic energy systems, as defined in ORS 757.360, except when located on historic landmarks or within historic districts, in which case the review authority shall be the Landmarks and Historic Preservation Commission.

(10) One duplex dwelling divided by a lot line or on a single lot within a final platted land division or on an otherwise legally created lot, unless within a Historic Overlay, in which case, Historic Review is required.

* * *

10.051 Appeals.

A. Any person with standing may appeal to the City Council any Type "C" or "D" decision of an approving authority (Planning Commission, Site Plan and Architectural Commission, Landmarks and Historic Preservation Commission, and Planning Director) which approves conditionally, approves, or disapproves a development permit, or plan authorization, as per Section 10.102, Plan Authorizations, of this chapter, by filing a written notice together with the requisite filing fee with the city recorder within fourteen (14) days after notice of the development permit or plan authorization approval or disapproval by the approving authority is mailed. (Effective Dec. 1, 2013.)

B. A person has standing if the person: (1) appeared in the initial proceedings orally or in writing; and (2) was entitled to a right of notice and hearing prior to the decision to be reviewed, or is aggrieved by the decision, or has interests adversely affected by the decision.

C. Class "E" Ministerial Decisions are final and, with the exception of Final PUD Plan applications (see 10.241(E)), are not appealable under the Medford Land Development Code or any other provision of the Medford Code.

10.052 Notice of Appeal.

All notices of appeal shall be signed by the appellant or his agent and shall contain:

(1) An identification of the decision sought to be reviewed, including the date of the decision.

(2) A statement demonstrating that the appellant has standing to appeal as required by Section 10.051, Appeals.

(3) A statement of the specific grounds which the appellant relies on as the basis for the appeal. If the appellant contends that the findings of fact made by the approving authority are incorrect or incomplete, the notice shall specify the factual matters omitted or disputed. If the appellant contends that the decision is contrary to ordinance, statute or other law, such errors shall be specifically identified in the notice along with the specific grounds relied upon for review.

Upon timely receipt of the notice of appeal and filing fee, the City Recorder shall set the appeal for hearing before the City Council at its next regular meeting that falls not less than fourteen (14) days after the date of filing. The City Recorder shall notify the appellant and other parties who appeared in the initial proceedings, of the time and place of the hearing by first class mail, enclosing a copy of the notice of appeal.

10.053 Scope of Review.

Upon review, the City Council shall not re-examine issues of fact and shall limit its review to determining whether there is substantial evidence to support the findings of the tribunal which

~~heard the matter, or to determining if errors in law were committed by such tribunal. Review shall in any event be limited to those issues set forth in the notice of appeal. The appellant is also precluded from raising an issue on appeal to the Council if he or she could have raised the issue before the hearings body but failed to do so. Review shall be based on the record of the initial proceedings. The record shall consist of the application and all materials submitted with it; documentary evidence, exhibits and materials submitted at the initial hearing; recorded testimony; the decision of the approving authority, including the findings and conclusions; and the notice of appeal. Only the appellant and other parties who appeared in the initial proceedings may participate in the appeal hearing. Appellant shall make the initial presentation and shall be allowed rebuttal. Each participant in the appeal hearing shall present to the council those portions of the record which the participant deems relevant to the appeal. If a party wishes the council to review recorded testimony, the party shall present a written summary or transcript of such testimony to be read by the council in lieu of actually listening to the recording.~~

~~**10.056 City Council Decision.**~~

~~A. Upon review of the appeal, City Council may by order affirm, reverse or modify in whole or part a determination or requirement of the decision that is under review. When the City Council modifies or renders a decision that reverses a decision of the approving authority, the Council, in its resolution, shall set forth its finding and state its reasons for taking the action encompassed in the order. When the City Council elects to remand the matter back to the approving authority for such further consideration as it deems necessary, it shall include a statement explaining the error to have materially affected the outcome of the original decision and the action necessary to rectify such.~~

~~B. Action by the City Council shall be decided by a majority vote of its members present at the meeting at which review was made and shall be taken either at that or any subsequent meeting. The City Council shall render its decision within the time limits allowed by State law.~~

ARTICLE III

* * *

10.305 Purpose of Zoning Districts.

Each zoning district ~~-~~represents a ~~-~~land use category which has common location, development, and use characteristics. Minor (~~Class 'C'~~Type III) zone changes shall be based upon the criteria in Section 10.~~227~~204. Major (~~Class 'A'~~Type IV) zone changes shall be based on the criteria in Section 10.~~184~~220. The following sections specify the ~~-~~purpose of each zoning district, and the use and intensity standards applicable to land within each district.

10.306 Residential Land Use Classification.

The residential land use classification provides a wide range of residential density alternatives and dwelling types designed to provide for the housing needs of the community as identified in the "Housing Element" of the *Comprehensive Plan*. Each district is intended to provide for specific

dwelling types and densities in a quality living environment, conforming to the Urban, Urban Medium, and Urban High Density Residential designations of the *Comprehensive Plan*. The maximum number of dwelling units (DU) per acre (the density factor or "gross density" as defined herein) can be increased in a Planned Unit Development per Section 10.~~230(I)~~192(G) Examples of minimum and maximum residential density calculations are provided in Article 5, Section 10.708. The residential land use classification is comprised of eight (8) zoning districts as specified in the following sections of this Article.

* * *

10.314 Permitted Uses in Residential Land Use Classification.

The following table sets forth the uses allowed within the residential land use classification by zoning district. Uses not identified herein are not allowed. (See Article I, Section 10.012, for the definition of each listed use.)

These symbols indicate the status of each listed use:

"P" = Permitted Use.

"C" = Conditional Use; permitted subject to approval of a Conditional Use Permit. (See Article II, Section~~s~~ 10.~~246~~184)

* * *

PERMITTED USES IN RESIDENTIAL ZONING DISTRICTS	SFR 00	SFR 2	SFR 4	SFR 6	SFR 10	MFR 15	MFR 20	MFR 30	Special Use or Other Code Section(s)
3. SPECIAL RESIDENTIAL DEVELOPMENTS									
(a) Planned Unit Development	X	PD	PD	PD	PD	PD	PD	PD	10.~~230-245~~190 – 198 & 10.412

* * *

10.345 Purpose of Overlay Districts.

Overlay districts impose additional or different land development regulations or procedures on certain parcels or areas of the City. They generally coincide with a special area plan or implement a specific Comprehensive Plan policy, such as identifying those parcels containing historic resources that are subject to specific regulations. Overlay districts address issues not addressed by the underlying zoning district. The boundaries of each overlay district are shown on the official zoning map of the City of Medford. See Section 10.~~251~~ 186regarding Exceptions to the site development standards contained in the overlay districts.

10.348 Limited Industrial Overlay District, I-00.

* * *

C. Application:

(1) Upon annexation of a parcel(s) having County industrial zoning if transportation facility adequacy has not been proven; or

(2) To approve an industrial zone if transportation facilities have been shown to be inadequate per Section 10.~~227(2)(c)~~10.204(B)(3) or facility adequacy has not been proven.

D. Removal: The Limited Industrial Overlay may be removed per zone change procedures outlined in Section~~s 10.225through 10.227~~10.204 and when transportation facilities have been shown to be adequate or have been made adequate to support the types of uses permitted by the underlying City industrial zone.

* * *

10.358 Central Business District, C-B.

* * *

(2) **Residential Development Standards**. All residential development standards contained in Article III, Zoning Districts, and Article V, Site Development Standards, shall be waived in lieu of the following:

* * *

(c) Residential development which results from conversion or remodel of existing structures, or new residential construction which exceeds the residential density standard of the MFR-30 zone. Such residential development shall be subject only to the off-street parking and loading requirements as provided in (a) above and shall be allowed only as a conditional use pursuant to Article II, Section 10.184~~246Conditional Use Permit, through 10.250, Expiration of a Conditional Use~~.

* * *

10.360 Exclusive Agricultural Overlay District, E-A.

* * *

C. **Criterion for Removal of E-A.** The E-A overlay may be removed utilizing ~~Class C~~Type III zone change procedures. * * *

10.371 Scope and Applicability of Southeast (S-E) Overlay District Regulations.

* * *

B. Adjustments: The boundaries of the S-E Overlay District may be adjusted by the City Council in conjunction with amendments of the Southeast Plan Map according to Comprehensive Plan amendment procedures found in Section~~s~~ 10.~~180 – 10.184~~214 – 10.228.

* * *

10.374 Planned Unit Development and Master Plan Requirements, S-E.

A. Planned Unit Development.

1. Requirements.

All new developments consisting of one or more acres shall require approval of a Planned Unit Development pursuant to Sections 10.~~230~~ 190 through 10.~~245~~ 198 and all applicable provisions of the S-E Overlay District. Regardless of the size of the property or number of dwellings, all zone change applications for projects in the Commercial Center (Area 7B) shall be accompanied by a Preliminary PUD Plan application.

* * *

3. Approvals.

In approving PUD applications for projects within the S-E Overlay District, the Planning Commission shall find that the application conforms to the S-E Overlay District standards. The Planning Commission may grant modifications of City standards, including provisions of the S-E Overlay District, under Section 10.~~230(D)~~192(B) ~~-~~except for height standards in Section 10.375(3) and the prohibited uses in Section 10.378(4).

* * *

10.384 Greenways - Special Design and Development Standards, S-E.

* * *

3. Maintenance of Greenway Improvements.

Greenway improvements dedicated to the City for any purpose, whether in fee-simple or as easements, shall be maintained by the City. However, the City may relinquish the maintenance of any Greenway improvements to an association of owners established pursuant to Section 10.~~230(E)~~192(C)

* * *

10.403 Historic Preservation Overlay, Designation.

* * *

(4) The extent of the Historic Preservation Overlay may be changed pursuant to the review process for ~~Class 'C'~~Type III Historic Review applications, to include or exclude any area, parcel, or portion thereof that was not included pursuant to paragraphs (1), (2), or (3). Decisions to change the extent of the Historic Preservation Overlay shall adhere to the criteria set forth in Section 10.~~258(1)~~188(C)(1).

* * *

10.406 Historic Preservation Overlay, Exterior Alteration or New Construction.

No person may alter any building, structure, object, or site in an Historic Preservation Overlay in such a manner as to affect its exterior appearance, nor may any new structure be constructed, unless said exterior alteration or new construction has been approved through the process for ~~Class 'C'~~Type III Historic Review applications or Minor Historic Review.

10.407 Historic Preservation Overlay, Demolition or Relocation.

No person may demolish or relocate all or part of any building, structure, object, or site in an Historic Preservation Overlay unless said demolition or relocation has been reviewed through the process for ~~Class 'C'~~Type III Historic Review applications; except in the following instances:

* * *

10.411 Limited Service Administrative Mapping Category.

* * *

C. Inclusion or Removal: Inclusion in or removal of the Limited Service area on the *Medford General Land Use Plan (GLUP) Map* is according to *Comprehensive Plan* Amendment procedures outlined in Sections 10.~~184~~214 – 10.228.

10.412 Planned Unit Development Administrative Mapping Category, P-D.

A. Purpose: For tracking and mapping of parcels that have received Preliminary Planned Unit Development (PUD) Plan approval as set forth in Section 10.~~230~~192.

B. Removal: Upon expiration of a Preliminary PUD Plan or if a PUD is terminated according to procedures outlined in Section 10. ~~245(B)~~198(B).

10.413 Restricted Zoning Administrative Mapping Category, R-Z.

A. Purpose: For tracking and mapping of parcels that have received a zone change with conditions of approval or stipulations as set forth in Section 10.~~227(2)(c)~~204(B)(3)(c) or a General Land Use Plan (GLUP) Map amendment with conditions of approval or stipulations. The applicable conditions or stipulations are recorded by deed restriction or covenant, and may also be viewed at the Medford Planning Department.

B. Removal: Upon satisfaction of the conditions of approval or stipulations per Section 10.~~228~~204(C).

10.414 Airport Fence Line.

A. Purpose: For mapping of airport property that is not intended for public use.

B. Applicability: Airport accessory structures to be located within the secured fence area shall be exempt from development permit per Section 10.~~031~~200(C)(~~211~~)(g).

* * *

ARTICLE IV

10.431 Street Improvement.

All new street improvements required as a condition of development shall be improved to the standards set forth in this chapter unless otherwise specified herein or excepted as per Section 10.~~251~~186~~, Application for Exception~~. For purposes of this section, the term new street shall be defined as an unimproved street or existing street which does not have curb and gutter.

10.458 Street Renaming, Public and Private.

This section applies to the change of name of an existing street or alley, or to the naming of an already-existing but unnamed street or alley. The purpose of the street renaming procedures is to ensure use of clear and unique street names so that emergency personnel may find the streets without being hindered by similar or confusing names. Approval of street names is not a land use decision.

A. **Procedures, Street Renaming, Public and Private.**

(1) Public Streets. A public street renaming application shall be processed using ~~Class B~~Type IV procedures with the City Council being the approving authority. The decision of the City Council is final. A certified copy of the approving ordinance and exhibits shall be filed with the County Recorder, Assessor, and Surveyor for the name change to become effective.

(2) Private Streets or Driveways. A private street or driveway renaming application shall be processed according to Type II land use review procedures a ~~procedural Class D~~Type II ~~decision~~, with the Planning Director being the approving authority. The decision of the Planning Director may be appealed to the ~~City Council~~ Planning Commission per Section 10.~~051~~140.

~~(a) After an application for private street renaming has been received by the Medford Planning Department, the Planning Department shall send copies to affected agencies and City departments for review.~~

~~(b) Within 25 working days after the application is received, the Medford Planning Department shall send written notification to the applicant indicating:~~

~~(i) The application is missing information required in Section 10.458C. (Note: Once the missing information has been received, the City will have 25 working days to complete the review); or,~~

~~(ii) The application has been approved consistent with Section 10.458; or,~~

~~(iii)The application has been disapproved because it is not consistent with Section 10.458.~~

B. **Approval Criteria, Street Renaming, Public and Private.**

The approving authority shall not approve any street name unless it finds that the proposed name is consistent with the following criteria:

(1) Proposed names shall not be the same or similar to any other street name in Jackson County;

(2) The proposed street name must not sound the same, although spelled differently (a homonym), as any other street name in Jackson County;

(3) The proposed street name must be simple to pronounce;

(4) The proposed street name shall not contain Cardinal directions (north, south, east, west)

(5) The proposed street name shall not contain offensive or derogatory terms;

(6) The proposed street name shall not contain punctuation or special characters;

(7) When a street makes a directional change of approximately 90 degrees or more, the street name shall change;

(8) Street names shall continue across intersections and roundabouts;

(9) A street may not loop around in such a way that it creates two intersections with one other street, unless the street name at one intersection is different; and,

(10) The proposed street name must have a suffix from Table 10.458-(1), *Permitted Medford Street Suffixes* below.

Table 10.458-(1)
Permitted Medford Street Suffixes

Suffix	*Abbreviation*	***Description***
Avenue	AVE	Street that is continuous and not limited to a single subdivision
Boulevard	BLVD	Street with a landscaped median dividing the right-of-way
Circle	CIR	Permanently Dead-End Street Terminating in a Cul-de-sac
Court	CT	Permanently dead-end street or termination in a cul-de-sac, not longer than 660 feet in length
Drive	DR	Curvilinear Street
Lane	LN	Lower-Order Street
Parkway	PKWY	Higher-Order Street with a Median
Place	PL	Permanently Dead-End Street, Termination in a Cul-de-sac, or Short Through Street, Not Longer than 450 Feet in Length
Road	RD	Higher-Order Street
Street	ST	Common or Default Suffix
Way	WAY	Curvilinear Street

C. **Application, Street Renaming, Public and Private.**
Street renaming applications shall be submitted to the Medford Planning Department on applications forms supplied by the Planning Department.

(1) Public Streets. The application for public street renaming shall require the following:
  (a) Signed application form
  (b) Jackson County Assessor's map(s) showing entire length of subject street;
  (c) Typed mailing labels for:
    (i) Property owners with property abutting subject street; and
    (ii) Property owners with property that has an address, or may have an address in the future, on subject street.
  (d) Application fee in amount established by City Council paid upon application submittal.

(e) Street sign fee in amount as required to replace all necessary street signs per the standards and specifications established by the City of Medford and/or the Department of Motor Vehicles of the State of Oregon.

(2) Private Streets. The application for private street renaming shall require the following:

(a) All items listed in section 10.458 (C)(1).

(b) Signatures of all affected property owners.

(c) If the application is approved, a signed and recorded copy of a *Declaration of Private Street/Driveway* form must be provided to the Medford Planning Department for the name change to become effective.

* * *

10.463 Traffic Control Devices and Traffic Signal Spacing.

* * *

(2) The minimum center–of–intersection to center–of–intersection spacing for new traffic signals shall be 1,320 feet for arterial streets, and 1,000 feet for collector streets. When part of a ~~Class C Plan Authorization~~Type III land use review, the Public Works Director or designee shall forward a recommendation on minimum traffic signal spacing standards to the approving authority. The recommendation shall be based on the progression analysis described below. When not part of a ~~Class C Plan Authorization~~Type III land use review, the Director of Public Works or designee may approve a variance from this minimum spacing requirement.

* * *

10.550 Access Standards.

* * *

(3) Driveway Spacing and Locational Standards.

* * *

c. Alternative Access Spacing and Location

* * *

(1) Approval of Alternative Access Locations: When part of a ~~Class C Plan Authorization~~Type III land use review, the Public Works Director or designee shall forward a recommendation on alternative access spacing and locations to the approving authority. When not part of a ~~Class C Plan Authorization~~Type III land use review, the Public Works Director or designee may authorize an administrative adjustment to the access spacing and locational standards in 10.550 (3.) (a) and/or (b) above under one or both of the following circumstances:

* * *

(2) Redevelopment: Redevelopment as used in this section means that a parcel(s) has existing legal access and physical improvements and the property owner is seeking ~~procedural Class C plan authorizations~~ Type III use review for new development permits. In the case of redevelopment, the approving authority may require the provision of cross-access easements and geometric/physical improvements to any and all accesses in accordance with current stand-

ards. Redevelopment applications shall propose changes to the number and/or centerline location(s) of existing driveway(s), and shall demonstrate that the proposed changes will bring the parcel into, or at a minimum, closer to compliance with existing standards.

* * *

(4) New Development: At an applicant's request, the approving authority will evaluate alternative access spacing and location on a project basis in conjunction with ~~procedural Class C plan authorizations~~Type III land use review. Evaluation of alternative access location and spacing for projects shall be based upon a Transportation Impact Analysis (TIA) prepared by a professional engineer licensed in the State of Oregon with expertise in transportation. The Public Works Director (or designee) will provide a scope of work for the TIA and will issue a report to the approving authority stating his/her professional opinion as to the technical adequacy of the TIA and whether it demonstrates compliance with the criteria for access spacing and location for the project. The TIA will consider motorists, cyclists and pedestrians. The approving authority will evaluate the project's access spacing and location, in one of the following ways:

* * *

10.666 Improvement Agreements.

If all of the required public improvements, as specified in the conditions of a ~~plan authorization~~ land use approval, have not been satisfactorily completed before the application is filed for Final Plat, or building permit, the developer may enter into a written agreement (provided by the City) with the City in a form acceptable to the City Attorney specifying that within one (1) year (or such other period of time as agreed upon by the parties) all public improvement work shall be completed in accord with this code and the applicable approved improvement plans and specifications and that said developer shall warrant the materials and workmanship of said improvements in good condition and repair for an additional period of one (1) year from date of satisfactory completion and notification of same by the City.

* * *

ARTICLE V

10.743 Off-Street Parking Standards.

* * *

(3) Exceptions to Required Off-Street Parking for Non-Residential Uses. The approving authority may allow exceptions to the number of parking spaces in Table 10.743-1 for specific uses without complying with Section 10.186~~251~~ if they find that the applicant's detailed description of the proposed use demonstrates that the number of needed parking spaces is less than the minimum required or more than the maximum allowable based upon one or both of the following:

* * *

10.813 Agricultural Services and Animal Services.

* * *

(2) A kennel or canine daycare may petition to reduce the setback requirement via the conditional use permit process in Sections ~~246-10.250~~184 but, in no case, shall the setback be reduced to less than fifty (50) feet. Among the conditions allowed under Section 10.184~~248~~(C~~2~~)(1)(b), the approving authority should particularly consider the manner and hours of operation, mitigation of noise and odor, and fencing.

* * *

10.824 Wireless Communication Facilities.

* * *

C. Conditional Use.

Approval of a Conditional Use Permit is required for new Wireless Communication Support Structures, subject to the Conditional Use Permit procedural requirements of Sections 10.~~246 – 10.250~~184.

(1) Submittals - Applications for conditional use permit approval of Wireless Communication Facility Support Structures shall include any materials necessary to demonstrate compliance with the design standards contained in Section 10.824(D), any submittals required in ~~Section 10.247~~the Conditional Use Permit application, and the following:

* * *

D. Design Standards.

* * *

(2) General Requirements:

* * *

(h) Any proposal that has elements that deviate from the standards of (f) and/or (g) above may be approved by the Site Plan and Architectural Commission or Landmarks and Historic Preservation Commission through a ~~Class "C" plan authorization~~Type III land use review, based upon evidence showing that the standards cannot otherwise be met and that the degree of relief approved by said Commission is the minimum necessary to allow for facility operation. ~~(Effective Dec. 1, 2013.)~~

(i) Each addition of a Wireless Communication Systems Antenna to an existing support structure must be in conformance with any approved Conditional Use Permit, with the exception of buildings, only requires administrative approval of a building permit, unless the additional Wireless Communication Systems Antenna increases the height of the support structure more than ten feet, in which case it must be approved by the Planning Commission as a Conditional Use Permit in accordance with Sections 10.~~248 – 10.250~~184.

* * *

* * *

10.827 Mines, Quarries, Gravel Pits.

Extractions from deposits of rock, stone, gravel, sand, earth, minerals, or building or construction materials shall not be construed to be a permitted use in any district established by this code unless a conditional use permit shall first have been obtained as provided in Article II Section 10.~~246~~184, ~~Conditional Use Permit,~~ except for on-site improvement project. The Planning Commission shall have power to grant conditional use permits which are valid for a specified period of time, or are revocable, to permit extractions from deposits of rock, stone, gravel, sand, earth, minerals, or building or construction materials. It shall be clearly demonstrated by the applicant that odor, dust, noise, or drainage will not adversely impact adjacent properties.

* * *

10.840 Temporary Uses and Structures.

* * *

D. Types of Temporary Uses and/or Temporary Structures.

* * *

(6) Portable Storage Containers.

(a) Applicability.

1. A temporary Portable Storage Container permit is a ~~Class D plan authorization~~ Type II land use action (~~10.102 et seq.~~Section 10.108) and is required for placement of any portable storage container, except for the following:

* * *

(d) Permit Process.

* * *

2. Permit applications are subject to the routing and notification procedures for ~~Class D plan authorizations~~Type II land use review. The approving authority shall base its decision on the application's compliance with the standards under (6)(b) and (6)(c), above, which constitute the criteria for decision making.

3. In the event of a denial, the applicant may resubmit one time without having to pay another application fee. However, the decision time prescribed in ~~10.167~~ 10.168 (B) will reset to the starting point.

* * *

10.873 Application; New Parks or Extensions.

Application for a new park or modification of an existing park shall be filed with the Planning Department on forms provided by the City and accompanied by the documents required ~~by Section 10.246, Conditional Use Permits~~in the Conditional Use Permit application. No development permit shall be approved for a park unless the area for which the park is proposed is zoned to permit the same and the conditional use permit required by this chapter has been granted.

* * *

10.878 Delegation of Authority, Mobile Home and Manufactured Dwelling Parks.

The Planning Commission may review and approve landscape plans and recreational area details as part of the conditional use permit review, or delegate the review of these features to the Site Plan and Architectural Commission or Landmarks and Historic Preservation Commission as applicable. Approval of any delegated review to one of these Commissions shall be subject to a ~~Class "C" procedure~~Type III procedures as set forth in Article II.

* * *

10.897 Conditions of Approval, Mobile Home and Manufactured Dwelling Parks.

The Planning Commission may include conditions of approval as listed for conditional use permits in Section 10.~~248~~184, or for Site Plan and Architectural Commission approval as listed in Section 10.~~291~~200(F), or for Historic Review pursuant to Section 10.~~259~~188. The Commission may also require more than a single access point onto public streets. The Commission can also require a warning statement, to be a part of the lease or rental agreement, notifying prospective tenants of adjacent agricultural uses pursuant to Section 10.801 **Agricultural Buffering**, or other land uses that may have an impact on residential development.

* * *

10.922 Riparian Corridors, Applicability.

A. The provisions of Sections 10.920 through 10.928, "Riparian Corridors," shall be applied to:

* * *

(2) The provisions shall apply regardless of whether or not a building permit, development permit, or ~~plan authorization~~land use approval is required, and do not provide any exemption from state or federal regulations.

* * *

B. Applications for ~~plan authorizations~~land use review (except Annexations), development permits, or building permits, and plans for proposed public facilities on parcels containing a riparian corridor, or a portion thereof, shall contain a to-scale drawing that clearly delineates the top-of-bank and riparian corridor boundary on the entire parcel or parcels.

C. When reviewing ~~plan authorization~~land use applications or development permit applications for properties containing a riparian corridor, or portion thereof, the approving authority should consider the purpose statements in section 10.920, "Riparian Corridors, Purposes" in determining the extent of the impact on the riparian corridor.

D. The Planning Commission shall be the approving authority for applications for exceptions to the provisions herein pertaining to Riparian Corridors. In addition to the provisions of Section~~s~~ 10.186~~251 through 10.254 "Exception Application,"~~ such a request shall be submitted to the Oregon Department of Fish and Wildlife for a habitat mitigation recommendation pursuant to O.A.R. 635-415 "Fish and Wildlife Habitat Mitigation Policy."

E. In lieu of the provisions of this section, the significance of individual stream reaches may be determined per the provisions in OAR 660-023-0090. Such a proposal shall be pursued through a Comprehensive Plan Amendment, consistent with Sections 10.~~181~~214~~10.184~~ through 10.228.

* * *

10.923 Riparian Corridors, Location.

* * *

D. In lieu of the provisions of Sections 10.924 through 10.928, the degree of protection for significant riparian corridor reaches may be determined per the provisions of OAR 660-023-0050. Such a proposal shall be pursued through a Comprehensive Plan Amendment, consistent with Sections 10.~~181~~214-10.~~184~~228.

* * *

10.925 Conditional Uses within Riparian Corridors.

The following activities, and maintenance thereof, are allowed within a riparian corridor if compatible with Section 10.920, "Riparian Corridors, Purposes," and if designed to minimize intrusion. Such activities shall be subject to approval of a Conditional Use Permit, which may be considered separately or in conjunction with another ~~plan authorization~~land use review. The approving authority must determine that the proposal complies with at least one of the Conditional Use Permit criteria. Applicable permits, if any, from the Oregon Department of State Lands and the U.S. Army Corps of Engineers shall subsequently be obtained. All development and improvement plans shall be submitted to the Oregon Department of Fish and Wildlife for a habitat mitigation recommendation pursuant to O.A.R. 635-415 "Fish and Wildlife Habitat Mitigation Policy."

* * *

10.928 Conservation and Maintenance of Riparian Corridors.

When approving applications for the following ~~plan authorizations~~land use actions: Land Divisions, Planned Unit Developments, Conditional Use Permits, and Exceptions, or for development for properties containing a riparian corridor, or portion thereof, the approving authority shall assure long term conservation and maintenance of the riparian corridor through one of the following methods:

* * *

10.931 General Standards.

A. Application of Provisions.

* * *

(3) ~~Class 'C' applications~~Type III land use reviews (except for zone changes) shall comply with Sections 10.929 to 10.933; building permit applications shall comply with Sections 10.929 to 10.931.

B. Requirement for Slope Analysis.

For parcels containing Slopes greater than fifteen percent (15%), as shown on the 2009 City of Medford Slope Map, a copy of which is maintained on file in the Planning Department, a Slope Analysis is required to be submitted with:

(1) ~~Class "C"~~ Type III land use applications (except for zone changes); and,

(2) Building permit applications, if a Slope Analysis of the parcel was not previously submitted with a development application.

The Slope Analysis shall be reviewed by the City Director of Public Works or designee.

C. Pre-Existing Approvals of Development on Slopes of Fifteen Percent (15%) or Greater.

(1) Unexpired ~~Class 'C'~~ Type III Land Use Approvals. Unexpired ~~Class 'C'~~ Type III land use approvals granted prior to enactment of Sections 10.929 to 10.933 ("Pre-Existing Approvals") shall not be subject to Sections 10.929 to 10.933. Subsequent ~~Class 'C'~~ Type III land use applications related to a Pre-Existing Approval and filed after enactment of Sections 10.929 to 10.933 shall be subject to Sections 10.929 to 10.933, provided that the application of Sections 10.929 to 10.933 to the subsequent ~~Class 'C'~~ Type III land use application does not result in an irreconcilable conflict with the Pre-Existing Approval. For purposes of this Section, an irreconcilable conflict includes, but is not limited to, the following:

* * *

10.932 Pre-Application Conference Requirement.

A pre-application conference is required for all ~~Class 'C'~~ Type III land use applications, except for zone changes, for development on Slopes of greater than thirty-five percent (35%). In addition to the items listed on the pre-application conference form, the following additional items shall be submitted: a Constraints Analysis required by Section 10.933; a Slope Analysis required by Section 10.931(B); and a conceptual site plan. * * *

10.933 Constraints Analysis.

Prior to submitting a ~~Class 'C'~~ Type III land use application (except for zone changes), a Constraints Analysis identifying physical constraints and proposing mitigation measures shall have been submitted and deemed "complete" by the City Engineer or designee within ~~ten (~~10~~)~~ ~~business~~ working days of submission. A "complete" Constraints Analysis is one that contains all items in Sections 10.933(A) (1)-(7) and 10.933(B) (1)-(4).

* * *

B. Hydrology and Grading Report.

* * *

(4) A grading plan as required by Sections 10.727 and 10.~~278~~162D, including proposed grades, and cuts and fills for streets.

ARTICLE VI

* * *

10.1200 Signs in Single-Family Residential Zoning Districts (SFR-00,2,4,6,10).

* * *

(2) Institutional uses, as defined in Section 10.012, are permitted 40 square feet of signage per street frontage.

* * *

(c) Electronic Message Signs: Electronic message signs are a conditional use. A Conditional Use Permit may authorize institutional uses to have one electronic message sign as a permitted ground or wall sign. Regardless of the number of street frontages, one of the permitted ground or wall signs may be an electronic message sign, provided it complies with the following provisions:

(i) Electronic message signs shall apply for and receive approval for a Conditional Use Permit pursuant to Section 10.~~250~~184.

* * *

b. Existing conditional uses shall apply for an amendment to their existing approved CUP to request an electronic message sign, pursuant to Section 10.~~250~~184.

* * *

10.1300 Signs in Multiple-Family Residential Districts (MFR-15), (MFR-20) and (MFR-30).

* * *

(2) Institutional uses, as defined in Section 10.012, are permitted 40 square feet of signage per street frontage.

* * *

(c) Electronic Message Signs: Electronic message signs are a conditional use. A Conditional Use Permit may authorize institutional uses to have one electronic message sign as a permitted ground or wall sign. Regardless of the number of street frontages, one of the permitted ground or wall signs may be an electronic message sign, provided it complies with the following provisions:

(i) Electronic message signs shall apply for and receive approval for a Conditional Use Permit pursuant to Section 10.~~250~~184.

* * *

b. Existing conditional uses shall apply for an amendment to their existing approved CUP to request an electronic message sign, pursuant to Section 10.~~250~~184.

* * *

10.1410 Service Commercial and Professional Office (C-S/P: Additional Special Signs.

Additional special signs shall be permitted as follows in the C-S/P district:

* * *

(2) Hospital Signs: Signs exceeding the dimensional standards of Article VI may be approved subject to Section 10.~~248~~184. Conditional Use Permit ~~Criteria, through 10.250 180Expiration of a Conditional Use Permit.~~

10.1500 Signs In Neighborhood Commercial District (C-N): Basic Regulations.

Signs shall be permitted as follows in the C-N district:

(1) Ground Signs:

* * *

(d) Electronic Message Signs are permitted subject to Section~~s~~ 10.~~248~~184 ~~through 10.250~~, and the following criteria:

* * *

(2) Wall Signs: Wall signs are permitted subject to the following limitations:

(c) Electronic Message Signs are permitted as a primary or secondary facade wall sign subject to Section~~s~~ 10.~~248~~ 184, Conditional Use Permit ~~through 10~~.~~250~~, and the following criteria:

* * *

Exhibit F Proposed Amendment – Comprehensive Plan (CP-17-063)

~~Struck Through Text~~ (Blue):-Deleted Text Blue Text: New Text

REVIEW AND AMENDMENTS

Amended July 1, 2010, Ordinance No. 2010-159;

Amend July XX, 2018; Ordinance No. 2018-XXX

INTRODUCTION

Planning is a process; it is naïve to assume that a single document can answer all the questions or resolve all the problems for all times. Conditions change, resources are shifted, and community goals are revised.

For these reasons it is essential that means exist to keep the Plan dynamic. Oregon's statewide planning program addresses this need in two ways. First, a *post-acknowledgement plan amendment* review process exists to assure that local amendments to a state-acknowledged Plan or its implementing codes and ordinances are consistent with the statewide planning goals and with the plans of other affected agencies. The second statewide approach to assuring the maintenance of local comprehensive plans is by means of a more thorough *periodic review* program which will occur cyclically beginning at least five years after Plan acknowledgment. The *periodic review* program emphasizes internal plan consistency as well as overall compliance with new and revised state rules and statutes.

In addition to these state-administered programs, a well-defined local process to review and revise the *Comprehensive Plan* is essential. The local Plan amendment process should reflect a balance between the desire for maintaining a dynamic and locally responsive plan and the need to provide a reasonable degree of certainty and stability in the rules and processes governing land use. Such a plan amendment process is presented below.

TYPES OF AMENDMENTS

Because of the diverse structural nature of the *Comprehensive Plan,* it is necessary to categorize plan amendments in several different ways (bearing in mind that all plan amendments are land use actions as defined by state statutes). This Plan contains a variety of components: Data; Conclusions; Goals and Policies; Implementation Strategies; a General Land Use Plan Map; a City-County adopted Urban Growth Boundary and Urbanization Policies; and several other components. Specific procedural requirements for all land use actions are codified in Article II of the *Land Development Code.* Two different procedural classifications will apply to *Comprehensive Plan* amendments as follows:

Procedural Classifications for *Comprehensive Plan* Amendments

~~Class A~~Type IV

- Conclusions
- Goals and Policies
- Implementation Strategies
- General Land Use Plan Map (~~major~~minor) Land Use Plan Map (major)
- Urban Growth Boundary (~~major~~minor) ~~dures~~Urban Growth Boundary (major)
- Citizen Involvement Program
- Urban Reserve
- Urban Growth Management Agreement
- Urban Reserve Management Agreement
- ~~Citizen Involvement Program~~General
- ~~Review and Amendment Proce-~~
- Review and Amendment Procedures

~~Class B~~

- ~~Urban Growth Boundary (minor)~~
- ~~General Land Use Plan Map (minor)~~

The distinction between major and minor plan amendments is based on the following definitions which were derived from the Guidelines associated with Statewide Goal 2:

> Major Amendments are those land use changes that have widespread and significant impact beyond the immediate area, such as quantitative changes producing large volumes of traffic; a qualitative change in the character of the land use itself, such as conversion of residential to industrial use; or a spatial change that affects large areas or many different ownerships.

Minor Amendments are those land use changes that do not have significant effect beyond the immediate area of the change and should be based on special studies or other information which will serve as the factual basis to support the change. The public need and justification for the particular change should be established.

Disputes. When there is a question or dispute over the type of amendment, the director of the Planning Department shall issue a written decision.

CRITERIA FOR PLAN AMENDMENTS

Because of the important functional differences among the various Plan components, no common set of criteria can be used to assess all proposed Plan amendments. Below are listed the criteria which must be considered when evaluating proposed amendments to each of the specified Plan components. While all of the criteria may not apply to each proposed amendment, all must be considered when developing substantive findings supporting final action on the amendment, and those criteria which are applicable must be identified and distinguished from those which are not.

Conclusions. Amendments shall be based on the following:

1. A change or addition to the text, data, inventories, or graphics which substantially affects the nature of one or more conclusions.

Goals and Policies. Amendments shall be based on the following:

1. A significant change in one or more Conclusion.
2. Information reflecting new or previously undisclosed public needs.
3. A significant change in community attitude or priorities.
4. Demonstrable inconsistency with another Plan provision.
5. Statutory changes affecting the Plan.
6. All applicable Statewide Planning Goals.

Implementation Strategies. Amendments shall be based on the following:

1. A significant change in one or more Goal or Policy.
2. Availability of new and better strategies such as may result from technological or economic changes.
3. Demonstrable ineffectiveness of present strategy(s).
4. Statutory changes affecting the Plan.
5. Demonstrable budgetary constraints in association with at least one of the above criteria.
6. All applicable Statewide Planning Goals.

Street Re-classifications, including the re-classification of a lower order street to either a collector or arterial street, or when re-classifying a collector street to an arterial street, and when the re-classification is not a part of a major (~~Class A~~Type IV) legislative amendment. Amendments shall be based on the following:

1. A demonstrated change in need for capacity which is consistent with other plan provisions.
2. Consideration of alternatives to the proposed revision which includes alternative vehicle routes and alternative travel modes that would better preserve the livability of affected residential neighborhoods.
3. A significant change in one or more Goal or Policy.
4. Statutory changes affecting the Plan.
5. Demonstrable budgetary constraints in carrying out the existing plan.
6. All applicable Statewide Planning Goals.

Map Designations. Amendments shall be based on the following:

1. A significant change in one or more Goal, Policy, or Implementation strategy.
2. Demonstrated need for the change to accommodate unpredicted population trends, to satisfy urban housing needs, or to assure adequate employment opportunities.
3. The orderly and economic provision of key public facilities.
4. Maximum efficiency of land uses within the current urbanizable area.
5. Environmental, energy, economic and social consequences.
6. Compatibility of the proposed change with other elements of the City *Comprehensive Plan.*
7. All applicable Statewide Planning Goals.

Urban Growth Boundary. *See Urbanization Element.*

Urban Reserve. *See Urbanization Element.*

Urban Growth Management Agreement. *See Urbanization Element.*

Urban Reserve Management Agreement. *See Urbanization Element.*

Citizen Involvement Program. Amendments shall be based on recommendations from the Committee for Citizen Involvement (CCI) and on Statewide Goal 1 and any other applicable Statewide Goals.

Review and Amendment Procedure. Amendments shall be based on Statewide Goal 2 and any other applicable Statewide Goals.

REVISIONS OF DATA, INVENTORIES AND GRAPHICS

Revisions of those portions of the Plan document which do not affect a Plan Conclusion, Goal, Policy, Implementation Strategy, General Land Use Plan Map designation, Urban Growth Boundary, Citizen Involvement Program or Review and Amendment Procedures may be made when needed by order of the Planning Director. Such revision shall be transmitted to the Planning Commission, City Council, and all other recorded holders of the *Comprehensive Plan.*

Exhibit G
Agency Comment –
Medford Fire Department - June 12, 2017

Medford Fire Department
200 S. Ivy Street, Room #180
Medford, OR 97501
Phone: 774-2300; Fax: 541-774-2514;
www.medfordfirerescue.org

LAND DEVELOPMENT REPORT - PLANNING

To: Kyle Kearns

LD Meeting Date: 06/21/2017

From: Greg Kleinberg

Report Prepared: 06/12/2017

Applicant:

File #: DCA - 15 - 88

Site Name/Description:

Consideration of a Land Development Code Amendment to reorganize Article II (Sections 10.100-10.297). Article II serves in large part as the procedural requirements for the various planning procedures of the Planning Department and it has remained relatively unchanged since 1987. Without any substantive changes to Article II it has become inconsistent with current land use and planning practices throughout the State. The intent of DCA-15-088 is to update Article II and reorganize it to make it easier to read, more user friendly, and consistent with other municipalities in the State. Changes to the procedures within Article II are minimal, the only change being the distinguishing of a partition and subdivision, which currently function under the same criterion. City of Medford, Applicant; Kyle Kearns, Planner.

DESCRIPTION OF CORRECTIONS	REFERENCE

Requirement	ADDITIONAL REQUIREMENTS/COMMENTS	MEDFORD	OTHER

10.112 E3 This section links the Fire Department and the Water Commission, who are two separate entities. In the LD process, the Fire Department typically makes comments on fire apparatus access roads (public and private) and fire protection water supplies (fire hydrants). The Water Commission makes comments, among other things, on what infrastructure is in place, easements and what infrastructure improvements need to be made. Although we consult each other, I wonder if it makes sense to give each entity a separate section.

10.192 6b spelling correction: "Marshal" instead of "Marshall"

Development shall comply with access and water supply requirements in accordance with the Fire Code in affect at the time of development submittal.
Fire apparatus access roads are required to be installed prior to the time of construction. The approved water supply for fire protection (hydrants) is required to be installed prior to construction when combustible material arrives at the site.
Specific fire protection systems may be required in accordance with the Oregon Fire Code.

This plan review shall not prevent the correction of errors or violations that are found to exist during construction. This plan review is based on the information provided only.

Design and installation shall meet the Oregon requirements of the IBC, IFC, IMC and NFPA standards.

Exhibit H

Agency Comment –

Public Works and Public Works Addressing - June 21, 2017

Continuous Improvement Customer Service

CITY OF MEDFORD

LD Date: 6/21/2017
File Number: DCA-15-088

PUBLIC WORKS DEPARTMENT STAFF REPORT

Development Code Amendment
Reorganization of Article II

Project: Consideration of a Land Development Code Amendment to reorganize Article II (Sections 10.100-10.297). Article II serves in large part as the procedural requirements for the various planning procedures of the Planning Department and it has remained relatively unchanged since 1987. Without any substantive changes to Article II it has become inconsistent with current land use and planning practices throughout the State. The intent of DCA-15-088 is to update Article II and reorganize it to make it easier to read, more user friendly, and consistent with other municipalities in the State. Changes to the procedures within Article II are minimal, the only change being the distinguishing of a partition and subdivision, which currently function under the same criterion.

Applicant: City of Medford

Planner: Kyle Kearns

Public Works has no comments on the proposed Land Development Code amendment.

Prepared by: Doug Burroughs

Kyle W. Kearns

From: Jennifer L. Ingram
Sent: Wednesday, June 21, 2017 8:28 AM
To: Dustin J. Severs; Kyle W. Kearns
Subject: LDC 6/21/17

Good morning Dustin & Kyle,

I won't be attending the LDC meeting this morning. I don't have any comments on any of the projects.

Thank you!

Jennifer Ingram
Address / Database Technician
City of Medford
541-774-2069

Exhibit I

Public Comment –

CSA Planning, LTD. - May 8, 2017

Kyle W. Kearns

From: Carla G. Paladino
Sent: Wednesday, May 31, 2017 4:30 PM
To: 'Jay Harland'; Matt H. Brinkley
Cc: Kelly A. Akin; Mike Savage; Beverly Thruston; Raul Woerner; Lori Hollis (Loretta); Kyle W. Kearns
Subject: RE: COM PC study session RE: code amd

Hi Jay,

Thank you for contacting us about the Article II Code Amendment underway. This reorganization of Article II has been in the works for some time now internally and we are excited to get the amendment into the hearing process. We do understand there are some specific application types that need reworking (the Planning Commission discussed changes to the PUD section) but we are not getting into that level of detail with this amendment. We explained this to the Planning Commission as well and they want us to continue moving forward. There is discussion in the near future that a more comprehensive re-write or overhaul of Chapter 10 would occur that would look at all of these various pieces. So if you can save those comments for a later amendment that would be appreciated.

If you have comments you would like to provide for the work we are currently proposing, please submit those by the end of June/early July. The plan is to have this in front of the Planning Commission on July 27th and the City Council by September 7th.

Let me know if you have any questions.

Carla

Carla G. Angeli Paladino
Principal Planner - Long Range Division
City of Medford Planning Department
Lausmann Annex
200 South Ivy Street, Medford, Oregon 97501
541-774-2395 (direct)

Office Line: 541-774-2380
Fax: 541-618-1708
www.ci.medford.or.us

From: Jay Harland [mailto:jay@csaplanning.net]
Sent: Monday, May 08, 2017 10:49 AM
To: Matt H. Brinkley
Cc: Kelly A. Akin; Carla G. Paladino; Mike Savage; Beverly Thruston; Raul Woerner; Lori Hollis (Loretta)
Subject: FW: COM PC study session RE: code amd

Director Brinkley,

This is the first we have seen of this code update proposal.

I have not had time to study it in depth. I did skim it and a lot of the changes look sensible to me. CSA fully supports an update to this code section.

However, we do have some preliminary thoughts/questions:

1. The statement in the staff report is that a major update to the procedures section is needed to modernize the code. As such, an amendment to this Section should not just be editorial in nature. There are some major procedural problems with the City's code. The most glaring issue that comes to mind is the process to deal with design issues for Conditional Use Permits - which is one of the most awkward procedures for any permit action IMHO. We would welcome the opportunity to work with the City to get this issue fixed as part of this amendment. I think a discussion about changes to the exception criteria that creates different procedural levels for different levels of exceptions (variances) would also be very helpful and this type of "grading" of exceptions is very common in most urban development codes.

2. We would appreciate the opportunity to make suggestions on some of the procedural details. We have a lot of experience working with this code and many others around the State. What is your recommendation on input timing and how our input can be the most constructive?

Thank you for your attention to this matter,

Jay Harland
CSA Planning Ltd.

From: Lori Hollis [mailto:lori@csaplanning.net]
Sent: Monday, May 8, 2017 9:44 AM
To: 'Harland, Jay (CSA Planning Ltd)'; 'Raul'; 'Mike Savage'; 'Beverly Thruston'
Subject: COM PC study session RE: code amd

FYI

Exhibit J
Minutes – Planning Commission
Study Session October 26, 2015

from Study Session on **October 26, 2015**

The study session of the Medford Planning Commission was called to order at noon in the Lausmann Annex Room 151-157 on the above date with the following members and staff in attendance:

Commissioners Present
David McFadden, Chair
Patrick Miranda, Vice Chair
Tim D'Alessandro
David Culbertson
Norman Fincher
Joe Foley
Bill Mansfield
Mark McKechnie
Jared Pulver

Staff Present
Jim Huber, Planning Director
Bianca Petrou, Assistant Planning Director
Kelly Akin, Principal Planner
John Adam, Senior Planner
Kevin McConnell, Deputy City Attorney
Praline McCormack, Planner II

Subject:

1. **DCA-15-088 Article II Reorganization Amendment**

Praline McCormack, Planner II, reported that frustrated by the disorganization in Article II, staff is proposing an amendment to reorganize it. Ms. McCormack reviewed the summary of the proposed major changes to Article II.

1. Change the words "plan authorization" throughout the Code to either land use action or land use review depending on how the word is used. The reason for the change: "Plan authorization" does not mean anything to most people and it is not defined in the Code.

2. Change the five procedural types that are currently classified as Class A through E to Type I, II, III, etc. The reason for the change: It is standard practice to classify procedures as Types.

3. Reduce the number of procedural types from five to four. The procedural types are proposed to change as follows:

- Class A and Class B become Type IV applications. These types of applications go before the Planning Commission for recommendation to the City Council. City Council makes the final decision. The decision can be appealed to LUBA.

- Class C becomes Type III applications that decisions would be appealed to City Council.

- Class D becomes Type II applications that are administrative decisions with notice. The decision can be appealed to the Planning Commission.

- Class E becomes Type I applications that the decision is ministerial. These applications are usually not appealable except for final Planned Unit Development plans.

4. Remove Section 10.146, the referral agency distribution table. The reason for the change: This would add two and a half pages to Article II. Also, if there are any changes to the table it requires a code amendment to update the table. It would be easier to maintain and update the table if it is done administratively, when necessary, by staff.

5. Under each application type there is a section that lists the application submittal requirement. Staff is proposing to remove these from the code. The reason for the change: Anytime there is a change to the number of copies required, or there is an additional submittal requirement to add, it requires a code amendment. It would be easier to maintain and update the applications if it is done administratively, when necessary, by staff.

6. Currently, land partitions are a Class C quasi-judicial procedure and the approving authority is the Planning Commission. Staff proposed to change land partitions to a Type II, Planning Director decision, with notice to adjacent property owners. The reason for the change: Land partitions are straight-forward and merely requires an analysis to ensure that the resultant lot(s) meet code requirements for the underlying zoning district. By making these a Type II Planning Director decision, with notice, it removes an unnecessary local regulation and streamlines the partition process.

Commissioner Fincher asked if an application is denied, what is their course of action? Ms. McCormack reported that it would get appealed to the Planning Commission.

Commissioner McKechnie asked if this is basically a lot split; one lot turned into two? John Adam, Principal Planner stated up to three. That is the definition in State law for a partition. Four or more is a subdivision.

Commissioner McKechnie asked if it would still go through Land Development? Kelly Akin, Principal Planner, reported that the process would be the same. There would not be a public hearing. There would still be the 21-day, 200 foot notice to surrounding property owners, unless there is an appeal.

Ms. McCormack reported that the notice would not be for a public hearing but for an application received and that there will be an upcoming decision. After the decision is made there would be a notice of the decision.

Commissioner Mansfield stated that he thinks they all agree that they want to make this as simple as possible. Anytime there is an appeal from an administrator to the Planning Commission or from the Planning Commission to the City Council the scope of review needs to be carefully specified. Business licenses are misnamed in the Code. They are not licenses at all. They are taxes. They have no regulatory function.

Commissioner McKechnie stated that he likes leaving in the Code what is required for a specific application. Leave out the certain number of copies. Mr. Adam reported that staff continues to have that debate. They may consolidate it into a table.

Vice Chair Miranda stated that when reviewing the description of the Planning Commission on the website it quotes Section 10.111 and speaks to Class A, B and all of Class C. Would that be updated? Ms. McCormack reported that she would update anywhere in the Code and website that refers to the different Classes.

Mr. Adam asked the Planning Commissioners what was their comfort level of making partitions an administrative decision?

Vice Chair Miranda and Chair McFadden stated that it makes sense.

Commissioner Foley stated that he agrees with the earlier comment on the table. It makes more sense. He gets a little nervous about taking all that out.

Commissioner Pulver reported that on the first three proposed changes he defers them to the other Planning Commissioners. Terms should be defined. When making changes to the tables would they let the Planning Commission know or would staff take it to Jim Huber, Planning Director, for his approval or disapproval? Mr. Huber stated that staff's thoughts were how much of the specific items should be land use decisions? Should staff

take several of the unnecessary submittal requirements and create administrative rules that go along with the Code?

Ms. McCormack commented that the City is moving towards a paperless system.

There was discussion regarding making zone change decisions administrative or have the City Council make the decision. Other cities have city council make the decision because they consider it a legislative decision.

Commissioner Mansfield reported that the last time he reviewed the Oregon Revised Statutes it requires zone changes to be made by the Council. The Planning Commission does not have the power to make a zone change. It would have to go to the legislature unless it has been changed in recent years. Kevin McConnell, Deputy City Attorney, stated that he would have to research that. Annexations are the same way.

Commissioner D'Alessandro stated he agrees that simplifying the process will pay in dividends for most involved. As long as there are mechanisms in place for oversight in the event it is considered appealable. He is hearing from constituents in the southwest area regarding planter strips between the curb and sidewalks. Once they are installed there is little responsibility of who deals with them and how. It is unsightly.

Mr. Huber replied that it is a topic on the City Council's agenda. They have a full agenda and is not considered top priority. Part of the problem is authority. There are approximately ten different references in the Code that states it is part the responsibility of Public Works and other part is the Parks Department.

Mr. McConnell stated that this issue came to the Legal Department of who is responsible for the park strips. It looks like Public Works and the Parks Department are treating this differently. Mr. McConnell recommended that they change the Code to make it clear of who is responsible for those park strips. Appearance, water free and who is responsible for the maintenance needs to be addressed.

Commissioner McKechnie asked if they could discuss eliminating all the ridiculous things in the Code that have to do with landscaping? Can they get that on the agenda? Some of his concerns are: 1) How composition of structural soil is to be put together; 2) Who in City staff goes out and looks at that; and 3) Details on irrigation systems.

Bianca Petrou, Assistant Planning Director, stated that she thought that was just added to the Code. Ms. Akin replied they did. Commissioner McKechnie stated to get rid of them. It does not belong there. It is a construction specification that does not belong in a zoning code.

Mr. Huber replied that if the Commission wants to discuss this issue they could get some people from the Water Commission to speak to the Planning Commission. Approximately five years ago they appeared before the City Council and asked that the City Council re-vamp all of the landscaping ordinance provisions. They addressed that during winter months there is a certain water usage but in the summer months it sky rockets. They attributed it to the inefficiency of soil, slopes, inefficient irrigation systems and wrong materials. There was a Water Conservation Site Development Committee that met for four years that came up with the code amendment. It is complex.

Commissioner McKechnie stated that it is the most complex one that he has seen anywhere, regardless of where he has worked in the country. Mr. Huber commented that they are not wed to it but the goal is to stop wasting water.

Exhibit K
Minutes – Planning Commission
Study Session May 8, 2017

From Study Session on **May 8, 2017**

The study session of the Medford Planning Commission was called to order at 12:05 p.m. in the Lausmann Annex Room 151-157 on the above date with the following members and staff in attendance:

Commissioners Present
Patrick Miranda, Chair
David McFadden, Vice Chair
David Culbertson
Joe Foley
Bill Mansfield
E. J. McManus

Staff Present
Kelly Akin, Assistant Planning Director
Kevin McConnell, Deputy City Attorney
Carla Paladino, Principal Planner
Kyle Kearns, Planner II

Commissioners Absent
Mark McKechnie, Unexcused Absence
Alex Poythress, Excused Absence
Jared Pulver, Excused Absence

Subject:

20.1 DCA-15-088 – Article II Reorganization

NOTE: The recorder at this meeting had a malfunction and did not record the meeting. The notes were taken from staff's PowerPoint Presentation and from staff members in attendance.

Kyle Kearns, Planner II, reported that the major articles of the Medford Land Development Code are:

- Article I – General Provisions
- Article II – Procedural Requirements
- Article III – Zoning Districts
- Article IV – Public Improvement Standards
- Article V – Site Development Standards
- Article VI - Signage

The Medford Land Development Code was adopted in 1987 with only minor changes to Article II in 30 years.

Typical code amendments pertain to land use/zoning and development.

There have been many changes in Planning in 30 years.

The lack of updates to Article II means:

- Language is out of date
- Procedures have changed
- Procedures are outdated

The proposed changes within Article II are meant to create an easier and more adaptable Land Use Code to meet the needs of planning as it is today.

The following updates to Article II include:

- Re-organization
- Format Changes
- Tentative Land Divisions/Partitions
- Removal of Submittal Criterion
- Updates to the entire Medford Land Development Code

A portion of the update is required to create an Article II that is easier to follow and read. It includes:

- Combination of related sections
- Moved Sections from Article I to Article II; 10.021, 10.031, 10.052, and 10.056
- Deleted redundant or unnecessary language.

Another portion of the update is proposed to create a more current land use code with current planning practices. It includes:

- Change plan authorization to land use action or review
- Proposing procedural typed to change to:
  - Class A and B become Type IV
  - Class C becomes Type III
  - Class D becomes Type II
  - Class E becomes Type I
- Changed Language to simpler terms
- Converted masculine pronouns (he to neutral (they) words

Tentative Land Divisions/Partitions are currently Class C land use actions.

The proposal makes:

- Partitions (3 or less parcels) a Type II Land Use Action
- Land Divisions (>3 parcels) remains Type III (Class C)

Partitions are often simple in nature with little discretion needed to achieve approval.

Other changes include:

- Removal of submittal criteria
- Updated to the entire Medford Land Development Code

The next steps are as follows:

- Send to agencies for comment
- Ensure ORS compliance/consistency
- Planning Commission hearing

The Planning Commission discussed the changes that pertain to tentative land divisions and partitions.

Vice Chair McFadden and Commissioner Foley raised concerns about controversial applications, including a particular case on White Oak Drive where there was a high amount of discretion needed as it was a concern of surrounding neighbors. They were concerned that taking land partitions away from the Planning Commission review may cause some issues in the future for more complex cases and the lack of a public hearing. Staff pointed out that partition applications accompanied by an Exception, such as the White Oak application, would go to the Planning Commission.

The Planning Commission discussed the possibility of adding a number threshold of citizen comments that would trigger a public hearing. The Planning Commission acknowledged this cannot be a criteria.

The Commission asked staff to double check it is in fact just the simple partitions that would be going to the Planning Director for review.

It was asked, can the Planning Director submit to the Planning Commission for assistance on tougher cases? Commissioner Mansfield pointed out that it is possible to give the Planning Director the authority to forward applications to the Planning Commission for a public hearing. Staff agreed to add language to that effect.

The Planning Commission asked, would this have any effect on the 120 day rule? Staff stated it will not. Part of this proposal is to give the Planning Commission appeal authority in partitions. The City Council would not hear this kind of appeal, the next step would be LUBA.

The Planning Commission was generally supportive of the changes to land partitions.

The Planning Commission was generally supportive of the overall changes to Article II with not much in terms of substantive comments

The Planning Commission gave some direction regarding more specific changes to Article II procedures. They want the amendments in two phases:

- Phase 1: What staff is currently doing
- Phase 2: Specific procedural requirements such as changes to the Site Plan and Architectural Commission review, conditional use permit process and other changes be done separately from this code amendment.

Staff noted receipt of comments from CSA Planning received this morning. They would like to make changes to specific application procedures, particularly the conditional use permit. Staff agreed with the Planning Commission's direction to limit the amendment to reorganization at this time.

30. Adjournment

The meeting was adjourned at 12:30 p.m.

_____

Submitted by:
Terri L. Rozzana
Recording Secretary

Exhibit L
Minutes – Planning Commission
Hearing July 27, 2017

From Public Hearing on **July 27, 2017**

The regular meeting of the Planning Commission was called to order at 5:30 PM in the City Hall Council Chambers on the above date with the following members and staff in attendance:

Commissioners Present
Patrick Miranda, Chair
David McFadden, Vice Chair
David Culbertson
Joe Foley
Bill Mansfield
Mark McKechnie
E.J. McManus

Staff Present
Matt Brinkley, Planning Director
Kelly Akin, Assistant Planning Director
Carla Paladino, Principal Planner
Kevin McConnell, Deputy City Attorney
Alex Georgevitch, City Engineer
Greg Kleinberg, Fire Marshal
Terri Rozzana, Recording Secretary
Dustin Severs, Planner III
Kyle Kearns, Planner II

Commissioners Absent
Alex Poythress, Excused Absence
Jared Pulver, Excused Absence

* * *

New Business
50.4 DCA-15-088 / CP-17-063 Consideration of a Land Development Code Amendment to reorganize Article II (Sections 10.100 – 10.297). (City of Medford, Applicant; Kyle Kearns, Planner II)

Kyle Kearns, Planner II, reviewed the background, major changes to Article II and reviewed the approval criteria. The development code and comprehensive plan amendment approval criteria are found in the Medford Land Development Code Section 10.184. The applicable criteria was included in the staff report and hard copies are available at the entrance of Council Chambers for those in attendance.

The Public Hearing was opened and there being no testimony the public hearing was closed.

Motion: The Planning Commission, based on the findings and conclusions that all of the approval criteria are either met or not applicable, forwards a favorable recommendation for adoption of DCA-15-088 and CP-17-063 to the City Council per the staff report dated July 20, 2017, including Exhibits A through I.

Moved by: Vice Chair McFadden Seconded by: Commissioner McKechnie

Roll Call Vote: Motion passed, 7-0.

100. Adjournment

The meeting was adjourned at 7:00 p.m. The proceedings of this meeting were digitally recorded and are filed in the City Recorder's office.

Submitted by:

Terri L. Rozzana
Recording Secretary

Patrick Miranda
Planning Commission Chair

Approved: August 10, 2017

Exhibit M
Minutes – City Council Hearing
September 7, 2017

MINUTES
September 7, 2017
6:00 p.m.
Medford City Hall, Council Chambers
411 West 8th Street, Medford, Oregon

The regular meeting of the Medford City Council was called to order at 12:00 noon in the Medford City Hall Council Chambers on the above date with the following members and staff present:

Mayor Gary Wheeler; Councilmembers Clay Bearnson, Kay Brooks, Tim D'Alessandro, Dick Gordon, Tim Jackle, Kevin Stine, Michael Zarosinski

City Manager Brian Sjothun; Deputy City Manager Kelly Madding; City Attorney Lori Cooper; City Recorder Karen Spoonts

Councilmember Kim Wallan was absent.

* * *

80. Ordinances and Resolutions

* * *

80.4 COUNCIL BILL 2017-104 AN ORDINANCE amending Articles I, II, III, IV, V, VI of Chapter 10 of the Medford Municipal Code pertaining to procedural requirements and substantive criteria for land use reviews.

This item will be continued to a study session on October 12. Councilmember Gordon expressed concern regarding changes from the current Code and questioned the justification of those changes.

Planning Director Matt Brinkley noted this is a "clean up" of the Land Development Code for ease of use by the community, Council and the Planning Commission.

Ms. Cooper noted this should item should have been listed as a public hearing on the agenda, but public notice was given through the Planning Department. Councilmember Jackle preferred our Code more closely follow state law.

Motion: Postpone this item to a date to be determined after the October 12, 2017 study session.
Moved by: Michael Zarosinski Seconded by: Kevin Stine
Roll call: Councilmembers Bearnson, Brooks, D'Alessandro, Gordon, Jackle, Stine, and Zarosinski voting yes.
Motion carried and so ordered.

Exhibit N
Minutes – City Council Study Session
April 26, 2018

AGENDA
April 26, 2018
6:00 p.m.
City Hall, Medford Room
411 W. 8th Street, Medford, Oregon

1. Proposed Code Amendment of Chapter 10, Article II
2. Proposed Code Amendment – Senate Bill 1051 (updated housing laws)
3. Warming/Cooling Shelters
4. Transitional Housing

MINUTES
April 26, 2018
6:00 p.m.
City Hall, Medford Room
411 W. 8th Street, Medford, Oregon

The Medford City Council Study Session was called to order at 6:00 p.m. in the Medford Room of the Medford City Hall on the above date with the following members and staff present:

Mayor Gary Wheeler; Councilmembers Clay Bearnson (joined by phone at 7:30 p.m.); Kay Brooks (arrived at 6:15 p.m.), Tim D'Alessandro, Dick Gordon, Tim Jackle, Kim Wallan, Michael Zarosinski

City Manager Brian Sjothun; City Attorney Lori Cooper; City Recorder Karen Spoonts;

Councilmembers Kevin Stine was absent.

Proposed Code Amendment of Chapter 10, Article II – Carla Paladino

Principal Planner Carla Paladino presented two proposals to Chapter 10 and a minor comprehensive plan amendment. Planning Commission has recommended both.

- Amend and reorganize Article II and update other Articles affected by state revisions
    - Format Changes
    - Comprehensive Plan Changes

Council comments:

- Appeals would go to the Planning Commission
- Standing would come if they submit in writing
- Bring forward for final hearing on amendments

CITY OF MEDFORD
AGENDA ITEM COMMENTARY

www.ci.medford.or.us

Item No: 40.2

DEPARTMENT: Planning Department
PHONE: (541) 774-2390
STAFF CONTACT: Angela Durant, Principal Planner - Housing and Community Development

AGENDA SECTION: Public Hearings
MEETING DATE: June 21, 2018

COUNCIL BILL 2018-65
A resolution approving Substantial Amendment No. 2 to the City of Medford's 2017-18 Action Plan for use of Community Development Block Grant funds.

SUMMARY AND BACKGROUND
The Planning Department is requesting approval of a resolution to adopt Substantial Amendment No. 2 to the City of Medford 2017/18 Action Plan pertaining to the City's Community Development Block Grant (CDBG) Program. This amendment would add a new project utilizing unspent prior year entitlement and program income funds to provide assistance to Rogue Valley Youth for Christ (YFC) to rehabilitate former Fire Station #2 located at 1241 W. 8th Street. YFC proposes converting the facility to a multi-use community center focusing on serving the kids and families in high-risk neighborhoods surrounding the facility. CDBG funds would be used to address important safety and building issues such as upgrading the windows and doors, removing a large tree that is damaging the building, and other upgrades required to meet current City Code and ADA standards. This project is the result of Council direction made on March 15, 2018, as detailed below under Previous Council Actions.

Completion of the project is contingent upon YFC purchasing the property. Mandatory prerequisites and timing thereof have been dictated by the U.S. Department of Housing and Urban Development (HUD), as the CDBG program enforcement agency. Staff has worked with HUD to identify a timeline of actions that are compliant with HUD regulations. In order to maintain compliance, City Council would first need to officially approve the project through the proposed Substantial Amendment. If granted, staff would proceed by completing a HUD mandated Environmental Assessment in order to issue YFC a preliminary notice to proceed. This preliminary notice would allow the City to enter into a lease agreement with YFC, pending Council approval. If granted, YFC would then be able to request a conditional use permit to allow them to purchase the property and carry out the proposed project.

PREVIOUS COUNCIL ACTIONS
- Council approved Resolution No. 2015-46 adopting the 2015-19 Consolidated Plan at a public hearing held on May 7, 2015.
- Council approved Resolution No. 2015-47 adopting the 2015 Action Plan at a public hearing held on May 7, 2015.
- Council approved Resolution No. 2016-57 adopting the 2016 Action Plan at a public hearing held on May 5, 2016.
- Council approved Resolution No. 2017-54 adopting the 2017 Action Plan and Substantial Amendment to the 2016 Action Plan at a public hearing held on June 1, 2017.
- On June 15, 2017, Council approved Resolution No. 2017-57 adopting the budget for the City of Medford for the biennium commencing July 1, 2017.
- On March 15, 2018, Council approved a motion to direct staff to enter into a lease agreement with YFC for the former Fire Station #2; with the agreement to come back to Council for approval.
- On March 15, 2018, Council approved an amendment to the previous motion to include that the lease or sale agreement brought back for Council approval also direct staff to initiate a substantial amendment to the 2017 Action Plan authorizing $24,429.78 in CDBG funds to be allocated for improvements to the building.
- On June 1, 2018, Council approved Resolution No. 2018-40 adopting Substantial Amendment No. 1 to the 2017/18 Action Plan.

ANALYSIS

The proposed project meets HUD's eligibility requirements and addresses a local priority need and goal as defined in the 2015-19 Consolidated Plan. On March 14, 2018, the Housing and Community Development Commission, acting as the advisory body to Council on all matters associated with the City's CDBG program, approved for recommendation to Council using available CDBG funds to rehabilitate the building in preparation for lease or sale to a nonprofit agency serving low-income residents. On June 6, 2018, the Commission approved for recommendation to Council allocating available funds to a new project with YFC as presented in the agency's CDBG capital improvement application.

Adding a new project to the City's 2017/18 Action Plan triggers a substantial amendment per HUD regulations and the City's CDBG Citizen Participation Plan. Under HUD's Citizen Participation regulations, the City is required to conduct a public hearing, preceded by a 30-day public comment period prior to submitting this Substantial Amendment to HUD. The 30-day comment period commenced on May 22, 2018, and will conclude on June 21, 2018. Any public comments received during this time period will be presented to Council during the public hearing held on June 21, 2018. Any additional comments received at the public hearing will be recorded in the Substantial Amendment submitted to HUD.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

Total available rehabilitation funds of $24,429.78 are derived from returned program income and unspent project funds from ACCESS' Down Payment Assistance program and the Medford Public Works' Thomas Road Demolition project; $15,000 and $9,429.78, respectively. Additional CDBG Program Administration funds in the amount of $2,200 would be expended by the City to complete an environmental Phase I in preparation for lease or sale of the property to a nonprofit agency, and as required by HUD Part 58 regulations.

TIMING ISSUES

Staff is requesting Council action on June 21, 2018, in order to meet HUD's regulatory timelines.

COUNCIL OPTIONS

- Approve the resolution
- Modify and approve the resolution
- Deny the resolution

STAFF RECOMMENDATION

Staff recommends approval of the resolution to adopt Substantial Amendment No. 2 to the 2017/18 Action Plan for Housing Community Development.

SUGGESTED MOTION

I move to approve the resolution to adopt Substantial Amendment No. 2 to the City of Medford 2017/18 Action Plan for Housing and Community Development.

EXHIBITS

Resolution
Exhibit A - Substantial Amendment No. 2 to the 2017/18 Action Plan

RESOLUTION NO. 2018-65

A RESOLUTION approving Substantial Amendment No. 2 to the City of Medford's 2017-18 Action Plan for use of Community Development Block Grant funds.

WHEREAS, the 2017-18 Action Plan (Plan) was adopted by the City Council on June 1, 2017, and submitted to HUD for approval; and

WHEREAS, this substantial amendment involves one proposed changed to the Plan as follows:

(1) The proposed amendment is to add a new project utilizing unspent prior year entitlement and program income funds in the amount of $24,429.78 that would be granted to Rogue Valley Youth for Christ to rehabilitate the existing, City owned property at 1241 W. 8th Street as described in Exhibit A; and

WHEREAS, HUD regulations require a public hearing to solicit citizen input and require the City to publish a public hearing notice concerning the amendment and to hold a 30-day public comment period and the City has complied with these regulations; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MEDFORD, OREGON that:

Substantial Amendment No. 2 to the City of Medford's 2017-18 Action Plan for Housing and Community Development as set forth herein is hereby approved. The Plan is on file in the City Recorder's office.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2018.

ATTEST: _____ _____

City Recorder Mayor

Exhibit A
SUBSTANTIAL AMENDMENT No. 2
City of Medford 2017/18 Action Plan
Community Development Block Grant Program

Amendment dated May 17, 2018

CHANGE IN SCOPE OF A PROJECT

The proposed amendment is to add a new project utilizing unspent prior year entitlement and program income funds in the amount of $24,429.78 that would be granted to Rogue Valley Youth for Christ (YFC) to rehabilitate the existing, City-owned Fire Station located at 1241 W. 8th Street. Pending final acquisition of the property, YFC would convert the facility to a multi-use community center focusing on serving the kids and families in the high-risk neighborhoods surrounding the facility. CDBG funds would be used to address important safety and building issues such as upgrading the windows and doors, removing a large tree that is damaging the building, and other upgrades required to meet current City Code and ADA standards.

Below are the highlights of the proposed Substantial Amendment No. 2 to the City of Medford 2017/18 Action Plan, pending approval by Medford City Council on June 21, 2018, and pending final approval by the US Department of Housing and Urban Development (HUD) thereafter.

2015-19 CONSOLIDATED PLAN FOR HOUSING AND COMMUNITY DEVELOPMENT

Goal 3: Improve Living Conditions in by Addressing Community Development Projects that Improve Public Infrastructure, Public Facilities and Neighborhood Revitalization Over a Five Year Period.

Objective 3.1: Improve community infrastructure and facilities, reduce blighting influences, and preserve and build community through neighborhood revitalization in low/moderate income neighborhoods.

Strategy 3.1.2: Provide assistance to develop neighborhood facilities such as youth centers, senior centers, parks and recreation facilities, open space and community centers.

Planned Activity: CDBG funds would be used for rehabilitation of the building after Youth for Christ purchases the property from the City of Medford.

IDIS Matrix Code: 03D Youth Centers

National Objective Code: Low- to Moderate-Income Clientele (LMC) – youth as presumed benefit

Location: 1241 W. 8th Street, Medford, Oregon 97501

Organization: Rogue Valley Youth for Christ

Funding: $24,429.78 in prior year unspent entitlement and program income funds.

Target Completion Date: 06/30/2019

Performance Objective: Create Suitable Living Environments

Performance Outcome: Availability/Accessibility

Indicator: Youth Served

Eligibility/National Objective Citation: 570.201(a) / 570.208(a)(3)

Appendix A

30-DAY PUBLIC COMMENT PERIOD
Tuesday, May 22, 2018 through Thursday, June 21, 2018

TO: MAIL TRIBUNE-LEGAL
PUBLISH: Tuesday, May 22, 2018

NOTICE OF OPENING OF PUBLIC COMMENT PERIOD AND PUBLIC HEARING

Notice is hereby given that a 30-day public comment period for the City of Medford's **Substantial Amendment No. 2 to the Community Development Block Grant (CDBG) 2017/18 Action Plan** will commence on Tuesday, May 22, 2018 and close on Thursday, June 21, 2018 to solicit citizen input regarding the substantial amendment. The City Council, City of Medford, will hold a public hearing on Thursday, June 21, 2018 at 6:00 p.m. in the City Hall, Council Chambers, 411 W 8th St, Medford, Oregon for the purpose of soliciting citizen input regarding the proposed substantial amendment.

The City of Medford is an entitlement city for CDBG program funds from the US Department of Housing and Urban Development (HUD) and is required to submit an annual Action Plan to HUD outlining the projects to be funded with current year and unspent prior year funds. A substantial amendment is required if major changes are made regarding the use of those funds. This substantial amendment involves one property acquisition change.

The substantial amendment is to add a new project utilizing unspent prior year entitlement and program income funds totaling $24,429.78 that would be granted to Rogue Valley Youth for Christ (YFC) to rehabilitate the existing City-owned Fire Station located at 1241 W. 8th Street. Pending final acquisition of the property, YFC would convert the facility to a multi-use community center focusing on serving the kids and families in the high-risk neighborhoods surrounding the facility. CDBG funds would be used to address important safety and building issues such as upgrading windows and doors, removing a large tree that is damaging the building, and other upgrades required to meet current City code standards.

Copies of the City's draft Substantial Amendment No. 2 to the 2017/18 Action Plan are available for public review at the Lausmann Annex, 200 S. Ivy Street, Medford, OR 97501 and on the City website at www.ci.medford.or.us. Please contact Angela Durant with the Planning Department at 541-774-2390 or angela.durant@cityofmedford.org to obtain a copy or to submit comments.

A summary of public comments will be incorporated into the final document prior to submission to HUD.

Angela Durant
City of Medford
Principal Planner - Housing and Community Development

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CITY OF MEDFORD
AGENDA ITEM COMMENTARY

www.ci.medford.or.us

Item No: 40.3

DEPARTMENT: Planning Department
PHONE: (541) 774-2390
STAFF CONTACT: Angela Durant, Principal Planner - Housing and Community Development

AGENDA SECTION: Public Hearings
MEETING DATE: June 21, 2018

COUNCIL BILL 2018-66
A resolution adopting the Action Plan for use of the City's Community Development Block Grant (CDBG) funds for fiscal year 2018-19.

SUMMARY AND BACKGROUND
The Planning Department is requesting approval of a resolution to adopt the 2018/19 Action Plan for the purpose of fulfilling the regulatory requirements of the Community Development Block Grant (CDBG) Program. The City of Medford is an entitlement community receiving an annual allocation of CDBG funds from the U.S. Department of Housing and Urban Development (HUD). This public hearing, as well as a preceding 30-day public comment period, is a HUD requirement to seek Council approval and to solicit citizen input regarding the City's 2018 funding allocation set forth in the Action Plan. The Action Plan is developed based upon the goals, objectives and strategies documented in the 2015-19 Consolidated Plan. The Action Plan outlines specific programmatic activities and projects to be implemented during the time period of July 1, 2018 through June 30, 2019. The proposed programs and projects serve to help the City accomplish the goals and objectives of the 2015-19 Consolidated Plan. The Consolidated Plan is a comprehensive planning document that identifies the City's overall housing and community development needs for assisting low/moderate-income persons and outlines a five-year strategy to address those needs. The purpose of the Consolidated Plan is to provide a framework for annual decisions on the use of CDBG funds.

PREVIOUS COUNCIL ACTIONS
- Council approved Resolution No. 2015-46 adopting the 2015-19 Consolidated Plan at a public hearing held on May 7, 2015.
- Council approved Resolution No. 2015-47 adopting the 2015 Action Plan at a public hearing held on May 7, 2015
- Council approved Resolution No. 2016-57 adopting the 2016 Action Plan at a public hearing held on May 5, 2016.
- Council approved Resolution No. 2017-54 adopting the 2017 Action Plan including a Substantial Amendment to the 2016 Action Plan at a public hearing held on June 1, 2017.
- On June 15, 2017, Council approved Resolution No. 2017-57 adopting the budget for the City of Medford for the biennium commencing July 1, 2017.
- On September 21, 2017, Council approved Resolution No. 2017-117 adopting 2017/19 Biennial Goals for the City of Medford.
- On June 1, 2018, Council approved Resolution No. 2018-40 adopting Substantial Amendment No. 1 to the 2017/18 Action Plan.

ANALYSIS
The Housing and Community Development Commission (HCDC) serves as the advisory body to Council on matters associated with the City's CDBG program. The HCDC reviews, scores and ranks all CDBG applications, and then develops a funding recommendation to be presented to Council prior to final submission to HUD. On March 14, 2018, the HCDC formulated the proposed funding recommendation illustrated in Table 1, and as outlined in the 2018/19 Action Plan. A working draft of the Action Plan is available in the Planning Department and on the City's website. The 30-day public comment period commenced on May 22, 2018, and will conclude on June 21, 2018. Any public comments received during the comment period and at the public hearing will be included in the final submission to HUD. Exhibit A

illustrates the HCDC's 2018/19 funding recommendation including organization name, project summary, funding allocations and anticipated outcomes.

Approximately 61% or $883,278 of the 2018/19 available resources are recommended for allocation to activities that seek to serve Council in accomplishing Council Goals under the 2017/19 Biennium Goals related to continued analysis and potential adoption of Regional Housing Strategies and working within the Continuum of Care to ensure homeless mitigation strategies are completed and acted on. Ten of the 16 projects identified in Exhibit A target these goals with combined anticipated outcomes of serving 1,460 youth that are homeless or at risk of becoming homeless, 680 adults with mental illness seeking job training and permanent housing, 73 households in need of housing related legal services, 68 persons in need of emergency rental assistance, 23 homeowners in need of emergency home repairs, development of 64 new affordable rental units, completion of a homeless system gaps analysis, and administrative support for implementation of Council directed housing strategies.

Other local/regional/state/federal planning efforts considered when preparing the Action Plan include: 1) City of Medford 2015-20 Strategic Plan; 2) Opening Doors: Federal Strategic Plan to End Homelessness; 3) A Home for the Hope: 10-Year Plan to End Homelessness in Oregon: 4) Jackson County 10-Year Plan to End Homelessness; and 5) State of Oregon Statewide Housing Plan.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS
2018/19 program year funding is categorized as follows:

2018/19 CDBG Estimated Resources	
Annual Entitlement Award	**$722,034**
Estimated Program Income	**100,000**
Prior Year Carryover Project Funding	**594,728**
Prior Year Carryover Program Income	**31,685**
TOTAL	**1,448,447**

The actual 2018 CDBG program year budget is subject to change resulting from unspent 2017 Program Administration funds and variances in anticipated project expenditures through June 30, 2018. The HCDC further recommends unspent Program Administration funds be allocated to Compass House and Housing Authority (projects 2 and 3 of Exhibit A); 50% each.

TIMING ISSUES
Staff is requesting Council action on June 21, 2018, in order to meet HUD's regulatory timelines.

COUNCIL OPTIONS
- Approve the resolution
- Modify and approve the resolution
- Deny the resolution

STAFF RECOMMENDATION
Staff recommends approval of the resolution to adopt the 2018/19 Action Plan.

SUGGESTED MOTION
I move to approve the resolution to adopt the City of Medford 2018/19 Action Plan for Housing and Community Development.

EXHIBITS
Resolution
Exhibit A: 2018/19 CDBG Funding Recommendation
2018/19 Action Plan *(on file with the City Planning Department & City Recorder's Office)*

RESOLUTION NO. 2018-66

A RESOLUTION adopting the Action Plan for use of the City's Community Development Block Grant (CDBG) funds for fiscal year 2018-19.

WHEREAS, the City Council must adopt the 2018-19 Action Plan before it is sent to the Department of Housing and Urban Development (HUD) for approval; and

WHEREAS, a public hearing is required to receive citizen input which public hearing has been duly held in accordance with HUD requirements; and

WHEREAS, a Resolution is a required step to officially adopt the proposed expenditures as the City's Action Plan with respect to its 2018-19 HUD CDBG Grant; and

WHEREAS, each of the items is consistent with the goals and strategies of the City's five-year HUD Consolidated Plan for Housing and Community Development which was adopted by the Council on May 7, 2015; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MEDFORD, OREGON that the Action Plan for use of the City's CDBG funds in fiscal year 2018-19, on file in the City Recorder's Office, is hereby adopted.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2018.

ATTEST: _____ _____

City Recorder Mayor

Exhibit A: 2018/19 CDBG Funding Recommendation

No.	Year	Organization Name	Project Summary	Recommended Allocation	Anticipated Outcome
1	2018	Rogue Valley Youth for Christ	Purchase 11 Almond Street to convert to a youth transitional housing complex and vocational training center	$ 250,000.00	40 youth
2	2018	Compass House	Rehabilitate 37 N. Ivy Street to provide services to adults living with mental illness	$ 129,661.50	680 adults
3	2018	Housing Authority of Jackson County	Homeowner rehabilitation benefiting low/moderate-income residents, city-wide *+ program income*	$ 89,661.50 $ 95,000.00	12 owner-occupied units
4	2017	Housing Authority of Jackson County	Homeowner rehabilitation benefiting low/moderate-income residents, city-wide *+ program income*	$ 88,255.00 $ 31,685.00	11 owner-occupied units
5	2017	Rogue Valley Youth for Christ	Rehabilitate 1241 W. 8th Street to convert building to a multi-use youth community center	$ 24,429.78	100 youth
6	2016	Housing Authority of Jackson County	Construct off-site public infrastructure for construction of 64 units of affordable housing at 217 N Ross Lane	$ 323,504.40	64 rental units
7	2017	Medford Senior Center	Address ADA and safety hazard concerns at 510 E Main Street to serve senior citizens	$ 106,386.30	516 seniors
8	2017	Medford Parks and Recreation	ADA upgrades to Jackson Park	$ 24,852.91	460 households
9	2017	Children's Advocacy Center	Address ADA and safety hazard concerns at 816 W. Tenth	$ 21,800.00	1,178 participants
10	2017	Medford Building and Code Enforcement	Address code violations of blighted unsafe properties in low/moderate-income areas	$ 5,500.00	7 properties
11	2018	St. Vincent de Paul	Provide emergency rental assistance to homeless and at-risk individuals *+ program income*	$ 28,794.00 $ 5,000.00	68 people/26 households
12	2018	Maslow Project	Administrative assistance to provide wrap-around support services to homeless and at-risk youth and families	$ 25,000.00	1,350 youth/family members
13	2018	Hearts with a Mission	Administrative assistance to provide emergency shelter to help stabilize youth in crisis	$ 24,992.00	70 youth
14	2018	Center for Nonprofit Legal	Administrative assistance to provide Fair Housing legal services, education and outreach to low/moderate-income residents	$ 20,826.00	73 persons
15	2018	Community Volunteer Network	Administrative assistance to match seniors with children being served in local schools, nonprofits and daycare	$ 8,693.00	30 seniors
16	2018	Planning Department & Other	Program Administration to cover CDBG staff wages, trainings, supplies, public notices, and consulting services to complete a homeless system gaps analysis	$ 144,406.00	Above results + homeless system study/support for housing strategies

CITY OF MEDFORD
AGENDA ITEM COMMENTARY

www.ci.medford.or.us

Item No: 60.1

DEPARTMENT: Public Works
PHONE: (541) 774-2100
STAFF CONTACT: Cory Crebbin, Public Works Director

AGENDA SECTION: Consent Calendar
MEETING DATE: June 21, 2018

COUNCIL BILL 2018-67
An ordinance awarding a contract in an amount of $227,018.00 to MIG to prepare a Self-Assessment and Transition Plan for the public right-of-way in accordance with the Americans with Disabilities Act.

SUMMARY AND BACKGROUND
The 1991 Americans with Disabilities Act (ADA) requires cities to conduct self-evaluations of policies and programs to ensure equal treatment and accommodations for those with disabilities. The law also requires cities to create a Transition Plan to identify and remove barriers to those with disabilities, including a schedule to do said work. The City of Medford created a Transition Plan in approximately 1992, but did not include the public right-of-way. In 2015 the United States Department of Justice (DOJ) received a complaint by a Medford citizen regarding compliance with the ADA and assigned the Federal Highway Administration (FHWA) to investigate the City. FHWA prepared a Letter of Findings (LOF) dated July 1, 2016 that identified 7 recommendations to bring the City into compliance.

On October 26, 2016 the City of Medford voluntarily agreed to the seven recommendations listed in the FHWA LOF. One recommendation is for the City to complete a self-evaluation for the public right-of-way and prepare a transition plan within 5-years. Since that time staff prepared a Request for Proposals (RFP) to do a Self-Evaluation. The RFP closed on April 24, 2018, and there were three proposals (MIG, Cyclomedia and Meeting the Challenges, Inc.). An evaluation committee was formed that included the City's ADA coordinator, the Deputy Public Works Director/City Engineer, Transportation Manager and a local engineer from OBEC. The selection committee unanimously scored MIG the most qualified and staff began negotiating an agreement.

PREVIOUS COUNCIL ACTIONS
On June 15, 2017, the Council approved Council Bill 2017-57 adopting the Biennial Budget 2017-2019 which includes this project on page 8-20 as part of Material and Services under fund 500.

ANALYSIS
The City has agreed to the recommendations in the FHWA Letter of Findings which provides specific timelines to complete items needed to be in compliance with the ADA. The workload and expertise to complete this work requires hiring a consultant. If this contract is delayed it may jeopardize meeting the timelines agreed upon between the FHWA and the City. The ADA Self-Evaluation and Transition Plan must be completed by June 30, 2022.

MIG provided two options in their proposal. The first option was for the Self-Evaluation as requested in the RFP. Their price for said work is $190,833. They also proposed to include a Transition Plan for a combined price of $227,018. Staff elected to negotiate with MIG to prepare both a Self-Evaluation and Transition Plan.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS
Expenditure of $227,018 which is included on page 8-20 of the 2017/2019 Biennium Budget.

TIMING ISSUES
The work will begin in July 2018 and is scheduled to be complete by September 2019.

COUNCIL OPTIONS

- Approve the resolution as presented.
- Modify and approve resolution.
- Deny the resolution and provide direction to staff regarding how to accomplish a self-evaluation of the Public Right-of-Way as required by the ADA.

STAFF RECOMMENDATION

Approve the ordinance for a contract with MIG to prepare an ADA Self-Assessment and Transition Plan for the Public Right-of-Way.

SUGGESTED MOTION

I move to approve the ordinance for a contract in the amount of $227,018 to MIG to prepare an ADA Self-Assessment and Transition Plan for the Public Right-of-Way.

EXHIBITS

Ordinance
FWHA Letter of Finding
Contract on file in the City Recorder's office

ORDINANCE NO. 2018-67

AN ORDINANCE awarding a contract in an amount of 227,018.00 to MIG to prepare a Self-Assessment and Transition Plan for the public right-of-way in accordance with the Americans with Disabilities Act.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

That a contract in an amount of $227,018.00 to prepare a Self-Assessment and Transition Plan for the public right-of-way in accordance with the Americans with Disabilities Act, which is on file in the City Recorder's office, is hereby awarded to MIG.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2018.

ATTEST: _____ _____
City Recorder Mayor

APPROVED _____, 2018. _____
Mayor

References Annotated with Title II
Pg. #5

U.S. Department
of Transportation
Federal Highway Administration

1200 New Jersey Avenue, SE.
Washington, DC 20590

JUL 0 1 2016

In Reply Refer To: HCR-20
DOT# 2015-0176

Mr. Jerry C. Smith
1721 Tanglewood Lane
Medford, OR 97501

RECEIVED
JUL 0 8 2016
RISK MANAGEMENT

Mr. John W. Hoke
City Manager
City of Medford
411 W 8th Street
Medford, OR 97501

Ms. Bonnie Huard
ADA Coordinator
City of Medford
411 W 8th Street
Medford, OR 97501

Mr. Alec Georgevitch
Deputy Public Works Director
City of Medford
411 W 8th Street
Medford, OR 97501

Subject: Letter of Finding (LOF) for Complaint DOT# 2015-0176

Dear Mr. Smith, Mr. Hoke, Ms. Huard and Mr. Georgevitch:

On July 9, 2015, the Federal Highway Administration (FHWA) received a complaint from Mr. Jerry C. Smith (Complainant) alleging violations of the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973 (Section 504) against the City of Medford, Oregon (City). This letter provides the decision for the issues raised in the complaint.

During the course of the investigation process, Issues #4, #5, and #6 were added to the initial complaint when revealed to the FHWA's Oregon Division Office and will be addressed in this LOF.

Issue #1

Did the City violate the ADA and Section 504 by failing to develop a transition plan of its pedestrian facilities in the public rights-of-way?

Factual Background

The investigation revealed the following:

- The Complainant alleged that the City has not developed a transition plan. The Complainant is concerned over access in the street rights-of-way indicating that there were inadequate curb ramps and sidewalks, also alleging that the City has not formulated a plan of action to address these deficiencies.

- The City prepared a Transition Plan in 1992. The Plan did not include accessibility in the public rights-of-way but rather concentrated on City Hall and the Service Center. Given the age of the Transition Plan, it was not clear who had been consulted in the development of the Plan or had been given an opportunity to comment on the draft plan prior to its adoption. The Plan does not identify physical obstacles at City Hall or the Service Center. The Plan, however, did identify actions to create accessibility for the two facilities in accord with requirements. The Plan does not specify a schedule for improvements. The City's staff indicated that all improvements had been completed. The Plan indicates that the ADA Coordinator, at the time in 1992, would use the physical improvement list and costs to establish a schedule.

Legal Background

Federal ADA regulations require that, unless otherwise provided by law, "no qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity." *See* 28 CFR 35.149.[1]

With respect to existing facilities, including sidewalks, public entities must "operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities." *See* 28 CFR 35.150(a).

A public entity which employs 50 or more persons must develop a transition plan if structural changes to existing facilities are necessary to achieve program accessibility. *See* 28 CFR 35.150(d)(1). If the public entity has responsibility for streets, roads, or walkways, its transition plan must include a schedule for providing curb ramps where pedestrian walkways cross curbs, giving priority to areas serving State and local government offices, places of public accommodation, and employers. *See* 28 CFR 35.150(d)(2). The public entity's transition plan must outline the steps to be taken in making the necessary structural changes to its facilities based on its self-evaluation.

[1] The ADA and Section 504 share the same standards. However, the ADA regulations provide more detail on the methods and policies that ensure program accessibility for persons with disabilities. The discussion of the issues in this letter will primarily reference the more detailed ADA regulations. The ADA regulations are at 28 Code of Federal Regulations (CFR) Part 35; the US Department of Transportation's (DOT's) Section 504 regulations are at 49 CFR Part 27. These regulations are available on-line at: http://www.ecfr.gov.

Agencies with fewer than 50 employees should document the actions needed to correct the deficiencies identified in their self-evaluation. Section 504 contains similar requirements but has no employee threshold. [49 CFRCFR § 27.11(c)(2)(i-iii)]

Public entities must provide an opportunity for interested persons to participate in the development of the self-evaluation and transition plan by inviting comments from the public and consulting with individuals with disabilities and organizations that represent them. *See* 28 CFR 35.105(b), 35.150(d)(1).

Finding

The FHWA's Oregon Division Office investigation determined that the City is not in compliance with the ADA and Section 504 requirements in regards to developing an ADA transition plan as required by the ADA. *See* 28 CFR 35.150(d)(1)(2).

The City has failed to develop an ADA Transition Plan. At a minimum, the City's ADA transition plan must:

(i) identify physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities;
(ii) describe in detail the methods that will be used to make the facilities accessible;
(iii) specify the schedule for taking the steps necessary to achieve compliance with the ADA regulations and accessibility standards, and, if the time period of the plan is longer than one year, identify steps that will be taken during each year of the transition period; and
(iv) indicate the official responsible for implementing the plan.

See 28 CFR 35.151(d)(3).

Issue #2

Did the City violate the ADA and Section 504 by failing to conduct a self-evaluation of its pedestrian facilities?

Factual Background

The investigation revealed the following:

- The Complainant alleged that the City has not completed a self-evaluation of its services, polices, and practices as required. The Complainant is concerned that lacking a self-evaluation, the City will not have an effective means for assessing the overall needs for accessibility.

- The City has not completed a self-evaluation of its service, policies, practices, and including its sidewalks and curb ramps. The City's 1992 Transition Plan did include an assessment of the facilities in City Hall, the Service Center, and established a cost associated with making the facilities compliant with the standards.

Legal Background

A public entity is required to evaluate any services, policies or practices which do not or may not meet the requirements of the U. S. Department of Justice's (DOJ's) ADA Title II regulations at 28 CFR Part 35. *See* 28 CFR 35.105. Following the self-evaluation, the public entity shall proceed to make necessary modifications required by the regulations.

Public entities must provide an opportunity for interested persons to participate in the development of the self-evaluation and transition plan by inviting comments from the public and consulting with individuals with disabilities and organizations that represent them. *See* 28 CFR 35.105(b), 35.150(d)(1).

Finding

The FHWA's Oregon Division Office investigation determined that the City is not in compliance with the ADA and Section 504 in regards to conducting a self-evaluation of its services, policies and practice, including its sidewalks and curb ramps in the public rights-of-way. *See* 28 CFR 35.105(a) and (b).

Issue #3

Did the City violate the ADA and Section 504 by failing to complete a sidewalk and curb ramp survey?

Factual Background

The investigation revealed the following:

- The Complainant alleged that the City has failed to conduct a sidewalk and curb ramp survey. The Complainant was concerned that without a sidewalk and curb ramp survey, the City would not be aware of and would be unable to respond to ensure an accessible means for those with mobility impairments to traverse the public rights-of-way.
- The City indicated that there has been no survey of sidewalks or curb ramps conducted in the City.

Legal Background

Same as the legal backgrounds section under Issues #1 and #2.

Finding

Same as the finding section under Issues #1 and #2.

Issue #4

Did the City violate the ADA and Section 504 by failing to have an effective grievance process?

Factual Background

The investigation revealed the following:

- The Complainant alleged that the City lacks an effective grievance process for ADA complaints and that previous complaints lodged by the Complainant have not been effectively resolved and others had been ignored.

- The City has designated an employee to serve as the City's ADA Coordinator. The ADA Coordinator also manages the grievance and complaint procedure, and oversees the development of the Transition Plan. The City's ADA Coordinator is new to the position and has been attending national training opportunities to increase knowledge. The City has developed a grievance procedure for ADA complaints. The procedure indicates the process for filing a complaint and is available on the City's website. However, the complaint form is not in an accessible format readily useable to persons with disabilities.

Legal Background

A public entity must designate an official who is responsible for coordinating the public entity's compliance with the ADA and Section 504 and must establish complaint procedures that allow for appropriate due process and the prompt and equitable resolution of alleged violations. *See* 28 CFR 35.107; 49 CFR 27.13.[2] A public entity also must ensure that its residents have notice of the City's ADA policies and procedures. *See* 28 CFR 35.106.

Finding

The FHWA's Oregon Division Office investigation determined that the City has appointed and ADA Coordinator, and has developed a grievance procedure for ADA complaints as required by the ADA. However, the City has failed to make its complaint form in an accessible format and readily useable to persons with disabilities as required by the ADA at 28 CFR 35. 107.

Issue #5

Did the City violate the ADA and Section 504 because its infrastructure fails to address accessibility to persons with disabilities?

Factual Background

The investigation revealed the following:

- The FHWA's Oregon Division Office conducted an on-site review of sidewalks and curb ramps around the City Hall area between City Hall and the Jackson County Library.

[2] The requirements to designate a coordinator and establish complaint procedures apply to public entities that, under the ADA, employ 50 or more persons, and, under Section 504, employ 15 or more persons. See 28 CFR 35.107; 49 CFR 27.13. Public entities that employ fewer than those numbers of persons are encouraged to comply with the regulations as well.

The review revealed areas which did not have sidewalks (e.g., by the Service Center) and areas where there were no curb ramps. The review also revealed that some sidewalks were too narrow to allow satisfactory passage (less than 3 feet wide) but the majority of the areas and sites meet ADA standards.

Legal Background

A public entity must ensure that its programs and services, when viewed in their entirety, are readily accessible to and usable by individuals with disabilities. *See* 28 CFR 35.150(a). In fulfilling this requirement, public entities do not have to make each of their existing facilities accessible and usable by persons with disabilities. A public entity must, however, maintain the operable working condition of its existing facilities that are required to be accessible. *See* 28 CFR 35.133. As part of this maintenance obligation, a public entity must implement a reasonable and consistent plan to maintain facilities in the public right-of-way, including a sidewalk maintenance plan. A sidewalk maintenance ordinance that is not enforced fails to implement a reasonable and consistent plan for maintenance.

The public entities' curb ramp transition plans must identify street locations where sidewalks lack ADA-compliant curb ramps at intersections and include a schedule for providing ADA-compliant curb ramps at those locations, "giving priority to walkways serving entities covered by the ADA, including State and local government offices and facilities, transportation, places of public accommodation, and employers, followed by walkways serving other areas." *See* 28 CFR 35.150(d)(2). Once completed, the public entity must make its transition plan available for public inspection. *See* 28 CFR 35.150(d)(1).

The ADA does not require public agencies to provide pedestrian facilities where none exist, or where the public entity does not have jurisdiction. However, where pedestrian facilities are provided, they must be accessible to persons with disabilities. Accessibility must be provided at the same time that a new or altered facility is constructed, within the scope of the construction project. *See* 28 CFR 35.149-151.

If new construction or alteration of existing facilities is undertaken on or after September 15, 2010, but before March 15, 2012, the construction or alteration must comply with the UFAS, 1991 ADAAG, or the 2010 DOJ Standards (consisting of the 2004 ADAAG along with *See* 28 CFR 35.151).

The 2004 ADA Accessibility Guidelines (ADAAG) at Section 403.5.1 (Clear Width) requires that the clear width of walking surface shall be 36 inches (915 mm) minimum. However, the clear width shall be permitted to be reduced to 32 inches (815 mm) minimum for a length of 24 inches (610 mm) maximum provided that reduced width segments are separated by segments that are 48 inches (1220 mm) long minimum and 36 inches (915 mm) wide minimum.

Sections 403.5.1 of the 2004 ADAAG provide a standard for sidewalk width of 36 inches in most areas, with limited narrowing to 32 inches. Since this complaint was filed after March 15, 2012, the 2004 ADAAG standards apply. The Section 504 regulations at 49 CFR 27.3 allow a public entity to use this same standard to meet both ADA and Section 504 standards for sidewalk width.

Finding

The FHWA's Oregon Division Office investigation finds that there are no design issues with regards to the sidewalks and curb ramps that where reviewed. There were some areas where the sidewalks was less than 3 feet wide and areas without curb ramps. These issues are expected to be included in the City's self-evaluation and transition plan as required by the ADA at 28 CFR 35.150(d)(1)(2) and 35.105(a)(b). also cited above under the finding section for Issues #1 and #2.

Issue #6

Did the City violate the ADA and Section 504 by failing to provide policies that address accessibility needs for persons with disabilities?

Factual Background

The investigation revealed the following:

- The Complainant was concerned that lacking an effective policy, the City would not build accessible sidewalks and curb ramps.

- The City has a variety of standard drawings, policies and procedure to address the provision of accessible pedestrian facilities. A review of the City's design drawings for sidewalks and street ramps noted that while in general the drawings met standards, there were cases where clarification was needed and where additional detail was needed to assure standards were met.

- The City makes substantial investments in the resurfacing of existing streets. The City's resurfacing policy was verbal in nature and provides for ramp revisions in resurfacing projects. The City has verbally modified their policy to reflect their current understanding of the "US Department of Justice and the US Department of Transportation Joint Technical Assistance on the Title II of the Americans with Disabilities Act Requirements to Provide Curb Ramps when Streets, Roads, or Highways are Altered through Resurfacing" (DOJ DOJ Joint Technical Assistance) to either verify ramps meet the ADA standard or to build or replace ramps within the resurfacing project limits. It is not clear how the City response to requests for accessible pedestrian signals (APS).

- The City has developed a process to make repairs to the sidewalk and to address requests for installation of sidewalks and curb ramps. The City also keeps a record of these requests and resolution. The City indicated that they had been able to address citizen demands.

Legal Background

A public entity must maintain the operable working condition of its existing facilities that are required to be accessible. *See* 28 CFR 35.133. As part of this maintenance obligation, a public

entity must implement a reasonable and consistent plan to maintain facilities in the public right-of-way, including a sidewalk maintenance plan.

The ADA does not require public agencies to provide pedestrian facilities where none exist, or where the public entity does not have jurisdiction. However, where pedestrian facilities are provided, they must be accessible to persons with disabilities. Accessibility must be provided at the same time that a new or altered facility is constructed, within the scope of the construction project. *See* 28 CFR 35.149-151.

Any project for construction or alteration of a facility that provides access to pedestrians must be made accessible to persons with disabilities (*See* 28 CFR 35.151). An alteration is a change to a facility in the public right-of-way that affects or could affect pedestrian access or use. Alterations include projects such as reconstruction, rehabilitation, widening, resurfacing, and projects of similar scale and effect (*See* DOJ/DOT Joint Technical Assistance dated 07/08/13).[3] Altered streets, roads and highways must contain curb ramps at any intersection having curbs or other barriers at intersection to streets, roads, and highways (See 28 CFR 35.151(i)).

If new construction or alteration of existing facilities is undertaken on or after September 15, 2010, but before March 15, 2012, the construction or alteration must comply with the UFAS, 1991 ADAAG, or the 2010 DOJ ADA Standards for Accessible Design (consisting of the 2004 ADAAG along with *See* 28 CFR 35.151). The 2010 DOJ's ADA Standards for Accessible Design is the enforceable accessibility standards for program accessibility and barrier removal. (*See* the 2010 DOJ ADA Standards for Accessible Design).[4]

Public entities have a fundamental obligation under Title II of the ADA not to discriminate against persons with disabilities in their services, programs or activities. *See* 28 CFR 35.130(a), 35.149. The DOJ's ADA regulations incorporate the U.S. Access Board's 2004 ADA Accessibility Guidelines (2004 ADAAG), which set forth accessibility standards. Where the 2004 ADAAG doesn't address a specific standard, such as in the case of APS, a public entity must still ensure nondiscrimination with respect to persons with disabilities by adopting a reasonable and consistent policy to address the issue. FHWA considers the Manual of Uniform Traffic Control Devices (MUTCD) to be a reasonable source for APS policies. (*See* the MUTCD at Chapter 4, Sections 4E.09-4E.13 for APS).[5]

Finding

The FHWA's Oregon Division Office investigation determined that the City does have standard drawings, policies and procedure to address the provision of accessible pedestrian facilities. Since this complaint was filed after March 2012, the 2010 DOJ's ADA Standards for Accessible Design (consisting of the 2004 ADAAG) is the enforceable accessibility standards for program accessibility and barrier removal.

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[3] The DOJ DOT Joint Technical Assistance on the Title II of the Americans with Disabilities Act Requirements to Provide Curb Ramps when Streets, Roads, or Highways are Altered through Resurfacing can be found at: http://www.fhwa.dot.gov/civilrights/programs/doj_fhwa_ta.cfm.

[4] The 2010 DOJ ADA Standards for Accessible Design at: http://www.ada.gov/2010ADAstandards_index.htm

[5] The MUTCD at Chapter 4, Sections 4E.09-4E.13 for APS at: http://www.mutcd.fhwa.dot.gov/pdfs/2009/part4.pdf

The FHWA's Oregon Division Office investigation determined that the City has verbally revised their resurfacing policy to reflect their current understanding of the DOJ/DOT Joint Technical Assistance. The ADA requires accessibility must be provided at the same time that a new or altered facility is constructed, within the scope of the construction project. *See* 28 CFR 35.149-151. The DOJ/DOT Joint Technical Assistance provides guidance for the City with regards to new construction and resurfacing projects. The website for the DOT/DOT Joint Technical Assistance is cited above under the legal background section at Issue #6.

The FHWA's Oregon Division Office's investigation determined that the City does not have a consistent policy. The ADA requires that the City must ensure nondiscrimination with respect to persons with disabilities by adopting a reasonable and consistent policy.

Recommendations

1. The City must conduct a self-evaluation that identifies physical barriers in all of its facilities in the public rights-of-way as well as deficiencies in its policies and procedures and conduct and included the sidewalks and curb ramps survey as cited in Issues #1, #2 and 3# as they affect persons with disabilities. The self-evaluation must document public participation in the process of its development. *See* 28 CFR 35.105(a)(b), 35.150(d)(1).

2. After completion of its self-evaluation, the City must develop its transition plan, and provide a schedule outlining a time frame to remove barriers identified in order to achieve ADA compliance. *See* 28 CFR 35.105(a) and (b). *See* 28 CFR 35.150(d)(3)(i)-(iii).

3. The City must revise its grievance procedure to ensure that the complaint form is in an accessible format and readily useable to persons with disabilities as required by the ADA at 28 CFR 35.107. The City must also provide adequate notice to its residents about its ADA grievance procedures, and must ensure that its staff is aware of and follows its grievance procedures as required by the ADA at 28 CFR 35.106.

4. The City must ensure that it maintains the accessibility of its sidewalks by adopting and implementing a maintenance plan that account for issues regarding sidewalk repairs and sidewalk width as required by the ADA at 28 CFR 35.133(a).

5. The City must adopt a written policy for issues involving installations of curb ramps and sidewalks. The DOJ/DOT Joint Technical Assistance provides guidance for the City with regards to new construction and resurfacing projects.

6. The City must establish a reasonable and consistent policy/practice with respect to the installation of APS. In its policy, the City should adopt in whole or in part the standards at Section 4E.09 of the MUTCD, provided such standards are reasonable and consistently applied. The City must communicate its policy to the public and, specifically, to disabled persons and organizations serving or representing the disabled, of the process by which residents can make APS requests.

7. Within 90 days of being notified of its noncompliance with the ADA, the City must provide to the FHWA's Oregon Division Office documentation showing how the City plans to implement the above recommendations.

If the City fails to voluntarily agree to a compliance remedy, the ADA allows FHWA to refer this complaint to the United States Department of Justice for further appropriate action. *See* 28 CFR 35.174

Please note that Mr. Smith may file a private suit pursuant to section 203 of the ADA at any time, whether or not FHWA finds a violation of the ADA in this complaint. *See* 28 CFR 35.172(d).

The FHWA's Oregon Division Office will provide oversight until the identified deficiencies have been corrected.

If you have any questions about the websites cited in this LOF, please contact Ms. Rhoda Cannon at (202) 366-3384.

Sincerely,

Nichole McWhorter
Division Manager,
Program Coordination and Compliance Division

cc: Phillip A. Ditzler, Division Administrator, FHWA's Oregon Division Office
Jasmine Harris, Civil Rights Specialist, FHWA's Oregon Division Office
James Esselman, Special Counsel, FHWA's Office of Chief Counsel (HCC-40)
Yvette Rivera, Associate Director, Equal Employment Opportunity Programs Division

CITY OF MEDFORD
AGENDA ITEM COMMENTARY

www.ci.medford.or.us

Item No: 60.2

DEPARTMENT: Parks, Recreation, Facilities
PHONE: (541) 774-2483
STAFF CONTACT: Rich Rosenthal, Director

AGENDA SECTION: Consent Calendar
MEETING DATE: June 21, 2018

COUNCIL BILL 2018-68
An ordinance awarding a contract in an amount of $752,424.90 to Roxy Ann Rock, Inc. for the development of Village Center Park.

SUMMARY AND BACKGROUND
City Council is asked to consider awarding a construction contract to Roxy Ann Rock, Inc. in the amount of $752,424.90 for development of Village Center Park.

PREVIOUS COUNCIL ACTIONS
On June 4, 2015, Council approved Council Bill 2015-57, adopting the 2015-17 biennial budget and making appropriations thereunder, including funding for development of a Southeast Area neighborhood park.

On April 20, 2017, Council Bill 2017-39 was approved, incorporating the 2016-25 Leisure Services Plan (LSP) into the City's Comprehensive Plan. The LSP specifies the City's desired level of service pertaining to accessibility of parkland, trails, pathways and open space and identifies Village Center Park as a neighborhood park needed for the Southeast Area.

On June 1, 2017, Council approved Council Bill 2017-57, adopting the 2017-19 biennial budget and making appropriations thereunder, including carrying forward funds for development of Village Center Park.

On September 21, 2017, Council approved Council Bill 2017-114, authorizing execution of an agreement with Medford Parks and Recreation Foundation, Crystal Springs Development Group, and the City of Medford for development, reimbursements, and conveyance of Village Center Park.

On May 17, 2018, Council approved Council Bill 2018-45, authorizing purchase of Village Center parkland from the Medford Parks and Recreation Foundation in the amount of $17,031.50.

ANALYSIS
The Parks, Recreation and Facilities Department is ready to construct Village Center Park, a neighborhood park at the intersection of Lone Oak, Shamrock and Michael Park in the Southeast Area. In order to proceed, the City Council is asked to approve the proposed contract with Roxy Ann Rock, Inc. for construction of park amenities, including pathways, lighting, landscaping, playgrounds, sport courts and a restroom within a 3.2-acre footprint.

The Department contracted with Galbraith and Associates Landscape Architecture in January 2018 to finalize the park design, to prepare bid documents, and to provide construction administration services.

The City used a public low-bid procurement process. Seven contractors attended the mandatory pre-bid meeting, and two companies submitted bids:

Roxy Ann Rock, Inc.	$752,424.90
Knife River	$876,610.30

When finished, Village Center Park will serve 382 existing households within a half-mile radius. Additionally, to meet LSP level-of-service goals based on growth estimates, the development helps achieve the City's Leisure Services Plan goal of adding 79 acres of neighborhood parkland by 2026.

The Parks and Recreation Commission approved what was known as the Southeast Area Conceptual Park Master Plan in May 2015. The parkland was donated to the Medford Parks and Recreation Foundation by the Crystal Springs Development Group in 2016, and the parkland was conveyed to the City last month following completion of street infrastructure.

The Department entered the biennium with an assumption that neighborhood parks cost about $250,000 per acre to build (excluding roadway infrastructure), and the low bid is very close to this cost estimate. Funding is available within the Village Center Park capital improvement budget adopted for the current biennium.

When completed, the neighborhood park will cost approximately $21,000 per year to maintain ($6,819 per acre per year). The cost-per-acre calculation is incorporated into the Department's park maintenance biennial budget request, and maintenance funding for Village Center Park maintenance was included in the second year of the current budget.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS
Cost of $752,424.90. Funding budgeted as a Parks Capital Improvement Project (RZZ1012621), page 5-42 in 2017-19 approved budget document.

TIMING ISSUES
If approved, construction is scheduled to be completed by October 30, 2018.

COUNCIL OPTIONS
Approve the ordinance as presented.
Modify the ordinance as presented.
Deny the ordinance and provide staff with direction.

STAFF RECOMMENDATION
Staff recommends approval of the ordinance.

SUGGESTED MOTION
I move to approve a construction contract with Roxy Ann Rock, Inc. in the amount of $752,424.90 for development of Village Center Park.

EXHIBITS
Ordinance
Contract on file in the City Recorder's Office

ORDINANCE NO. 2018-68

AN ORDINANCE awarding a contract in an amount of $752,424.90 to Roxy Ann Rock, Inc. for the development of Village Center Park.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

That a contract in an amount of $752,424.90 for the development of Village Center Park, which is on file in the City Recorder's office, is hereby awarded to Roxy Ann Rock, Inc.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2018.

ATTEST: _____ _____
City Recorder Mayor

APPROVED _____, 2018. _____
Mayor

CITY OF MEDFORD
AGENDA ITEM COMMENTARY

www.ci.medford.or.us

Item No: 60.3

DEPARTMENT: Fire Department
PHONE: (541) 774-2301
STAFF CONTACT: Brian Fish

AGENDA SECTION: Consent Calendar
MEETING DATE: June 21, 2018

COUNCIL BILL 2018-69
An ordinance authorizing the purchase of Self Contained Breathing Apparatus equipment in the amount of $424,461.00 from Cascade Fire Equipment Company through the Cooperative National Purchasing Partners Program.

SUMMARY AND BACKGROUND
Council is requested to consider approval of the purchase of Self Contained Breathing Apparatus (SCBA) equipment. This budgeted equipment includes SCBA packs and 45 minute carbon cylinders for fire service personnel. This would replace the current outdated and decommissioned gear.

PREVIOUS COUNCIL ACTIONS
On August 5, 2010 Council Bill 2010-172 authorized an ordinance for exemption from competitive bidding and awarded the contract to Cascade Fire Equipment for SCBA equipment in the amount of $50,710.

On June 4, 2015, Council Bill 2015-57 approved to adopt the 2015-2017 Budget that included the newly established Fire Apparatus Fund in the amount of $750,000.

One June 15, 2017, Council Bill 2017-57 authorized a resolution to adopt the budget for the City of Medford biennium commencing July 1, 2017 and making appropriations thereunder.

ANALYSIS
This request to purchase 43 packs, and 200 cylinders would be an upgrade and comply with the national standard. The SCBA cylinders are rated at 5500psi, an upgrade from our current 4500psi cylinders. The new cylinders are lighter and smaller in size, improving the firefighter's maneuverability and reducing fatigue. Additional equipment quoted includes 12 sets of Rapid Intervention Team packs (see quote #079148).

Firefighter safety is enhanced by having equipment that functions identically during high stress fire operations. The updated air packs will have universal air connections to facilitate equipment consistency. Additionally, best practices support remaining on SCBA air for a longer period of time to reduce inhalation of cancerous particles in a toxic smoke environment.

Medford Rural Fire Protection District #2 (MRFPD) is supporting this purchase with $114,741.00 (21% percent of $539,202 the total SCBA equipment purchase). This purchase is an order for 19 SCBA sets (pack and cylinder) that is placed specifically by the MRFPD2 Purchase Order #1689.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS
This $424,461 purchase is possible through the NPP Cooperative Purchasing, Contract #200634, approved by Council Bill 2011-01. The purchase is within in the $460,000 budgeted in the Fire Apparatus Reserve, detailed on page 4-4 of the 2017-2019 Biennial Budget.

TIMING ISSUES
This purchase is timely, considering the deterioration of the current SCBA equipment and upgrade to industry standard.

COUNCIL OPTIONS
Approve the ordinance as presented.
Modify the ordinance as presented.
Deny the ordinance and provide direction to staff.

STAFF RECOMMENDATION
Staff recommends approval of the ordinance to proceed with the purchase of the updated self-contained breathing apparatus.

SUGGESTED MOTION
I move to approve the ordinance authorizing the purchase of $424,461 in self-contained breathing apparatus equipment.

EXHIBITS
Ordinance
Quote #079148

ORDINANCE NO. 2018-69

AN ORDINANCE authorizing the purchase of Self Contained Breathing Apparatus equipment in the amount of $424,461.00 from Cascade Fire Equipment Company through the Cooperative National Purchasing Partners Program.

WHEREAS, ORS 279A.205 and ORS 279A.220 allow interstate cooperative procurement; and,

WHEREAS, the Cooperative National Purchasing Partners Program's solicitation and award process uses source selection methods which are "substantially equivalent" to those identified in ORS 279B.055, 279B.060 or 279B.085; now, therefore,

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

That the purchase of Self Contained Breathing Apparatus equipment in the amount of $424,461.00 from Cascade Fire Equipment Company through the Cooperative National Purchasing Partners Program is hereby authorized.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2018.

ATTEST:_____ _____
City Recorder Mayor

APPROVED_____, 2018. _____
Mayor

CASCADE FIRE
EQUIPMENT COMPANY
P.O. BOX 4248 • MEDFORD, OREGON 97501
(800) 654-7049 • (541) 779-0394 • Fax (541) 779-8847
sales@cascadefire.com • www.cascadefire.com

QUOTE

ACCOUNT 0001226

SHIP TO MEDFORD, CITY OF
FIRE DEPARTMENT
MEDFORD OR

DATE	QUOTE NO.	SALESPERSON	TAKEN BY	PAY TYPE
05/22/18	079148	50	Jeff	Net 30

LINE	QTY	UNIT	PROD	DESCRIPTION	UNIT PRICE	EXT PRICE
1	43	EA	X3715022205304	SCOTT AIRPAK X3 PRO 2013 NFPA EDITION • 5500 PSI • DUAL EBSS BUDDY BREATHER • QUICK DISCONNECT EZ-FLO REGULATOR • INTEGRATED PAK-TRACKER 10 YEAR BUMPER TO BUMPER WARRANTY 15 YEAR FIRST STAGE PRESSURE REDUCER WARRANTY	6,039.00	259,677.00
4	6	EA	AP3150203000102	AIR-PAK NXG7I (NIOSH SCBA) • 5500 PSI •HUD AND GAUGE ONLY	4,670.00	28,020.00
5	100	EA	200970-01	5500 PSI 45 MINUTE CARBON CYLINDER, SNAP CHANGE	1,079.00	107,900.00
6	100	EA	200970-01	5500 PSI 45 MINUTE CARBON CYLINDER, SNAP CHANGE	0.00	0.00
7	200	EA	CB-1	CUSTOM CYLINDER LOGO WRAP PER MFR SPECS	0.00	0.00
8	12	EA	201564-02	RIT-PAK FAST ATTACK 5.5 • 6' BUDDY BREATHER HOSE • 5' RIC HIGH PRESSURE HOSE • RIT-PAK FACEPIECE • RIT EZ-FLO REGULATOR • CARRYING BAG	1,725.00	20,700.00

Rec 13735 Rec 5/22/18

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(800) 654-7049 • (541) 779-0394 • Fax (541) 779-8847
sales@cascadefire.com • www.cascadefire.com

9	6	EA	201568-01	5500 PSI 60 MINUTE CYLINDER, CGA	1,199.00	7,194.00
10	6	EA	201568-01	5500 PSI 60 MINUTE CYLINDER, CGA	0.00	0.00
11	2	EA	200388-01	SNAP CHANGE TOOL ADAPTER	485.00	970.00
12	62	EA	201716-01	2018 UPGRADE KITS FOR X3 PRO, PARTS AND LABOR	0.00	0.00
13	1	EA	CS-GOLD	CASCADE GOLD SERVICE PLAN – • FIRST YEAR ANNUAL FLOW TEST • 6 MONTH INSPECTION & BATTERY CHANGE	0.00	0.00

TOTAL FREIGHT	TOTAL TAX	TOTAL
0.00	0.00	424,461.00

CITY OF MEDFORD
AGENDA ITEM COMMENTARY

www.cityofmedford.org

Item No: 60.4

DEPARTMENT: City Manager
PHONE: (541) 774-2090
STAFF CONTACT: Donna Holtz, Executive Office Manager

AGENDA SECTION: Consent Calendar
MEETING DATE: June 21, 2018

COUNCIL BILL 2018-70
An ordinance amending sections 2.435 and 2.436 of the Medford Municipal Code pertaining to the appointment of Council liaisons and residency requirements.

SUMMARY AND BACKGROUND
Council is requested to consider an ordinance amending sections 2.435 and 2.436 of the Medford Municipal Code (MMC) related to the appointment of Council liaisons to City Boards and Commissions and residency requirements for those wishing to apply to City Boards and Commissions.

PREVIOUS COUNCIL ACTIONS
During the April 12, 2018 Study Session, Council directed staff to initiate changes to the MMC to reduce the number of Council liaison appointments and provide alternate avenues to provide information to the Council.

ANALYSIS
The MMC currently states that the Council President will appoint Council liaisons to all City Boards and Commissions at the first regular City Council meeting of the new calendar year. Staff presented options to minimize the number of Boards and Commissions, reduce the number of Council liaisons required to attend meetings, and more clearly define residency requirements.

Proposed changes to MMC 2.435 will more clearly define the definition of a business located within the City of Medford Urban Growth Boundary. Proposed changes to MMC 2.436 will reduce the number of Council liaison appointments, specifying those Boards and Commissions the Council will attend, and changes the Council liaison appointment date to the second regular meeting of the new calendar year. Councilmembers are currently appointed to eight voting and 18 non-voting liaison positions. Recommendations were made to retain the eight voting members and reduce the non-voting member liaisons by 50% to nine as stated below:

Voting Members
- Hospital Facilities Authority (2 positions)
- Rogue Valley Area Commission on Transportation (RVACT)
- Rogue Valley Council of Governments (RVCOG)
- Rogue Valley Metropolitan Planning Organization (RVMPO)
- Regional Rate Committee (2 positions)
- Southern Oregon Regional Economic Development Inc. (SOREDI)

Non-Voting Members
- Housing Advisory Commission
- Parking Commission
- Parks & Recreation Commission
- Police Advisory Committee
- Transportation Commission
- TRADCO
- Chamber Board
- Travel Medford Board
- Medford Water Commission

FINANCIAL AND/OR RESOURCE CONSIDERATIONS
None

TIMING ISSUES
These MMC changes will impact the application information provided to the community. The annual recruitment process begins September 1, 2018.

COUNCIL OPTIONS
Approve the ordinance as presented.
Modify the ordinance as presented.
Deny the ordinance and provide direction to staff.

STAFF RECOMMENDATION
Staff recommends approval of the ordinance.

SUGGESTED MOTION
I move to approve the ordinance amending sections 2.435 and 2.436 of the Medford Municipal Code.

EXHIBITS
Ordinance

ORDINANCE NO. 2018-70

AN ORDINANCE amending sections 2.435 and 2.436 of the Medford Municipal Code pertaining to the appointment of Council liaisons and residency requirements.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 2.435 of the Medford Municipal Code is amended to read as follows:

2.435 Residence Requirements.
All members of City boards, commissions or committees shall meet a minimum of one of the following residency requirements unless specifically addressed otherwise in the Medford Code or State Statutes:
(1) Physical residency within the City of Medford Urban Growth Boundary.
(2) Owner of business **with a physical location** ~~located~~ within the City of Medford Urban Growth Boundary.
(3) Owner of real property located within the City of Medford Urban Growth Boundary.
When a residence is a requirement for membership on a city board or commission, a member who ceases to meet one of the above conditions during his term of office shall forfeit the office and a new member shall be appointed to serve the unexpired portion of the term.

SECTION 2. Section 2.436 of the Medford Municipal Code is amended to read as follows:

2.436 Council Liaison.
At the ~~first~~ **second** regular City Council session ~~following election of Council officers~~, the Council president shall appoint Council liaisons to ~~all~~ **the following** City Boards and Commissions~~.~~**:**
Hospital Facilities Authority (2 positions)
Rogue Valley Area Commission on Transportation (RVACT)
Rogue Valley Council of Governments (RVCOG)
Rogue Valley Metropolitan Planning Organization (RVMPO)
Regional Rate Committee (2 positions)
Southern Oregon Regional Economic Development Inc. (SOREDI)
Housing Advisory Committee
Parking Commission
Parks & Recreation Commission
Police Advisory Committee
Transportation Commission
TRADCO
Chamber Board
Travel Medford Board
Medford Water Commission
***
///

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2018.

ATTEST: _____ _____
City Recorder Mayor

APPROVED _____, 2018. _____
Mayor

NOTE: Matter in **bold** is new. Matter ~~struck out~~ is existing law to be omitted. Three asterisks (* * *) indicate existing law which remains unchanged by this ordinance but was omitted for the sake of brevity.

CITY OF MEDFORD
AGENDA ITEM COMMENTARY

www.ci.medford.or.us

Item No: 60.5

DEPARTMENT: Parks, Recreation, Facilities
PHONE: (541) 774-2483
STAFF CONTACT: Rich Rosenthal, Director

AGENDA SECTION: Consent Calendar
MEETING DATE: June 21, 2018

COUNCIL BILL 2018-71
An ordinance amending sections 2.204, 2.438, 2.461, and 2.470 of the Medford Municipal Code pertaining to the structure of membership of various Commissions.

SUMMARY AND BACKGROUND
The Council is asked to consider proposed changes to municipal codes 2.204, 2.461, 2.438 and 2.470 pertaining to reporting structure and youth membership related to the Parks and Recreation, Arts, Cemetery and Mayor's Youth Advisory commissions.

PREVIOUS COUNCIL ACTIONS
On April 12, 2018, Council considered potential changes to structure and operations of City commissions, committees and boards at a study session and provided direction to staff to bring forward proposed code changes at a regular meeting.

ANALYSIS
At its April 12, 2018 study session, Council directed staff to bring forward proposed municipal code changes pertaining to the structure of the Parks and Recreation Commission (PRC), the Medford Arts Commission, the Cemetery Commission and the Mayor's Youth Advisory Commission.

The structure presented on April 12 eliminates the need for a City Council liaison to the Arts and Cemetery commissions by making those groups advisory to the PRC. Using this approach, the chairperson of the Arts and Cemetery commissions (or designee) would be responsible for providing updates to the PRC and its Council liaison on a monthly basis. The Council liaison to the PRC would be the primary conduit for Council-related comments, questions or recommendations involving Arts and Cemetery matters.

Staff recommends continuing the City's recent practice of not populating the Mayor's Youth Advisory Commission and instead appointing high-school student members to one-year-long, full-voting-youth-member positions on the Parks and Recreation, Arts and Cemetery commissions. Additionally, the code would be amended to include Central Medford and Public Charter high school students who reside within the city limits as eligible commission members. The youth member shall retain commission membership so long as he or she is in regular attendance at a high school during the school year which falls within the one-year term.

By designating a youth position, the number of seats on the Parks and Recreation, Arts and Cemetery commissions would increase from nine to 10.

The interviews for vacancies would be conducted annually by the respective commission chairs and vice-chairs along with the Council liaison to the PRC, or alternates in the event the chair or vice-chair is applying for reappointment.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS
None.

TIMING ISSUES
None.

COUNCIL OPTIONS
Approve the ordinance as presented.
Modify the ordinance as presented.
Deny the ordinance and provide staff with direction.

STAFF RECOMMENDATION
Staff recommends approval of the ordinance.

SUGGESTED MOTION
I move to approve the municipal code changes pertaining to the reporting structure and youth membership related to the Parks and Recreation, Arts, Cemetery and Mayor's Youth Advisory commissions.

EXHIBITS
Ordinance

ORDINANCE NO. 2018-71

AN ORDINANCE amending sections 2.204, 2.438, 2.461, and 2.470 of the Medford Municipal Code pertaining to the structure of membership of various Commissions.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 2.204 of the Medford Municipal Code is amended to read as follows:

2.204 Cemetery Commission.
(1) The Cemetery Commission is hereby established and shall be composed of seven persons, **one of which shall be a student from a high school listed in Section 2.470(1),** appointed by the ~~Mayor and City Council~~ **Parks and Recreation Commission**. The Commission members shall be appointed for terms of three years to assure that all appointments do not expire at the same time. **The youth member shall be appointed by the Mayor for a one-year term. Three-year terms for members other than the youth member shall begin February 1 and expire January 31. The one-year term for the youth member shall begin July 1 and expire June 30.** The Commission shall meet at least quarterly and may meet as often as necessary to carry out its functions. The chairman of the Commission may call a special meeting at any time upon 24-hours notice to the members and the public.
(2) The Cemetery Commission shall be an advisory body which shall make recommendations to the ~~City Manager and City Council~~ **Parks and Recreation Commission** regarding the funding and operation of Eastwood Cemetery. The Commission shall also work to secure donations and bequests for the Cemetery Trust Fund.
(3) The Chairperson or designee will serve as liaison to the Medford Parks and Recreation Commission.

SECTION 2. Section 2.438 of the Medford Municipal Code is amended to read as follows:

2.438 ~~Medford~~ Arts Commission.
(1) The ~~Medford~~ Arts Commission shall consist of nine voting members and one nonvoting ex officio member, as follows:
***
(2) Voting members of the Commission shall be appointed by the ~~Mayor and City Council~~ **Parks and Recreation Commission** for terms of three years, except that shorter terms may be used to stagger appointments, so that the terms of three members expire each year. Three-year terms for members shall begin February 1 and expire January 31. High-school student member term shall begin July 1 and expire June 30 annually.
(3) The ~~Medford~~ Arts Commission shall adopt rules of procedure, as necessary, and shall by resolution establish either a regular meeting date or rules of procedure under which meetings may be called. A majority of voting members shall constitute a quorum.
(4) The duties of the ~~Medford~~ Arts Commission shall include, but not be limited to, the following:
***

(b) Advise the ~~Council~~ **Park and Recreation Commission** concerning the acceptance and disposition of gifts of art to the City.
(c) Act in conjunction with the ~~City Council and City staff~~ **Parks and Recreation Commission** on matters pertaining to arts education and promotion, artist's recognition and encouragement of the arts and artistic performances to help foster broad participation in and understanding of the arts and their value to the Medford community.
***
(f) **The Chairperson or designee will serve as liaison to** ~~Work in conjunction with~~ the Medford Parks and Recreation Commission regarding the placement of public art and scheduling of arts and cultural events in Medford public parks.

SECTION 3. Section 2.461 of the Medford Municipal Code is amended to read as follows:

2.461 ~~Medford~~ Parks and Recreation Commission.
(1) The ~~Medford~~ Parks and Recreation Commission shall consist of ten voting members and one nonvoting ex officio member, as follows:
(a) Voting members: Nine members-at-large, and one youth member **who shall be a student from a high school listed in Section 2.470(1)**. The youth member shall retain membership so long as the member is in regular attendance at a high school during the school year which falls within the one-year term.
***

SECTION 4. Section 2.470 of the Medford Municipal Code is amended to read as follows:

2.470 Mayor's Youth Advisory Commission.
(1) There is hereby established a Mayor's Youth Advisory Commission consisting of fifteen to seventeen representatives chosen from students of the following schools:
(a) South Medford High School
(b) North Medford High School
(c) Cascade Christian High School
(d) ~~Saint~~ **St.** Mary's High School
(e) Central Medford High School
(f) Public Charter High Schools
Residence in the city is ~~not~~ a requirement for appointment.
***

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2018.

ATTEST: _____ _____
City Recorder Mayor

APPROVED _____, 2018. _____
Mayor

NOTE: Matter in **bold** is new. Matter ~~struck out~~ is existing law to be omitted. Three asterisks (* * *) indicate existing law which remains unchanged by this ordinance but was omitted for the sake of brevity.

CITY OF MEDFORD
AGENDA ITEM COMMENTARY

www.ci.medford.or.us

Item No: 80.1

DEPARTMENT: Public Works
PHONE: (541) 774-2100
STAFF CONTACT: Cory Crebbin, Director

AGENDA SECTION: Ordinances and Resolutions
MEETING DATE: June 21, 2018

COUNCIL BILL 2018-32
SECOND READING - An ordinance amending sections 4.405, 4.718, 4.735, 4.807 and 4.1200 of the Medford Municipal Code (MMC) pertaining to Sanitary Sewer, Storm Drain, and Street Utility fees.

SUMMARY AND BACKGROUND:
The City contracted with the FCS Group to review Sewer Collection, Storm Drain and Street utility fees, and provide recommended actions. This proposed ordinance includes utility fee adjustments for the next three years consistent with the FCS Group recommendations for Sewer and Storm Drain; Street fee adjustments will be considered as part of the Transportation System Plan.

The commencement of the storm drainage fee for new development is changed from approval of the building's foundation to either final building approval or Certificate of Occupancy, whichever occurs first.

The Pedestrian Street Light fee was raised in March, 2008; the increase was not reflected in Code.

The City offers a "vacancy certification" to non-residential customers that removes the street and parks utility fees when a property or portion thereof is vacant. Vacancy certifications are valid for three months and the property owner or manager is required to notify the City to extend the certification. Customers often forget to notify the City and want fees credited to the date the suite became vacant. Currently the MMC limits the retroactive credit to three months. City Utility Billing Services staff now contacts customers in advance of the vacancy certificate expiration date to remind them to renew. Because responsible parties now receive a renewal reminder it is proposed to eliminate the retroactive credit.

PREVIOUS COUNCIL ACTIONS
On November 20, 2014, Council approved Council Bill 2014-144 amending sanitary sewer, storm drain and street utility fees.

On November 9, 2017, the FCS Group presented the results of its financial study and recommended rate adjustments at a Council Study Session.

On April 19, 2018, Council continued this item to June 7, 2018.

On May 31, 2018 utility fees were discussed at a Council Study Session.

On June 7, 2018 Council voted on this item; a second reading is required

ANALYSIS
Utility Rate Adjustments (Sections 4.405 and 4.718)
This ordinance will adjust the Sanitary Sewer and Storm Drain utility fees in phases over the next three years. The proposed utility rates will fund maintenance and capital improvement projects that will maintain or improve existing infrastructure at the lowest life-cycle cost. The proposed rates are the result of a 20-year projection of revenue and expenses; increased costs of construction and maintenance are included in the rate analysis. The proposed rates are consistent with the Council's direction provided during the Study Session on November 9, 2017.

Specific impacts for each Public Works utility fee are as follows:

Sanitary Sewer
This ordinance will increase the sewer collection portion of the monthly Sanitary Sewer utility bill by 11% per year in July 2018 and July 2019, and 10% in July 2020. The dollar impact varies by customer; sample impacts are shown below including both sewer collection and sewage treatment components for the May utility bill.

Customer Class	Current Sewer	Proposed 2018	Proposed 2019	Proposed 2020
Single Family	$20.47	$22.47	$24.66	$26.28
Multi-Family – 5 units	$34.42	$37.87	$41.63	$44.67
McDonalds Equivalent	$136.26	$149.09	$162.90	$171.97
Wal-Mart Equivalent	$303.46	$331.69	$362.00	$380.97

The City charges a $0.03 billing fee to the Regional Treatment Plant to recover costs of including their fees on the utility bill, which is added to the rates charged to customers. This rate has been in effect since 2012. The current utility billing software is unable to split the Regional Rate Committee portion of the rate from the billing fee portion. In order for the City to receive its revenue, the $0.03 billing fee has been added to the City of Medford sewer rates in the billing system and deducted from the Regional Rate Committee rate. There is no impact to customers as a result of this change.

Storm Drain
This ordinance will increase the monthly Storm Drain utility bill by 1% in July 2018, with no further changes proposed in 2019 or 2020. The dollar impact varies by customer; sample impacts are shown below.

Customer Class	Current Storm Drain	Proposed 2018	Proposed 2019	Proposed 2020
Single Family	$10.15	$10.25	$10.25	$10.25
Multi-Family – 5 units	$16.33	$16.48	$16.48	$16.48
McDonalds Equivalent	$55.99	$56.51	$56.51	$56.51
Wal-Mart Equivalent	$1,640.63	$1,656.30	$1,656.30	$1,656.30

Code is clarified to remove unnecessary rounding when calculating Equivalent Residential Units (ERUs).

Total
The impact of the two proposed fee increases on the Public Works portion of the utility bill are shown below.

Customer Class	Current Public Works Fees	Proposed 2018	Proposed 2019	Proposed 2020
Single Family	$37.97	$40.07	$42.26	$43.88
Multi-Family	$76.67	$80.27	$84.03	$87.07
McDonalds Equivalent	$392.25	$405.60	$419.41	$428.48
Wal-Mart Equivalent	$4,660.86	$4,704.76	$4,735.07	$4,754.04

Other Changes (Sections 4.405(9), 4.807 and 4.1200)
Section 4.405(9) is clarified to state that utility rate changes are effective July 15.

Section 4.735 is revised to change the commencement date of the storm drainage fee for new development from approval of the building's foundation to final building approval or Certificate of Occupancy, whichever occurs first. While this will result in a small reduction of revenue, it will be offset by efficiencies in staff time

as considerable effort is expended tracking projects through development to assess and then revise the utility fee.

Section 4.807 is revised to show the Pedestrian Street Light rate change which incorporates the 2018 increase. Section 4.809 permits the rate to be adjusted each year by the Portland, Oregon MSA Consumer Price Index (CPI). The December 31, 2017 CPI increased 3.9%, which is a $0.21 per month increase for customers who have a Pedestrian Street Light.

Section 4.1200(3) (a) is revised to eliminate the retroactive three month vacancy certification credit when customers fail to notify the City in a timely manner that a suite is vacant. City Utility Billing Services staff contact customers who have vacancy certificates in advance of the certificate's expiration to remind them of the need to renew. The MMC is clear that customers are responsible for notifying the City that a unit is vacant. Given that customers receive a reminder in advance of the certificate's expiration and that they are responsible for notifying the City, a three-month retroactive credit should not be necessary.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS
Total revenue is anticipated to increase by the following amounts each year compared to fiscal year 17/18:

	FY18/19	FY19/20	FY20/21
Sanitary Sewer Utility Fund (502):	$440,000	$530,000	$530,000
Storm Drain Utility Fund (501):	$ 57,500	$ 5,300	$0

TIMING ISSUES
None

COUNCIL OPTIONS
- Approve the ordinance.
- Modify the ordinance.
- Deny the ordinance and provide direction to staff regarding level-of-service adjustments to meet available resources.

STAFF RECOMMENDATION
Approve the ordinance adjusting Public Works' utility fees and eliminating the retroactive vacancy certification credit.

SUGGESTED MOTION
I move to approve the ordinance amending sections 4.405, 4.718, 4.735, 4.807 and 4.1200 of the Medford Municipal Code (MMC) related to the Sanitary Sewer, and Storm Drain Utility fees and other clarification language.

EXHIBITS
Ordinance
Code Amendments

ORDINANCE NO. 2018-32

AN ORDINANCE amending sections 4.405, 4.718, 4.735, 4.807, and 4.1200 of the Medford Municipal Code pertaining to Sanitary Sewer, Storm Drain, and Street Utility fees.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 4.405 of the Medford Municipal Code is amended to read as follows:

4.405 Sewer Rates.
***
(3) Single-Family Residential Sewer Service.
The rate per account per month shall be a flat rate.

	~~2013~~	~~2015~~	~~2016~~	2017	2018	2019	**2020**
City of Medford	~~$10.01~~	~~$11.51~~	~~$12.32~~	~~$13.18~~**$13.21**	~~$13.18~~ **$14.66**	~~$13.18~~**$16.27**	**$17.89**
Regional Rate Committee	~~$5.84~~	~~$6.31~~	~~$6.78~~	~~$7.29~~**$7.26**	~~$7.83~~**$7.81**	~~$8.42~~**$8.39**	**$8.39**

(4) Multiple-Family Residential Sewer Service.
The rate per account per month shall be the total of the Base and Gallonage charges as follows. The rates per month in (a) and (b) shall also include each mobile home space in a mobile home park.

(a) Base Charge - The rate per month shall be:

	~~2013~~	~~2015~~	~~2016~~	2017	2018	2019	**2020**
City of Medford	~~$13.74~~	~~$15.80~~	~~$16.91~~	~~$18.09~~**$18.12**	~~$18.09~~**$20.11**	~~$18.09~~**$22.32**	**$24.55**
Regional Rate Committee	~~$2.11~~	~~$ 2.30~~	~~$2.47~~	~~$2.65~~ **$2.62**	~~$2.85~~ **$2.82**	~~$3.05~~**$3.02**	**$3.02**

(b) Gallonage Charge - For each 1,000 gallons of water delivered to the premises as determined in (c), the rate shall be:

	~~2013~~	~~2015~~	~~2016~~	2017	2018	2019	**2020**
City of Medford	~~$0.57~~	~~$0.66~~	~~$0.70~~	$0.7~~5~~**8**	$0.~~75~~**86**	$0.~~75~~**95**	**$1.04**
Regional Rate Committee	~~$0.60~~	~~$0.67~~	~~$0.72~~	$0.7~~7~~**4**	$0.~~83~~**80**	$0.8~~9~~**6**	**$0.86**

***
(5) Non-Residential Service.
The rate per account per month shall be total of Base and Gallonage charges as follows:

(a) Base Charge – The rate per month shall be:

	~~2013~~	~~2015~~	~~2016~~	2017	2018	2019	**2020**
City of Medford	~~$13.74~~	~~$15.80~~	~~$16.91~~	$18.0~~9~~**12**	~~$18.09~~**$20.11**	~~$18.09~~**$22.32**	**$24.55**
Regional Rate Committee	~~$2.11~~	~~$2.30~~	~~$2.47~~	$2.6~~5~~**62**	~~$2.85~~**$2.82**	~~$3.05~~**$3.02**	**$3.02**

(b) Gallonage Charge - For each 1,000 gallons of water delivered to the premises with the exceptions described in (d) below, the rate shall be:

	~~2013~~	~~2015~~	~~2016~~	2017	2018	2019	**2020**
City of Medford	~~$0.57~~	~~$0.66~~	~~$0.70~~	$0.7~~5~~**8**	$0.~~75~~**86**	$0.~~75~~**95**	**$1.04**
Regional Rate Committee	~~$0.60~~	~~$0.67~~	~~$0.72~~	$0.7~~7~~**4**	$0.~~83~~**80**	$0.~~89~~**86**	**$0.86**

***

(6) Extra Strength Commercial, Hospital and Industrial Sewer Service Surcharge.

The rate per sewer service per month shall be as follows:

	~~2013~~	~~2015~~	~~2016~~	2017	2018	2019	**2020**
City of Medford	~~$0.00~~	~~$0.00~~	~~$0.00~~	$0.00	$0.00	$0.00	**$0.00**
Regional Rate Committee	~~$0.23~~	~~$0.28~~	~~$0.30~~	$0.32	$0.34	$0.36	**$0.36**

***

(7) Recreation Vehicle Waste Dumping Station.

The rate for each recreational vehicle waste dumping station shall be as follows:

	~~2013~~	~~2015~~	~~2016~~	2017	2018	2019	**2020**
City of Medford	~~$20.86~~	~~$23.99~~	~~$25.67~~	$27.4~~7~~**50**	~~$27.47~~**$30.52**	~~$27.47~~**$33.87**	**$37.25**
Regional Rate Committee	~~$23.88~~	~~$25.70~~	~~$27.63~~	$29.~~70~~**67**	~~$31.93~~**$31.90**	~~$34.32~~**$34.29**	**$34.29**

per dumping facility per month, in addition to other sewer charges as prescribed in Subsection (6) above, for commercial or industrial sewer service to the location.

***

(9) Review of Rates.

The sewer charges established in this section of the City Code shall be reviewed as necessary. The rates may be revised to reflect actual costs of operation, maintenance, replacement and financing of the treatment works and sewage collection system. Charges are to be equitable with regard to each user's contribution to the total wastewater loading rate. The sanitary sewer rate changes listed above shall become effective ~~on March 1, 2013, for single family residential service and July 1, 2013, for all other service, respectively. In 2015, 2016, 2017, 2018 and 2019 rate changes are effective~~ July 15 for all services.

SECTION 2. Section 4.718 of the Medford Municipal Code is amended to read as follows:

4.718 Basis for Determining Storm Drain Fee.

(1) The basis for determining the monthly Storm Drain fee is as follows:

(a) Single family residential properties will be charged 1 ERU per month.

(b) Mobile Home Parks will be charged 6 ERUs per acre per month.

(c) The number of ERUs to be charged for all other properties not included in (a) or (b) above will be determined by measurement of the impervious area divided by 3,730 ~~and carried to two decimals, with the third decimal truncated~~. Area measurements may be determined from City building permit applications or aerial mapping records.

(2) Effective July 15 of each year below, the rate per ERU for accounts with no runoff control measures shall be as follows:

2013	2015	2016	2017	**2018**	**2019**	**2020**
$7.71	$8.87	$9.49	$10.15	**$10.25**	**$10.25**	**$10.25**

(3) Effective July 15 of each year below, the rate per ERU for accounts with runoff control measures shall be as follows:

2013	2015	2016	2017	**2018**	**2019**	**2020**
$5.41	$6.22	$6.66	$7.12	**$7.19**	**$7.19**	**$7.19**

SECTION 3. Section 4.735 of the Medford Municipal Code is amended to read as follows:

4.735 New Development and Annexation.
(1) Monthly storm drainage utility fees for new development will commence upon ~~approval of the building's foundation~~ **final building approval or Certificate of Occupancy, whichever occurs first**. Areas that are annexed to the City or under contract to annex shall become subject to the storm drain utility fee and storm drainage SDC on the date of annexation or the date of the annexation contract, whichever comes first.
***

SECTION 4. Section 4.807 of the Medford Municipal Code is amended to read as follows:

4.807 Imposition of Pedestrian-Scale Street Light Fee.
There is hereby imposed upon the responsible party for each and every City utility account of a single-family residential subdivision or for each pedestrian street light in a multi-family or commercial development that meets the criteria for a benefiting property, as described in Section 4.803~~, an initial pedestrian-scale street light fee of Four Dollars and fifty cents ($4.50) per month~~. This fee is deemed reasonable and is necessary to pay for the operations and maintenance of pedestrian-scale street lights within the City. ~~The effective starting date of this fee will be March 1, 2003, and will first appear on utility bills delivered in April 2003.~~

3/1/2003	**3/1/2006**	**3/1/2007**	**3/1/2008**
$4.50	**$4.75**	**$5.00**	**$5.34**

SECTION 5. Section 4.1200 of the Medford Municipal Code is amended to read as follows:

4.1200 Billing, Collection and Enforcement of Utility Fees.
***

(3) Street, sewer and parks utility fees shall not be assessed during any period when the account is closed and the premises are unoccupied and unused.
(a) Street and park fees will not be assessed to a vacant unit within a commercial, non-residential property provided the property owner has notified the City that the unit is vacant. ~~If the property owner fails to notify the City, fees may be waived retroactively from the date notice is received for a period not to exceed three (3) months~~. Vacancy certifications are valid for three (3) months; if the unit remains vacant, the property owner shall be responsible for renewing the vacancy certification. The responsible party shall notify the City within 10 days of the property or unit becoming occupied again.

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2018.

ATTEST: _____ _____
City Recorder Mayor

APPROVED:_____, 2018. _____
Mayor

NOTE: Matter in **bold** is new. Matter ~~struck out~~ is existing law to be omitted. Three asterisks (* * *) indicate existing law which remains unchanged by this ordinance but was omitted for the sake of brevity.

SEWER RATES

4.405 **Sewer Rates.**

(3) Single-Family Residential Sewer Service.
The rate per account per month shall be a flat rate.

	~~2013~~	~~2015~~	~~2016~~	~~2017~~	**2017**	2018	2019	**2020**
City of Medford	~~$10.01~~	~~$11.51~~	~~$12.32~~	~~$13.18~~	**$13.21**	~~$13.18~~	~~$13.18~~	
						$14.66	**$16.27**	**$17.89**
Regional Rate Committee	~~$ 5.84~~	~~$ 6.31~~	~~$ 6.78~~	~~$ 7.29~~	**$ 7.26**	~~$ 7.83~~	~~$ 8.42~~	
						$7.81	**$8.39**	**$8.39**

(4) Multiple-Family Residential Sewer Service.
The rate per account per month shall be the total of the Base and Gallonage charges as follows. The rates per month in (a) and (b) shall also include each mobile home space in a mobile home park.

(a) Base Charge - The rate per month shall be:

	~~2013~~	~~2015~~	~~2016~~	~~2017~~	**2017**	2018	2019	**2020**
City of Medford	~~$13.74~~	~~$15.80~~	~~$16.91~~	~~$18.09~~	**$18.12**	~~$18.09~~	~~$18.09~~	
						$20.11	**$22.32**	**$24.55**
Regional Rate Committee	~~$2.11~~	~~$ 2.30~~	~~$ 2.47~~	~~$ 2.65~~	**$ 2.62**	~~$ 2.85~~	~~$ 3.05~~	
						$ 2.82	**$ 3.02**	**$ 3.02**

(b) Gallonage Charge - For each 1,000 gallons of water delivered to the premises as determined in (c), the rate shall be:

	~~2013~~	~~2015~~	~~2016~~	2017	**2017**	2018	2019	**2020**
City of Medford	~~$0.57~~	~~$0.66~~	~~$0.70~~	$0.75	**$0.78**	~~$0.75~~	~~$0.75~~	
						$0.86	**$0.95**	**$1.04**
Regional Rate Committee	~~$0.60~~	~~$0.67~~	~~$0.72~~	$0.77	**$0.74**	~~$0.83~~	~~$0.89~~	
						$0.80	**$0.86**	**$0.86**

(c) Gallonage shall be determined once each year during the month of March for each such account and the amount of the charge so determined shall be charged for each month for the following 12-month period. The charge shall be determined for each account by applying the above gallonage rate to the average monthly water consumption during the December, January and February billing periods to the closest 1,000 gallons and using a minimum of 1,000 gallons for each such month for each dwelling unit. In the case of a service which commences after the December billing period, the average shall be determined by a

reasonable comparison with the use of water by other customers receiving the same class of service and under similar circumstances and conditions.

(5) Non-Residential Service.
The rate per account per month shall be total of Base and Gallonage charges as follows:

(a) Base Charge – The rate per month shall be:

	~~2013~~	~~2015~~	~~2016~~	~~2017~~	**2017**	2018	2019	**2020**
City of Medford	~~$13.74~~	~~$15.80~~	~~$16.91~~	~~$18.09~~	**$18.12**	~~$18.09~~	~~$18.09~~	
						$20.11	**$22.32**	**$24.55**
Regional Rate Committee	~~$2.11~~	~~$ 2.30~~	~~$ 2.47~~	~~$ 2.65~~	**$ 2.62**	~~$ 2.85~~	~~$ 3.05~~	
						$ 2.82	**$ 3.02**	**$ 3.02**

(b) Gallonage Charge - For each 1,000 gallons of water delivered to the premises with the exceptions described in (d) below, the rate shall be:

	~~2013~~	~~2015~~	~~2016~~	2017	**2017**	2018	2019	**2020**
City of Medford	~~$0.57~~	~~$0.66~~	~~$0.70~~	$0.75	**$0.78**	~~$0.75~~	~~$0.75~~	
						$0.86	**$0.95**	**$1.04**
Regional Rate Committee	~~$0.60~~	~~$0.67~~	~~$0.72~~	$0.77	**$0.74**	~~$0.83~~	~~$0.89~~	
						$0.80	**$0.86**	**$0.86**

(c) In the case of an account with no meter, the gallonage charge per month shall be determined by the water usage of similar businesses.

(d) For schools, hospitals, residential care/boarding facilities, parks and churches, the gallonage shall be determined once each year during the month of March for each such account and the amount of the charge so determined shall be charged for each month for the following 12-month period. The charge shall be determined for each account by applying the above gallonage rate to the average monthly water consumption during the December, January and February consumption for each such account. In the case of a service which commences after the December billing period, the average shall be determined by making a reasonable comparison of water usage by other customers receiving the same class of service and under similar circumstances and conditions.

(e) All vehicle and parts washing or steam cleaning facilities that discharge to the sanitary sewer, other than self- or full-service vehicle washes that serve the general public, will have charges determined on a case-by-case basis.

(6) Extra Strength Commercial, Hospital and Industrial Sewer Service Surcharge.
The rate per sewer service per month shall be as follows:

	~~2013~~	~~2015~~	~~2016~~	2017	2018	2019	**2020**
City of Medford	~~$0.00~~	~~$0.00~~	~~$0.00~~	$0.00	$0.00	$0.00	**$0.00**

Regional Rate Committee	~~$0.23~~	~~$0.28~~	~~$0.30~~	$0.32	$0.34	$0.36	**$0.36**

per each 300 ppm of biochemical oxygen demand, (BOD) or suspended solids (SS) or fraction thereof, in excess of the first 300 parts per million (ppm) of BOD or SS, per 1,000 gallons of water delivered to the premises. The rate shall be for the higher concentration of either BOD or SS, but not assessed for both. Such charge shall be in addition to the charge for sewer service listed in Subsection (5) above.

(7) Recreation Vehicle Waste Dumping Station.
The rate for each recreational vehicle waste dumping station shall be as follows:

	~~2013~~	~~2015~~	~~2016~~	~~2017~~	**2017**	2018	2019	**2020**
City of Medford	~~$20.86~~	~~$23.99~~	~~$25.67~~	~~$27.47~~	**$27.50**	~~$27.47~~	~~$27.47~~	
						$30.52	**$33.87**	**$37.25**
Regional Rate Committee	~~$23.88~~	~~$25.70~~	~~$27.63~~	~~$29.70~~	**$29.67**	~~$31.93~~	~~$34.32~~	
						$31.90	**$34.29**	**$34.29**

per dumping facility per month, in addition to other sewer charges as prescribed in Subsection (6) above, for commercial or industrial sewer service to the location.
(8) When Rates Apply.
The sewer charges described shall apply for each month, or part thereof, during which the water services to the premises are active, but shall not apply to any premises not connected to a public sewer. The term "water service" includes a well, supplying water to a system served by the sewer, as well as service from a public water system.
(9) Review of Rates.
The sewer charges established in this section of the City Code shall be reviewed as necessary. The rates may be revised to reflect actual costs of operation, maintenance, replacement and financing of the treatment works and sewage collection system. Charges are to be equitable with regard to each user's contribution to the total wastewater loading rate. The sanitary sewer rate changes listed above shall become effective ~~on March 1, 2013, for single-family residential service and July 1, 2013, for all other service, respectively. In 2015, 2016, 2017, 2018 and 2019 rate changes~~ are effective July 15 for all services.

STORM DRAIN

4.718 **Basis for Determining Storm Drain Fee.**
(1) The basis for determining the monthly Storm Drain fee is as follows:
- (a) Single family residential properties will be charged 1 ERU per month.
- (b) Mobile Home Parks will be charged 6 ERUs per acre per month.
- (c) The number of ERUs to be charged for all other properties not included in (a) or (b) above will be determined by measurement of the impervious area divided by 3,730

~~and carried to two decimals, with the third decimal truncated~~. Area measurements may be determined from City building permit applications or aerial mapping records.

(2) Effective July 15 of each year below, the rate per ERU for accounts with no runoff control measures shall be as follows:

2013	2015	2016	2017	**2018**	**2019**	**2020**
$7.71	$8.87	$9.49	$10.15	**$10.25**	**$10.25**	**$10.25**

(3) Effective July 15 of each year below, the rate per ERU for accounts with runoff control measures shall be as follows:

2013	2015	2016	2017	**2018**	**2019**	**2020**
$5.41	$6.22	$6.66	$7.12	**$7.19**	**$7.19**	**$7.19**

[Added, Sec. 3, Ord. No. 2012-195, Dec. 20, 2012; Amd. Sec. 2, Ord. No. 2014-144, Nov. 20, 2014.]

4.735 **New Development and Annexation.**

(1) Monthly storm drainage utility fees for new development will commence upon ~~approval of the building's foundation~~ **final building approval or Certificate of Occupancy, whichever occurs first**. Areas that are annexed to the City or under contract to annex shall become subject to the storm drain utility fee and storm drainage SDC on the date of annexation or the date of the annexation contract, whichever comes first.

PEDESTRAIN STREET LIGHT

4.807 **Imposition of Pedestrian-Scale Street Light Fee.**

There is hereby imposed upon the responsible party for each and every City utility account of a single-family residential subdivision or for each pedestrian street light in a multi-family or commercial development that meets the criteria for a benefiting property, as described in Section 4.803. ~~, an initial pedestrian-scale street light fee of Four Dollars and fifty cents ($4.50) per month.~~ This fee is deemed reasonable and is necessary to pay for the operations and maintenance of pedestrian-scale street lights within the City. ~~The effective starting date of this fee will be March 1, 2003, and will first appear on utility bills delivered in April 2003~~.

3/1/2003	**3/1/2006**	**3/1/2007**	**3/1/2008**
$4.50	**$4.75**	**$5.00**	**$5.34**

4.809 **Rate Adjustment.**

An annual rate adjustment may be made based on the Consumer Price Index (CPI-U) for the Portland, Oregon MSA and index period 1982-1984 = 100. The adjustment shall be the percent change in the CPI for the calendar year ending December 31 of each year. The adjustment shall be made to the customer's utility bill beginning the following March. The first adjustment shall be made in March 2004.

[Added Sec. 8, Ord. No. 2002-201, Nov. 21, 2002; Amd. Sec. 4, Ord. No. 2012-196, Dec. 20, 2012.]

UTILITY FEES

4.1200 Billing, Collection and Enforcement of Utility Fees.

(3) Street, sewer and parks utility fees shall not be assessed during any period when the account is closed and the premises are unoccupied and unused.

(a) Street and park fees will not be assessed to a vacant unit within a commercial, non-residential property provided the property owner has notified the City that the unit is vacant. ~~If the property owner fails to notify the City, fees may be waived retroactively from the date notice is received for a period not to exceed three (3) months~~. Vacancy certifications are valid for three (3) months; if the unit remains vacant, the property owner shall be responsible for renewing the vacancy certification. The responsible party shall notify the City within 10 days of the property or unit becoming occupied again.

CITY OF MEDFORD
AGENDA ITEM COMMENTARY

www.ci.medford.or.us

Item No: 80.2

DEPARTMENT: Parks, Recreation, Facilities **AGENDA SECTION:** Ordinances and Resolutions
PHONE: (541) 774-2483 **MEETING DATE:** June 21, 2018
STAFF CONTACT: Rich Rosenthal, Director

COUNCIL BILL 2018-63
SECOND READING. An ordinance authorizing execution of a two-year Prescott Park Road Use and Maintenance License Agreement between the City of Medford and Burl Brim Excavation, Inc., with a two-year renewal option.

SUMMARY AND BACKGROUND
City Council is asked to approve second recording of an ordinance authorizing a Prescott Park Road Use and Maintenance License agreement with Burl Brim Excavation, Inc.

PREVIOUS COUNCIL ACTIONS
On May 6, 2004, Council Bill 2004-86 was approved, authorizing the execution of a five-year Prescott Park Road Use and Maintenance License Agreement between the City of Medford and Burl Brim Excavation, Inc.

On October 17, 2013, Council Bill 2013-86 was approved, authorizing the execution of a five-year Prescott Park Road Use and Maintenance License Agreement between the City of Medford and Burl Brim Excavation, Inc.

On June 7, 2018, Council voted 5-3 to modify Recital 3 to reflect a two-year term ending June 30, 2020, with a two-year extension option at the discretion of Brim Excavation, Inc., and moved Council Bill 2018-63 to second reading.

ANALYSIS
Burl Brim Excavation, Inc. operates a gravel pit on privately owned property on the slopes of Roxy Ann Peak. The gravel pit is adjacent to Prescott Park, and for the past 14 years, the City has provided Brim with a Road Use and Maintenance License for use of Roxy Ann Road on City property and through City-held right-of-way easements in order to access its operation.

The current License expires on June 30, 2018, and Department staff have worked with Mr. Brim on crafting another five-year License. The proposal is substantially similar to the expiring agreement, but Brim and City staff have examined and clarified several key considerations in Section 5, including:

- Annual Road Use Fee
- In-Kind Payment
- Maintenance
- Repair
- Dust Retardant
- Hauling Hours/Penalty

In summary, the City receives a minimum of $15,000 of in-kind value in materials and maintenance from Brim each year in exchange for the road-use License because Roxy Ann Road serves as the exclusive ingress and egress to the gravel pit. Although the mixture of aggregate truck traffic on the road in close proximity with Prescott Park patrons is not ideal, it is reasonable to conclude that the City cannot prohibit or restrict truck traffic from conducting business at the gravel pit in the absence of other viable routes. The agreement, however, places reasonable time, place and manner conditions on the vehicles accessing the gravel pit, such as hauling hours of operation, dust retardant, and a prohibition of engine braking.

The City has taken steps to better address enforcement and dust-control concerns heard from park visitors and neighbors. The park will soon be inside the City's urban growth boundary, which will allow Medford Police, in addition to the Jackson County Sheriff, to have a higher level of law-enforcement presence. To this end, park maintenance staff have posted speed-limit signs and shared-road advisories along the haul route. Additionally, in an effort to control dust, staff are working with Brim on a capital improvement plan in a separate agreement to chip-seal all or portions of the three-mile stretch of unpaved roadway starting with the lower section closest to residences, as resources permit.

According to Jackson County records, gravel pit operations on Roxy Ann date back to 1937, and the current route was likely constructed to access the operation. Brim, in partnership with the City since 2004, has vastly improved road conditions and accessibility to recreational amenities. If the agreement is not approved, the City could lose Brim's annual in-kind contribution toward road maintenance.

In October 2017, Jackson County approved the gravel pit owner's Type 3 land-use application to increase the area of rock extraction, which is projected to extend gravel pit operations an additional 10-15 years depending on the pace of development in and around Medford.

The Parks and Recreation Commission conducted hearings on May 8 and May 22 to provide ample opportunity for public input on the proposal. Three citizens attended the meetings to provide input. As a result of a 4-4 vote on whether to recommend Council approval of the agreement, the Commission was unable to reach a consensus on forwarding a recommendation to Council.

At its June 7 meeting, Council voted 5-3 to modify Recital 3 to reflect a two-year term ending June 30, 2020, with a two-year extension option at the discretion of Brim Excavation, Inc.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS
City to receive at least $15,000 in rock and in-kind services from Brim Excavation on an annual basis for the duration of the agreement.

TIMING ISSUES
The current agreement expires June 30, 2018. The proposed License would begin July 1, 2018.

COUNCIL OPTIONS
Approve the ordinance as presented.
Deny the ordinance and provide staff with direction.

STAFF RECOMMENDATION
Staff recommends approval of the ordinance.

SUGGESTED MOTION
I move to approve the Prescott Park Road Use and Maintenance License Agreement with Brim Excavation, Inc.

EXHIBITS
Ordinance
Prescott Park Road Use and Maintenance License Agreement

Prescott Park Road Use and Maintenance License Comparison
Prescott Park Road and Trail map

ORDINANCE NO. 2018-63

AN ORDINANCE authorizing execution of a two-year Prescott Park Road Use and Maintenance License Agreement between the City of Medford and Burl Brim Excavation, Inc., with a two-year renewal option.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

That execution of a two-year Prescott Park Road Use and Maintenance License Agreement between the City of Medford and Burl Brim Excavation, Inc., with a two-year renewal option, which is on file in the City Recorder's office, is hereby authorized.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2018.

ATTEST:_____ _____
City Recorder Mayor

APPROVED_____, 2018. _____
Mayor

PRESCOTT PARK
ROAD USE AND MAINTENANCE LICENSE AGREEMENT

~~THIS AGREEMENT~~This Agreement is made this ____ day of _____, 2018 between CITY OF MEDFORD, an Oregon municipal corporation, called "City," and BURL BRIM EQUIPMENT LEASING, INC., DBA BRIM AVIATON, called "Brim."

RECITALS

1. City owns the southwest quarter of the northeast quarter of Section 14 in Township 37 South. Range I West of the Willamette Meridian in Jackson County, Oregon, being a part of Roxy Ann Peak and portrayed on attached Exhibit "A".
~~It was acquired from the United States government on or about November 21, 1930 under the provisions of the Recreation Act of June 14, 1926 (44 Stats. 741) which requires that the lands shall revert to the United States upon a finding by the Secretary of Interior that for five consecutive years such land has not been used by City for park or recreation purposes or that such land, or any part thereof, is being devoted to other use.~~

2. Brim wishes to use ~~the park road system in Prescott Park~~Roxy Ann Road within Prescott Park for access to the ~~adjacent~~ neighboring gravel pit that Brim operates under a lease from the property owner. City has determined that such use is in the public interest if Brim will share in the maintenance of the park road system with other public and private agencies that use the roads for access to their facilities and conducts operations in a manner that respects the primary use of the land as a park for the enjoyment of recreationists.

3. City in consideration of the obligations undertaken by Brim, grants to Brim for a term of two years ending June 30, 2020, the right to use ~~the Prescott Park Road~~Roxy Ann Road ~~system~~ within Prescott Park for access to the gravel pit located on the slopes of Roxy Ann Butte except as further provided in ~~5.h., below~~Section 5. Brim may exercise an option for an additional two-year term through written notification to the Parks and Recreation Director of this intention prior to June 30, 2020. Either party may terminate this agreement by providing 180 days written notice to the other party, with the exception of circumstances outlined in Section 5-i. ~~If terminated before June 30, 2023, the obligations shall be pro-rated as of the date of termination. Provided that if the Department of Interior or other authorized agency of the U.S. government, this agreement and all executor rights or duties of the parties hereunder shall terminate. If parties agree to an additional five years, ending June 30, 2023, then this agreement shall be continued under the same terms and conditions herein unless either party initiates, by written request to the other party, a new license agreement.~~

~~3.~~

4. Definitions: The following definitions are to be taken in the context of ~~the access road~~the

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Agreement.

a. The Road: The unpaved section of Roxy Ann Road within Prescott Park leading to the Brim gravel pit.

b. Park Road System: All unpaved roads and parking areas within Prescott Park.

~~a.~~ Annual Road Maintenance: Road maintenance work, including equipment, materials~~,~~ and labor~~,~~ necessary to maintain or improve the present ~~bring the~~ condition of the road ~~and its appurtenances back to Its condition following proper annual maintenance in the previous annual cycle.~~ Damage caused by extremely unusual weather, such as a storm exceeding a 50-year expectancy, is excluded.

c.

~~b.~~ Damage ~~Caused by Brim:~~ ~~——~~Accidental ~~or intentional damage~~ to ~~the~~ road surface, structure, or appurtenances (such as culverts) caused by Brim's maintenance or use.

d.

e. Damage Caused by Others: Accidental or intentional damage to the road surface, structure, or appurtenances (such as culverts) ~~Damaged~~ not caused by ~~public, administrative use, abuse, or extremely unusual weather such as a storm exceeding a 50-year expectanc~~Brim or its customers~~y~~.

~~e.~~f. Damage Caused by Natural Causes: Damage caused by "acts of god" such as extreme weather events, earthquakes, etc.

~~d.~~ Aggregate Trucks: Trucks used for the hauling of aggregate rock to and from the pit for sale or operations.

g.

~~e.~~ Operations Traffic : Vehicles used by employees for operations related to the pit, including employee vehicles but excluding aggregate trucks as defined previously.

~~——~~

h.

~~——~~Brim and City agree to the following conditions as consideration for this license:

5.

a. Annual Usage Fee. The annual road use fee ~~for ingress/egress of the gravel pit has~~is $15,000. ~~an estimated equivalent value of $10,000.00, provided as labor and equipment by Brim each year in lieu of a cash payment. Brim shall place up to 1,538 tons of crushed aggregate, conforming to Oregon Department of Transportation specifications for "3/4 minus Base Rock" on the park road system in each of City's fiscal years during this agreement. Placement of all 1,538 tons shall be at the direction~~

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~~of City on any road as needed within Prescott Park, including the City owned road between the gravel pit property line and Hillcrest Road. City shall pay Brim $6.70 per ton for the hauled, placed, graded, and compacted material within 30 days of receipt of invoice from Brim. The difference between market value and City's payment, equal to $10.000.00, is Brim's "in-kind" payment in lieu of cash as an annual fee.~~

~~The annual road use fee shall be adjusted once each year on the anniversary date of this agreement by the percentage change (increase or decrease) in the Portland , Oregon, Consumer Price Index published in December of the current year and December of the next subsequent year.~~

In-Kind Contribution. In lieu of cash payment for the annual road use fee, Brim to provide City up to 2,000 tons of crushed aggregate annually, conforming to Oregon Department of Transportation specifications for "3/4-minus Base Rock" at a discounted rate of $6.90/ton. In addition to providing a discounted rock rate, Brim to haul, place, compact and grade material on the Park Road System as needed, at no cost to the City.

b.

Maintenance.: City and Brim shall jointly inspect the condition of the ~~access r~~Road at least twice a year, on the following occasions: Spring, as soon as the ground conditions are dry enough for road maintenance to be practical, generally April 15~~th~~; Fall, prior to onset of winter rains, generally October 1~~st~~; and following ~~major rain or run-off~~weather events~~, such as a 50-year storm or rain on top of a heavy snow pack (i.e. weather events likely to cause unusually high run-off)~~ that negatively impact Road conditions. Following each inspection, a jointly agreeable schedule of work will be established in writing. Brim will conduct ~~will perform all~~ annual R~~r~~oad maintenance ~~of segments used by Brim,, including annual placement of aforementioned aggregate.~~

c.

Repair: Brim will repair at its~~his~~ expense all "Damage Caused by Brim" as soon as practical. City is responsible for repair of "Damage Caused by Others." Parties to share repair costs of the Road in the event of Damage from Natural Causes.

d.

Brim shall apply ~~a water~~ dust retardant ~~-~~to the ~~park~~ Park R~~r~~oad S~~s~~ystem used by gravel pit traffic to prevent moderate to high levels of dust caused by motor vehicle traffic. ~~, except when road has been treated with Lignin or other approved oil dust retardant, adequate to retard visible dust plumes behind haul trucks.~~ Such retardant shall only be water or ~~other~~ a retardant permitted by DEQ or other state or federal regulations. ~~If City and~~ Brim ~~agree~~ to reimburse City for 25 percent of annual ~~apply a~~ Lignin or other approved oil dust retardant application cost~~, Brim will contribute $5,000 and the City will fund the balance~~.

e.

Brim shall comply with all park closures required by city, state or federal agencies and strictly follow applicable conditions when operating under a legal exemption to

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total shut-down.

f. All aggregate hauling traffic shall occur between the hours of 7 a.m.~~:00 AM~~ and 5~~:00~~ p.m., ~~PM.~~ Monday through Friday. All operations traffic will follow general park use hours as specified in the Administrative Regulation outlining park use. No aggregate hauling operations are permitted on weekends and the following eight days: New Year's Day, Martin Luther King Day. Memorial Day, Labor Day, Independence Day, Thanksgiving Day, day after Thanksgiving Day, and Christmas Day. Penalties for ~~iso~~violation of aggregate hauling traffic hours and dates listed will result in a $100 fine for each occurrence that can be documented by the Medford Parks and Recreation Department. Brim will be notified of such penalties via writing. Examples of appropriate proof of violations would be~~:~~ visual confirmation by ~~park and recreation d~~Department staff, or video and pictures that are date stamped. Operations traffic is not subject to the hours and date restrictions listed for loaded aggregate truck traffic. In the event of an emergency, exceptions to hours of operation may be granted by the City.

g. Engine brakes (also known as "Jake brakes"~~a.k.a. Jake brakes~~) shall not be used within Prescott Park and the City Limits (by City Ordinance) except in an emergency where life or property is threatened. Brim to communicate engine brake and Road speed restrictions to its staff and customers via signage at the gravel pit exit.

h. ~~h.~~ If Brim violates an~~n~~y condition of this agreement the City may, after providing 90 days written notice, terminate this agreement. In that event, Brim shall be required to obtain a court order directing City to grant access to the gravel pit.

i. ~~i.~~ By signing this agreement, Brim is not waiving any constitutional rights he or his company has to use the R~~r~~oad.

j.

6. During the life of this Agreement , Brim shall maintain the following minimum insurance:

a. Commercial General Liability Insurance on an "occurrence" policy form covering Bodily Injury and Property Damage, Products/Completed Operations, Personal & Advertising Injury, and blanket Contractual Liability. Such insurance shall be primary and non-contributory, and provide limits of at least $1,000,000 per Occurrence and a General Aggregate of at least $2,000,000. *"The City of Medford and its officers, employees and agents while acting within the scope of their duties as such"* shall be named an Additional Insured by endorsement.

b. Commercial Automobile Liability Insurance for Bodily Injury and Property Damage

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covering owned, non-owned, rented, and hired autos. Such insurance shall provide a combined single limit per accident of at least $1,000,000.

c. Workers Compensation Insurance meeting statutory requirements of Oregon Workers Compensation Law must be provided by Brim (and any sub-contractor CONTRACTOR may use) for any subject workers, as well as Employers Liability Insurance with limit of at least $500,000.

d. If Brim is statutorily exempt from the requirement to provide Workers Compensation Insurance, Brim shall complete, sign, and submit the City's form for ***Declaration of Exemption from Oregon Statutory Workers Compensation*** in lieu of Workers Compensations Insurance.

e. Brim shall submit to City certificates of insurance for all policies listed above at time of this Agreement, and at each subsequent insurance renewal for the life of this Agreement. Certificate must include Additional Insured Endorsement for General Liability Insurance. Certificates of insurance for current coverage or activated tail coverage for Professional Liability Insurance, because it is a claims-made coverage, shall continue to be submitted to City for two (2) years following the effective term of this Agreement. Certificate Holder (and additional insured for General Liability) shall be shown as: City of Medford, 411 West 8th Street, Medford, OR 97501. *Any request for exemption from this requirement must be in writing and approved by the CITY'S Risk Manager.*

f. Brim is responsible to assure that City receives a required thirty (30) days written notice prior to cancellation of, material change to, exhaustion of aggregate limits of, or intent not to renew any insurance policy for coverage required in this Agreement. Ten (10) days will be accepted for cancellation due to non-payment of premium. Brim shall itself provide the written notice in the event that its insurance companies will not or do not provide such notice. Failure to maintain proper insurance and/or provide timely notification of a change in coverage is grounds for potential immediate termination of this contract.

g. Notwithstanding insurance requirements stated or any modifications made thereto, in no case shall the presence or absence of any insurance coverage, or any insurance policy limit, provision, term, or condition reduce the obligations of the Brim for liability granted generally by law or specifically in the terms of this Agreement. In no case shall City be responsible for any amount of Brim self-insurance, or any retention, deductible, or coinsurance amount required by Brim's insurance policies.

~~(1) Commercial General Liability Insurance on an "occurrence" policy form covering Bodily Injury and Property Damage, Products/Completed Operations, Personal & Advertising Injury, and blanket Contractual Liability. Such insurance shall be primary and non-contributory, and provide limits of at least $1,000,000 per Occurrence and a General Aggregate of at least~~

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~~$2,000,000 . "The City of Medford and its officers, employees and agents while acting within the scope of their duties as such " shall be named an Additional Insured by endorsement.~~

~~Commercial Automobile Liability Insurance for Bodily Injury and Property Damage covering owned, non-owned, rented, and hired autos. Such insurance shall provide a combined single limit per accident of at least $1,000,000.~~

~~Workers Compensation Insurance meeting statutory requirements of Oregon Workers Compensation Law must be provided by CONTRACTOR (and any sub-contractor CONTRACTOR may use) for any subject workers, as well as Employers Liability Insurance with limit of at least $500,000.~~

~~If CONTRACTOR is statutorily exempt from the requirement to provide Workers Compensation Insurance, CONTRACTOR shall complete, sign, and submit the City's form for Declaration of Exemption from Oregon Statutory Workers Compensation in lieu of Workers Compensations Insurance.~~

~~CONTRACTOR shall submit to CLIENT certificates of insurance for all policies listed above at time of this Agreement, and at each subsequent insurance renewal for the life of this Agreement. Certificate must include Additional Insured Endorsement for General Liability Insurance. Certificates of insurance for current coverage or activated tail coverage for Professional Liability Insurance, because it is a claims-made coverage, shall continue to be submitted to CLIENT for two (2) years following the effective term of this Agreement. Certificate Holder (and additional insured for General Liability) shall be shown as: City of Medford, 411 West 8th Street, Medford, OR 97501. Any request for exemption from this requirement must be in writing and approved by the CLIENT'S Risk Manager.~~

~~CONTRACTOR is responsible to assure that CLIENT receives a required thirty (30) days written notice prior to cancellation of, material change to, exhaustion of aggregate limits of, or intent not to renew any insurance policy for coverage required in this Agreement. Ten (10) days will be accepted for cancellation due to non-payment of premium. CONTRACTOR shall itself provide the written notice in the event that its insurance companies will not or do not provide such notice. Failure to maintain proper insurance and/or provide timely notification of a change in coverage is grounds for potential immediate termination of this contract.~~

~~Notwithstanding insurance requirements stated or any modifications made thereto, in no case shall the presence or absence of any insurance coverage, or any insurance policy limit, provision, term, or condition reduce the obligations of the CONTRACTOR for liability granted generally by law or specifically in the terms of this Agreement. In no case shall CLIENT be responsible for~~

~~any amount of CONTRACTOR self-insurance, or any retention, deductible, or coinsurance amount required by CONTRACTOR's insurance policies.~~

~~Agree to hold harmless, defend and indemnify City, its officers, employees and agents acting within the scope of their employment or duties, as such, from any liability, loss or damage arising out of or connected with the activities for which this license is issued.~~

7. No assignment of any rights hereunder shall be valid without the advance written consent of City.

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IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

CONTRACTOR:

BURL BRIM EQUIPMENT LEASING, INC.	CITY OF MEDFORD
DBA BRIM AVIATION	
By: _____	By: _____
Burl Brim, Pres.	Gary H. Wheeler
P.O. Box 3009	c/o City Manager
Ashland, OR 97520	411 W. 8th Street
Tax ID# 93-1108962	Medford, OR 97501

Approved as to form:

_____

City Attorney

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

CONTRACTOR:

BURL BRIM EQUIPMENT LEASING, INC. CITY OF MEDFORD

DBA BRIM AVIATION

By: _____ By: _____

By: _____

Burl Brim, Pres. Gary H. Wheeler

P.O. Box 3009 c/o City Manager

Ashland, OR 97520 411 W. 8th Street

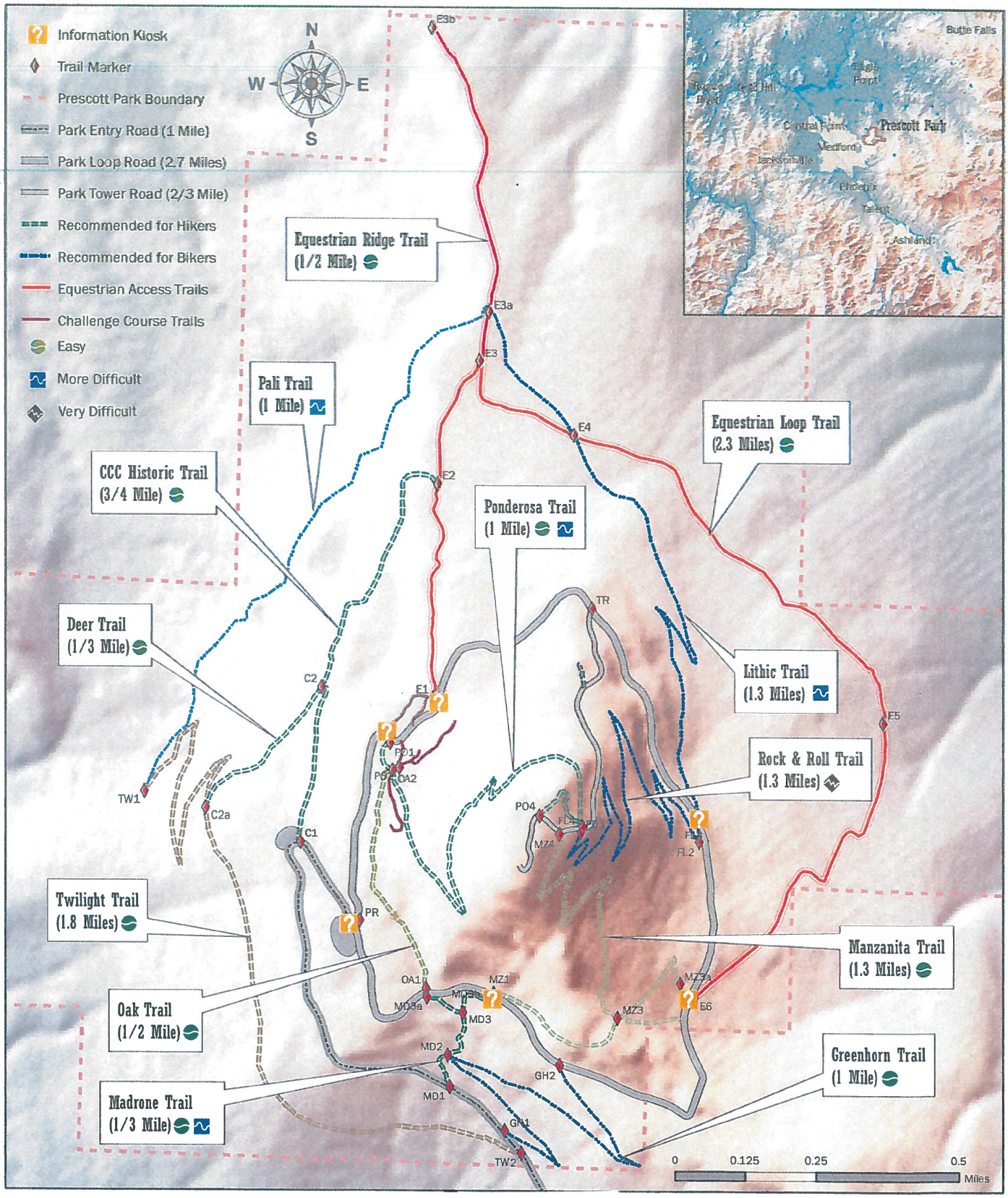
Tax ID# 93-1108962 Medford, OR 97501

Approved as to form:

_____

City Attorney

Exhibit A
PRESCOTT PARK
ROAD & TRAIL MAP



CITY OF MEDFORD
AGENDA ITEM COMMENTARY

www.ci.medford.or.us

Item No: 80.3

DEPARTMENT: Fire
PHONE: (541) 774-2306
STAFF CONTACT: Justin Bates, Deputy Fire Chief

AGENDA SECTION: Ordinances and Resolutions
MEETING DATE: June 21, 2018

COUNCIL BILL 2018-46
SECOND READING. An ordinance authorizing execution of an Intergovernmental Agreement with Jackson County Fire District 3 for automatic aid response planning.

SUMMARY AND BACKGROUND
Council is requested to consider an Intergovernmental Agreement (IGA) with Jackson County Fire District 3 for fire department automatic aid (closest forces) response planning. Automatic aid ensures that the closest fire department resource is dispatched to an emergency based on GPS location technology regardless of jurisdictional boundaries. The IGA would formalize automatic aid agreements already in place.

PREVIOUS COUNCIL ACTIONS
On May 17, 2018 Council Bill 2018-46, item 60.6 was continued for the June 7, 2018 meeting.

One June 7, 2018 Council Bill 2018-46 was removed from the Consent Calendar for a staff report. As a result of a five to two vote, a second reading is required.

ANALYSIS
Fire Department mutual aid agreements have been in place for many years sharing assistance during large scale events that exceed the capacity of Medford Fire Department resources. Informal automatic aid cooperation with neighboring fire departments have been utilized recently to get the closest fire engine to an emergency regardless of jurisdictional boundaries using GPS and computer dispatching technology.

All agencies involved, as well as the citizens benefit from the sharing of fire department resources using an automatic aid system. This agreement would increase the capacity of each agency to mitigate multiple incidents at a time without expending additional funding for fire department equipment or personnel. This Intergovernmental Agreement would formalize the automatic aid cooperation currently being used with Jackson County Fire District 3.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS
No financial impact. Equipment and personnel resources are monitored to ensure mutual benefit of both parties.

TIMING ISSUES
None

COUNCIL OPTIONS
Approve the ordinance.
Modify the ordinance.
Deny the ordinance and provide staff with direction.

STAFF RECOMMENDATION
Staff recommends approval of the Intergovernmental Agreement.

SUGGESTED MOTION
I move to approve ordinance for the Intergovernmental Agreement between the City of Medford and Jackson County Fire District 3 for automatic aid.

EXHIBITS
Ordinance
Intergovernmental Agreement

ORDINANCE NO. 2018-46

AN ORDINANCE authorizing execution of an Intergovernmental Agreement with Jackson County Fire District 3 for automatic aid response planning.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

That execution of an Intergovernmental Agreement with Jackson County Fire District 3, for automatic aid response planning, which is on file in the City Recorder's office, is hereby authorized.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2018.

ATTEST: _____ _____
City Recorder Mayor

APPROVED _____, 2018. _____
Mayor

INTERGOVERNMENTAL AGREEMENT
FOR
AUTOMATIC AID AND EMERGENCY RESPONSE SERVICES

THIS AGREEMENT, is made and entered into on this first day of _____, by and between the City of Medford and Jackson County Fire District 3, through their duly authorized Mayor, City Manager or Board Director, to provide for automatic assistance for fires and other types of emergency incidents as described under the terms of this agreement.

RECITALS

Whereas, Oregon Revised Statutes (ORS) Chapter 190 authorizes units of local government to enter into written agreements with other units of local government for any or all of the functions and activities of a party to the agreement, and

Whereas, the participating cities, towns and fire districts of the Automatic Aid System seek to provide the most efficient, safe, and effective fire-rescue-emergency medical services to their communities, and

Whereas, policy statements for automatic assistance in fire protection and response to other emergencies have existed between specific municipalities and governmental jurisdictions, and

Whereas, under the oversight of the Rogue Valley Fire Chiefs Association, the Mutual Aid System has been in existence to provide the highest levels of services in conjunction with the most effective use of local fire department resources working collaboratively through intergovernmental cooperation; and

Whereas, the Automatic Aid System Participants are committed to demonstrate public equity through the reasonable commitment and distribution of resources within their jurisdiction to ensure that no participant unfairly benefits at the expense of the other participants, and

Whereas, it is the desire of the Automatic Aid System participants joining in this agreement to continue and improve the nature and coordination of emergency assistance to incidents that threaten loss of life or property within the geographic boundaries of their respective jurisdictions, and

Whereas, it is further the determination of each of the parties hereto that the decision to enter into this Automatic Aid Agreement constitutes a fundamental governmental policy of the parties hereto which is automatic in nature, and includes the determination of the proper use of the resources available with respect to the providing of governmental services and the utilization of existing resources of each of the parties hereto, including the use of equipment and personnel, and

Whereas, it is the desire of these municipalities and governmental jurisdictions to maintain a "closest forces" automatic aid response for emergency response services.

AGREEMENT

That the Automatic Aid System participants executing this agreement agree to dispatch their respective assigned fire department units on an automatic basis. The Computer Aided Dispatch and Automatic Vehicle Locator system will automatically determine the closest available, most appropriate unit(s) regardless of jurisdictional boundaries. Each jurisdiction agrees that such unit(s) will respond.

1. It is agreed that the scope of this agreement includes automatic assistance in responding to fires, medical emergencies, hazardous materials incidents, rescue and extrication situations and other types of emergency incidents that are within the standard scope of services provided by fire departments in the Automatic Aid System. The scope of this agreement is not intended to include assistance for pre-planned or special events requiring additional staffing needs.

2. If at any time while this Automatic Aid Agreement is in effect, if a party to the Automatic Aid Agreement closes a fire station, or reduces the level of fire, medical or emergency services provided within its municipal or jurisdictional boundaries, the party closing said fire station or reducing services will give a minimum of 90 days' notice to all other parties to this Automatic Aid Agreement.

3. Agree to maintain compatible equipment and encourage the development of cooperative procedures and protocols.

4. Nothing in this agreement shall limit the ability of any or all of the parties from agreeing to participate in more specific contracts for services, mutual assistance or automatic response; nor shall this prohibit any party from providing emergency assistance to another jurisdiction which is not a participant in this agreement.

5. Each participating municipality or fire district shall retain ownership of any equipment or property it brings to the performance of this agreement and shall retain ultimate control of its employees. If at any time it is determined that communications infrastructure is necessary to meet the operational requirements of the automatic aid response system, the jurisdiction's fire department will assist Emergency Communications of Southern Oregon (ECSO) in facilitating all necessary steps to implement sufficient communications infrastructure, including the authorizations, agreements, access, etc.

6. Each Automatic Aid System participant commits to meet regularly to discuss issues and develop policies or protocols to improve coordinated response reliability. The Fire Chief may designate a representative with decision making authority.

7. Participants in this automatic aid agreement do further agree to the following standard service criteria as the primary response system elements of this automatic aid agreement:

   A. The Automatic Aid System will use a Computer Aided Dispatch (CAD) system that automatically selects the closest, most appropriate unit(s) for dispatch to include Battalion Chiefs. The CAD system shall be a centralized, totally integrated unit dispatch/status keeping system.

   B. The Automatic Aid System allows the closest, most appropriate emergency response unit to an

emergency to be dispatched automatically - regardless of the jurisdiction where the emergency occurs or the jurisdictional affiliation of the response unit. The dispatch system utilizes Automatic Vehicle Location (AVL) equipment to discern the location of emergency response units and a computerized Geographic Information System (GIS) to discern the location of the emergency call. The AVL and GIS systems allow the dispatch system to match the closest response unit to the emergency and recommend it for dispatch within the Automatic Aid System boundaries. All Automatic Aid System participants shall ensure its staffed engines, ladders, tenders and wildland brush units are equipped with AVLs'.

C. The automatic aid system utilizes a preplanned system of communications. Communications support for participants includes the provision of a main dispatch and multiple tactical radio frequencies, a Mobile Computer Terminal (MCT) system, a station alerting system, direct communication lines between each participating fire station and the Dispatch Center, and a paging system. These systems are in place and supported by the Dispatch Center.

D. All participants will use standard command procedures. A standardized Incident Management System (IMS) provides for efficient management of the emergency and for the safety of firefighters through the use of standard terminology, reporting relationships, and support structures. The Incident Management System and associated standard operating procedures adopted for use by all Automatic Aid participants are the Rogue Valley Fire Rescue Standing Orders.

E. Participants shall use the same set of procedures for Incident Management and minimum company standards (basic evolutions used by the fire service). Participants shall explore opportunities for joint training. Participants that do not attend joint training opportunities on a regular basis, as determined by the signors of this agreement, will be automatically removed from this agreement.

F. To ensure compatibility of equipment, participants shall maintain a mutually agreed upon inventory of equipment (based upon minimum NFPA standards), including hoses, couplings, pump capacity, communications equipment, and will maintain the minimum standard amount of equipment on each type of apparatus (as recommended by related NFPA Standards).

G. Participants shall utilize the Valley-wide apparatus numbering system and standardized terminology for apparatus and fire stations.

H. Participants shall use standardized response criteria (i.e. pre-established type and number of apparatus that will be automatically dispatched based on type of call as per standard NFPA and ISO recommendations). The dispatch system can tailor the response to specific types of incidents by jurisdiction or part of a jurisdiction. This includes the capability to automatically dispatch selected specialty units.

I. Participants recognize the importance of service delivery and personnel safety issues. The minimum staffing level for response is two fully trained personnel. The minimum staffing level for engines and ladders is three fully trained personnel. Engine & Ladder staffing may be reduced to less than 3 personnel for short periods of time under special circumstances. Specialty units such as Interface engines, wildland units, tenders, tactical tenders, rescues, etc. may have staffing of less than 3 personnel. Command Staff unit staffing of 1 Chief Officer is acceptable.

J. To ensure safety, all participants agree that they will follow the standard operating procedures and command procedures of the Rogue Valley Fire Rescue Standing Orders. Departments shall use safety officers that will follow standardized procedures as recommended by NFPA. Staff filling the role of safety officer shall participate in joint training.

K. Participants agree to the use of specialized unit resources. The assignment of a specialized unit to an incident relies on predefined response levels to specific types of incidents, the closest specialized unit to the call, and/or any special call for resources made by an incident commander that is not pre-programmed in the CAD system. This includes, but is not limited to, hazardous materials support, technical rescue support, loss control, rehab, command, utility, brush, and water tenders.

L. Participants agree that automatic aid is reciprocal. While automatic aid does not ensure that a community will receive the exact same amount of assistance as it gives, it does mean that all participants will provide assistance outside its jurisdictional boundaries and that the level of service delivered within the Automatic Aid System will be comparable.

M. The amount of automatic aid given and received by each participant of this agreement will be tracked on a monthly basis with a rolling 12 month look-back. If significant long term trends develop in the gap between automatic aid given vs received then the participants of this agreement will meet to evaluate strategies to reduce that gap.

N. Participants shall define "time of dispatch" as the point in time at which the Dispatch Center has notified the station or (responding unit if out of station) of the call through the station alert system, radio, or MDC.

O. Participants shall measure "response time" from the time of dispatch to time of arrival on-scene.

P. Calls outside the response boundaries of the Automatic Aid Response System will be considered mutual aid where such written agreements remain under the supervision of the Rogue Valley Fire Chiefs Association. Requests for and responses to mutual aid will be at the sole discretion of the departments involved.

8. No term or provision of this Agreement is intended to, or shall, create any rights in any person, firm, corporation or other entity not a party hereto, and no such person or entity shall have any cause of action hereunder.

9. Except as specifically agreed to by both parties for a particular incident, neither party shall be reimbursed by the other party for any costs incurred pursuant to this agreement. In the event of Declared Disasters, participants may apply for reimbursements from County, State and Federal agencies.

10. The parties further understand that this agreement supersedes any previous Automatic Aid Agreement between any of the parties hereto.

11. The parties also recognize that it is the responsibility of each participating party to ensure that their employees are notified in accordance with the provisions of Oregon Workers Compensation Law, specifically, ORS or any amendment thereto, and that all such notices as required by such laws shall be posted in accordance with said law.

12. No term or provision in this agreement is intended to create a partnership, joint venture or agency arrangement between any of the parties.

13. The parties to this agreement hereby agree that other departments dispatched by Emergency Communications of Southern Oregon may be added to this Automatic Aid Agreement upon approval of their governing body and the governing bodies of all signors.

14. This Automatic Aid Agreement shall be reviewed by all parties every five years or as deemed necessary.

REVIEW, EVALUATION, AND QUALITY ASSURANCE

Both parties shall notify the other as soon as possible of incidents that affect the quality of service delivery under this agreement. Both parties agree to work diligently towards resolving any issues that may arise for the mutual benefit of the parties.

LIABILITY/INDEMNITY

A. To the extent permitted by the Oregon Tort Claims Act and the Oregon Constitution, Fire District 3 shall defend, indemnify and hold harmless the City of Medford, and each of the City of Medford elected officials, officers, agents and employees, from and against any and all losses, claims, actions, costs, judgments, damages or other expenses resulting from injury to any person (including injury resulting in death) or damage to property (including loss or destruction), of whatever nature, arising out of or incident to the performance of this agreement by Fire District 3, including, but not limited to, any acts or omissions of Fire District 3's officers, employees, agents, volunteers and others, if any, designated by Fire District 3 to perform services under this agreement.

B. Fire District 3 shall not be held responsible for any losses, claims, actions, costs, judgments, damages or other expenses directly, solely and proximately caused by the negligence of the City of Medford.

C. To the extent permitted by the Oregon Tort Claims Act and the Oregon Constitution, the City of Medford shall defend, indemnify and hold harmless Fire District 3, and each of its elected official, officers, agents and employees, from and against any and all losses, claims, actions, costs, judgments, damages or other expenses resulting from injury to any person (including injury resulting in death) or damage to property (including loss or destruction), of

whatsoever nature, arising out of or incident to the performance of this agreement by the City of Medford, including but not limited to, the acts and omissions of the City of Medford's employees, agents, volunteers and others, if any, designated by the City of Medford to perform services under this agreement.

D. The City of Medford shall not be held responsible for any losses, claims, actions, costs, judgments, damages or other expenses directly, solely and proximately caused by the negligence of District 3.

E. This section does not confer any right to indemnity on any person or entity other than the parties, waive any right of indemnity or contribution from any person or entity; or waive any governmental immunity.

DEFAULT

A. A party to this agreement who has cause to believe that the other party is in default of the terms or conditions of this agreement, shall give the party alleged to be in default written notice of said default, and allow not less than ten (10) days for the default to be cured. If the default is not cured within that time, the following remedies are available to the parties:

- Declare this agreement to be terminated, at which time the provisions of Termination of this agreement shall be complied with.
- Request arbitration of any dispute pursuant to ORS 190.710 to ORS 190.180.
- If not resolved in arbitration, bring an action in the Jackson County Circuit Court to enforce any provision of this agreement.

B. Each of the above remedies is deemed to be cumulative and non-exclusive of any other remedy.

TERMINATION

A. This agreement may be terminated by either party, without cause, by the terminating party giving the other party written notice of its intention to terminate this agreement. Such notice shall be given at least six (6) months prior to the termination of this agreement, although, by mutual consent of the parties, this agreement may be terminated on shorter notice.

ENTIRE AGREEMENT

A. This written agreement is the entire agreement of the parties hereto regarding the subject matter of this agreement and contains all of the terms and conditions of the agreement between the parties. All prior agreements, for the services aforementioned, understandings or the like, whether written or verbal, are superseded by this agreement and shall be of no force or effect whatsoever. Any amendment to this agreement shall be in writing and signed by the representatives of the parties as duly authorized by the governing body of each party.

EXECUTION

A. The execution of this agreement by each of the undersigned is done pursuant to the authorization of the governing body of each party, voted upon in an open meeting in accordance with Oregon Law, and each person executing this agreement hereby certifies that they are authorized to execute this agreement on behalf of Fire District 3 or the City of Medford. In witness whereof, the parties, through their duly authorized representatives, have executed this Agreement on the date or dates set forth below.

IN WITNESS WHEREOF, this Agreement is executed on the year and date first above written.

City of Medford

_____
Name

_____
Signature

_____
Title

Jackson County Fire District #3

_____
Name

_____
Signature

_____
Title

CITY OF MEDFORD
AGENDA ITEM COMMENTARY

www.ci.medford.or.us

Item No. 80.4

DEPARTMENT: Planning Department
PHONE: (541) 774-2380
STAFF CONTACT: Matt Brinkley, AICP CFM, Planning Director

AGENDA SECTION: Ordinances and Resolutions
MEETING DATE: June 21, 2018

COUNCIL BILL 2018-72
An ordinance amending section 2.439 of the Medford Municipal Code pertaining to the Housing Advisory Committee.

COUNCIL BILL 2018-73
An ordinance adding section 2.441 of the Medford Municipal Code pertaining to the Medford Community Development Grants Commission.

SUMMARY AND BACKGROUND
Staff is requesting that City Council consider the creation of a "Housing Advisory Commission" and a "Community Development Grants Commission" to replace the current "Housing and Community Development Commission" and "General Fund Grants Committee". To do this, Council would need to approve both of the ordinances accompanying this AIC. This proposal was discussed at a City Council Study Session on the reorganization of City commissions and committees held on April 12, 2018.

At a regular meeting on August 17, 2017, the City Council established a "Housing Advisory Committee" or HAC and tasked it with developing strategies that would encourage the development of more housing throughout the City. In January, 2018, after three months of discussion and deliberation, the HAC recommended nearly 40 strategies to City Council for its consideration. Among them was the formation of a new commission that would, among other things,

> *[…] advise City Council and other city commissions on housing-related issues and policy. Second, it will oversee the implementation and ongoing administration of the Construction Excise Tax affordable housing program and other facets of the City's growing housing and community development initiatives. Activities will include issuance of an annual request for proposals from the development community, review of submissions, and recommendation to City Council. The HAC will also review recommendations made by the Grants Committee involving CDBG or other housing and community development related resources, and forward a final recommendation to City Council for its approval. Finally, the HAC would oversee the City's Consolidated Plan and other planning and regulatory documents as required by HUD and other state and federal agencies.* (Memorandum dated April 5, 2018)

This committee was the precursor to the Housing Advisory Commission now before City Council for consideration. The proposed body is modeled closely after the City of Bend's "Affordable Housing Advisory Committee", which is considered to be one of the primary reasons for the success of Bend's affordable housing program. Although Medford's housing program is broader in its purview, a Housing Advisory Commission with a diverse membership knowledgeable in the development of a range of market-rate and conventional "affordable" housing would provide a forum for stakeholder involvement, improve program outcomes, and provide subject area expertise to the City Council when it considers housing-related policies. It should be further noted that creation of the proposed Housing Advisory Commission was endorsed by City Council at its regular meeting on February 15, 2018.

The proposal would eliminate the existing Housing and Community Development Commission and assign its current responsibilities to the proposed Housing Advisory Commission and Community Development Grants Commission. This second commission would replace the "General Funds Grants Committee" and assume some of the current responsibilities of the Housing and Community Development Commission.

PREVIOUS COUNCIL ACTIONS
At its regular meeting on February 15, 2018, City Council directed staff to work on the formation of a Housing Advisory Commission.

At a study session on April 12, 2018, City Council reviewed the City Manager's proposal to reorganize several commissions and other appointed advisory bodies. City Council concurred with many of the recommendations contained within the accompanying memorandum and presentation, including the City Manager's recommendation to disband the Housing and Community Development Commission and reassign its responsibilities to two newly-formed bodies: the "Housing Advisory Commission" and the "Grants Committee".

ANALYSIS
The proposed Housing Advisory Commission (HAC) and Community Development Grant Commission (CDGC) structure offers many potential benefits to the City as it embarks upon an ambitious program to accelerate the development of housing in order to alleviate conditions in the housing market that continue to erode housing affordability and availability for nearly all income groups. It could also be beneficial for the City as it develops policy and targets limited resources to confront homelessness and its many negative effects. These benefits would result from the proposed composition of these two bodies and the unique expertise offered by the membership of each. In this way, each body will be better enabled to successfully achieve clearer, more strategic missions.

Developers of for-profit and not-for-profit, affordable and market-rate, single and multifamily housing and related industries would comprise the membership of HAC under this proposal, including

- Two (2) members representing the construction and development community;
- One (1) member representing a local lending institution;
- Two (2) members representing local realtors and multifamily housing operators;
- Two (2) members representing affordable housing developers; and
- Two (2) at-large members.

As proposed, the mission and core responsibilities of the HAC are

- Managing the City's annual request for proposals for Construction Excise Tax supported housing development;
- Advising City Council on housing-related policy;
- Advising City Council on Medford's CDBG program, particularly with housing-related CDBG grant awards.

Regarding this last responsibility, the HAC would review housing-related CDBG award recommendations made by the CDGC and forward a final recommendation to City Council for its review and final approval. In this way, the HAC would be positioned to identify and coordinate the application of other resources that might more effectively leverage housing-related CDBG supported projects. These resources might include other funding sources or public-private-partnerships.

The CDGC's primary responsibilities will be administration of the annual CDBG and current General Fund grant selection processes and implementation of various components of the City's Consolidated Plan, Annual Action Plan, and Analysis of Impediments to Fair Housing Choice [see Exhibit "B", Section 2.485(4)]. Several current members of the Housing and Community Development Commission have

expressed interest in transitioning to the HAC; other members have expressed interest in transitioning to the CDGC.

As proposed, the membership of the CDGC would include

- One (1) current member of the Budget Committee;
- One (1) member representing the local healthcare industry;
- One (1) member representing the social service industry;
- One (1) member representing the local business community;
- One (1) member representing the workforce development industry;
- One (1) member representing educational institutions;
- One (1) member representing affordable housing providers and/or advocates;
- Two (2) at-large members.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS
The combined annual funding under consideration for oversight between the two commissions is estimated at $1.35 million. This amount represents annual averages of $150,000 from General Fund Grants; $700,000 from CDBG; and a forecasted $500,000 from the CET.

One of the purposes of the proposed reorganization is provide for more efficient and effective use of limited funds.

TIMING ISSUES
The proposed changes would take effect in February, 2019, with the appointment of members to these commissions.

COUNCIL OPTIONS
- Approve the ordinance as presented
- Modify the ordinance as presented
- Decline to approve the ordinance as presented and direct staff regarding further action

STAFF RECOMMENDATION
Staff recommends approval of the ordinance.

SUGGESTED MOTION
I move to approve the ordinances amending Sections 2.439 and adding 2.485 of the Municipal Code.

EXHIBITS
Ordinances
Proposed HAC and CDGC Structure
Housing and Community Development Commission recommendation

ORDINANCE NO. 2018-72

AN ORDINANCE amending section 2.439 of the Medford Municipal Code pertaining to the Housing Advisory Committee.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 2.439 of the Medford Municipal Code is amended to read as follows:

2.439 Medford Housing ~~and Community Development~~ **Advisory** Commission.
(1) The Medford Housing ~~and Community Development~~ **Advisory** Commission shall consist of nine voting members as follows:
~~(a) Voting members: Nine members at large encouraging representation from each ward. Voting members of the Commission shall be appointed by the Mayor and City Council for terms of three years.~~
Two (2) members representing the construction and development community; one (1) member representing a local lending institution; two (2) members representing local realtors and multifamily housing operators; two (2) members representing affordable housing developers; and two (2) members-at-large encouraging representation from throughout the whole community. Voting members of the Commission shall be appointed by the Mayor and Council for terms of three years.
(2) The Medford Housing ~~and Community Development~~ **Advisory** Commission shall adopt rules of procedure, as necessary, and shall by resolution establish either a regular meeting date or rules of procedure under which a meeting may be called. Five voting members shall constitute a quorum.
(3) The Medford Housing ~~and Community Development~~ **Advisory** Commission shall ~~act as an advisor to the City Council on all matters affecting housing and community development pertaining to the Community Development Block Grant Program in the City of Medford~~ **administer the City's affordable housing program and advise the City Council on matters related to the City's housing stock and its development**.
~~(4) The duties of the Medford Housing and Community Development Commission shall include, but not be limited to the following:~~
~~(a) Identify and make recommendations to the Council regarding housing priorities for all income levels.~~
~~(b) Make recommendations to Council regarding the development of new programs and the enhancement of existing programs. Advise Council on possible opportunities.~~
~~(c) Review current land use policies and zoning regulations and promote the adoption of policies and regulations supporting housing affordability.~~
~~(d) Serve in an advisory capacity on any and all matters pertinent to the City of Medford's Community Development Block Grant Entitlement.~~
~~(e) Other duties as directed by Council.~~
(4) The Medford Housing Advisory Commission shall act as an advisor to the City Council on matters affecting housing development pertaining to the Community Development Block Grant (CDBG) Program in the city of Medford.

(5) The duties of the Medford Housing Advisory Commission shall include, but not be limited to the following:
(a) Administer annual public solicitation and selection process (for example a Request for Proposals) for Construction Excise Tax (CET) eligible housing development proposals. Recommend selections to City Council for final approval;
(b) Identify and make recommendations to the Council regarding housing policy for housing that meets the needs of households at all income levels;
(c) Make recommendations to Council regarding the development of new programs and the enhancement of existing programs. Advise Council on possible opportunities;
(d) Review current land use policies and zoning regulations and promote the adoption of policies and regulations supporting housing affordability;
(e) Serve in an advisory capacity on any and all housing matters pertinent to the City of Medford's CDBG entitlement program. Review housing-related grant award recommendations made by the Community Development Grants Commission, make and communicate final CDBG housing-related grant award recommendations to City Council; and
(f) Other duties as directed by Council.

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2018.

ATTEST: _____ _____
City Recorder Mayor

APPROVED _____, 2018. _____
Mayor

NOTE: Matter in **bold** is new. Matter ~~struck-out~~ is existing law to be omitted. Three asterisks (* * *) indicate existing law which remains unchanged by this ordinance but was omitted for the sake of brevity.

ORDINANCE NO. 2018-73

AN ORDINANCE adding section 2.441 of the Medford Municipal Code pertaining to the Medford Community Development Grants Commission.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 2.441 of the Medford Municipal Code is added to read as follows:

2.441 Medford Community Development Grants Commission.
(1) The Medford Community Development Grants Commission shall consist of nine (9) voting members as follows:
One (1) current member of the Budget Committee; one (1) member representing healthcare; one (1) member representing social services; one (1) member representing local business; one (1) member representing workforce development; one (1) member representing an educational institutional; one (1) member representing affordable housing; two (2) members-at-large encouraging representation from throughout the whole community. Voting members of the Commission shall be appointed by the Mayor and Council for terms of three years.
(2) The Medford Community Development Grants Commission shall adopt rules of procedure, as necessary, and shall by resolution establish either a regular meeting date or rules of procedure under which a meeting may be called. Five voting members shall constitute a quorum.
(3) The Medford Community Development Grants Commission shall administer the City's General Fund Grant program.
(4) The Medford Community Development Grants Commission shall act as an advisor to the City Council on the appropriate implementation of the City's Community Development Block Grant (CDBG) program and related programs and statutory responsibilities including:
(a) Administering the CDBG annual grant selection process;
(b) Implementing the City's CDBG Citizen Participation Plan;
(c) Assisting the Housing Advisory Commission to implement the City's Consolidated Plan, Annual Action Plan, and Analysis of Impediments to Fair Housing Choice;
(d) Overseeing General Fund Grant reporting and CDBG regulatory requirements including but not limited to subrecipient reporting, risk assessment and monitoring;
(e) Advising City Council on grant opportunities; and
(f) Other duties as directed by Council.

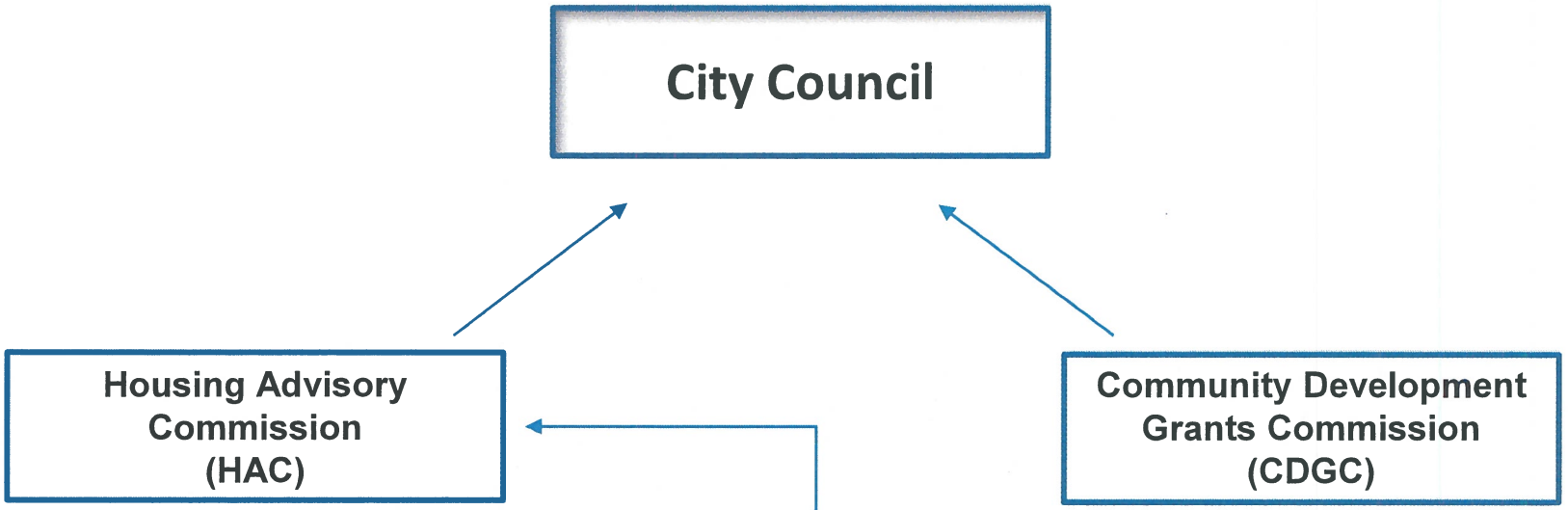
PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2018.

ATTEST: _____ _____
City Recorder Mayor

APPROVED _____, 2018. _____
Mayor

NOTE: Matter in **bold** is new. Matter ~~struck out~~ is existing law to be omitted. Three asterisks (* * *) indicate existing law which remains unchanged by this ordinance but was omitted for the sake of brevity.

Proposed HAC and CDGC Structure



Responsibilities

- Administer the City's affordable housing program
- Advise Council on matters related to the city's housing stock and development
- Administer annual public solicitation process from Construction Excise Tax (CET) and make recommendations to Council
- Make recommendations to Council regarding housing policy for housing needed for all income levels
- Make recommendations to Council regarding development of new programs and enhancement of existing
- Review land use polices and zoning regulations and promote adoption of policies and regulations supporting housing affordability
- Serve in an advisory capacity on all housing matters of CDBG
- Other duties as assigned by Council

Responsibilities

- Administer the City's General Fund Grant (GFG) program
- Act as advisor to Council on appropriate implementation of City's CDBG program and all related programs and statutory responsibilities
- Administer the CDBG annual grant selection process
- Implement the City's Citizen Participation Plan
- Oversee GFG and CDBG regulatory requirements including but not limited to subrecipient reporting, risk assessment and monitoring
- Advise Council on grant opportunities
- Assist the HAC to implement the City's Consolidated Plan, Annual Action Plan and Analysis of Impediments to Fair Housing Choice
- Forward housing related CDBG grant recommendations to the HAC
- Other duties as assigned by Council

MEMORANDUM

Subject	Establishing a permanent Housing Advisory Commission; and eliminating the existing Housing and Community Development Commission and General Fund Grants Committee to form the Community Development Grants Commission
To	Matt Brinkley, Planning Director
From	Angela Durant, Principal Planner
Date	June 7, 2018

Background

The Housing and Community Development Commission (HCDC) held study sessions on April 18, 2018 and May 2, 2018 to discuss establishing a permanent Housing Advisory Commission (HAC) and merging the existing HCDC with the General Fund Grants Committee to create a new commission called the Community Development Grants Commission (CDGC). Staff was directed to develop a recommendation to be brought back for review by the HCDC on June 6, 2018. The recommendation was to be based on Council's direction, collected feedback from the HCDC's study session, and staffs' analysis.

Housing and Community Development Commission's Comments

Commissioners provided staff with feedback over the course of three meetings. A summary the comments are referenced below.

April 18, 2018

- Spoke in favor of a permanent HAC
- Spoke in favor of the need to reduce Council's meeting obligations
- Suggested establishing a commission to handle all City grants

May 2, 2018

- Expressed the need for broader representation on both commissions
- HAC should include representation from workforce housing and the rental market
- Healthcare representation on the CDGC is a must
- Remove specific reference to Housing Authority under the HAC composition
- Spoke in favor of absorbing administration of the General Fund Grant program
- Questioned how commissioners will be solicited
- Questioned how the two commissions will interact and work together

June 6, 2018

- Remove the word "provider" from section (1) of 2.485 Medford Community Development Grants Commission. This could prevent misconceptions of the word "provider" referring to only agencies that provide direct services. The group agreed with communicating the following suggested edits to Council:

  - one (1) member representing ~~a~~ healthcare ~~provider~~;
  - one (1) member representing ~~a~~ social services ~~provider~~;
  - one (1) member representing affordable housing ~~providers or advocates~~;

- Consider assigning one member between the two commissions to serve as a liaison to help bridge communication.

Suggestions for placement of existing HCDC commissioners

If desired by Council, the HCDC would suggest the following HCDC commissioner placements:

Commissioner	Term End	Commission Placement	Composition Fulfillment (voting members)
Bill Boehning	1/31/2019	To be determined	Has expressed intent not to reapply
Marie Cabler	1/31/2020	CDGC	1 of 2 members-at-large representing community
Rebecca Erickson	1/31/2019	CDGC	1 of 1 representing local business
Carol Fiddler	1/31/2019	CDGC	1 of 1 representing social services provider
Daniel Smith	1/31/2020	CDGC	2 of 2 members-at-large representing community
Heidi Hill	1/31/2020	HAC	1 of 2 members-at-large representing community
Denise James	1/31/2021	HAC	1 of 2 representing affordable housing developers
John Michaels	1/31/2019	HAC	2 of 2 members-at-large representing community
Paul Tanner	1/31/2021	HAC	1 of 2 representing construction and development

Conclusion

On June 6, 2018, the HCDC passed a motion to recommend for presentation to City Council drafts 2.439 Medford Housing Advisory Commission and 2.485 Medford Community Development Grants Commission, with suggested revisions to 2.485 as presented herein. As part of the original motion, the HCDC approved communicating suggestions for placement of existing HCDC commissioners as referenced above. Commissioners concluded this agenda item by expressing appreciation for seeking their feedback.

CITY OF MEDFORD
AGENDA ITEM COMMENTARY

www.ci.medford.or.us

Item No: 80.5

DEPARTMENT: Planning Department
PHONE: (541) 774-2380
STAFF CONTACT: Matt Brinkley, AICP CFM, Planning Director

AGENDA SECTION: Ordinances and Resolutions
MEETING DATE: June 21, 2018

COUNCIL BILL 2018-74
An ordinance amending sections 5.651 and 5.653 of the Medford Municipal Code pertaining to outdoor production of marijuana.

SUMMARY AND BACKGROUND
The proposed ordinance will amend Sections 5.651(Definitions) and 5.653, (Ban on Outdoor Production of Marijuana) of the Municipal Code related to outdoor production of marijuana. Under Section 5.651, new terms are being defined including 'Cannabis structure', 'indoors/indoor production', and 'outdoor production'. Under 5.653, new regulations are included that outline the parameters for cultivating and producing marijuana on residentially zoned properties. (GF-18-073)

PREVIOUS COUNCIL ACTIONS
On July 16, 2015, the Council adopted Council Bill 2015-70 related to the Control of Recreational and Medical Marijuana. The intent of the ordinance was two-fold: 1) to prevent the odor of marijuana from traveling to neighboring properties and 2) to limit the production of both medical and recreational marijuana in residential zones to four plants per dwelling.

On October 22, 2015, the Council adopted Council Bill 2015-104, a text amendment (in Chapter 10) that permits state-licensed medical marijuana dispensaries and recreational marijuana producers, wholesalers and processors to obtain a business license and do business within the City when they (among other things) submit proof of said state license. The Council's deliberations regarding the text amendment led to a discussion regarding the prohibition of outdoor medical and recreational grows in residential zones, as well as prohibiting the production of marijuana outright in residential zones. The Council directed staff to return with proposed amendments for its review.

At the November 12, 2015, Special City Council meeting, the City Council considered two versions of Council Bill 2015-119. Version 1 would have prohibited the outdoor production of both recreational and medical marijuana in residential areas, while Version 2 prohibited such production outright (indoor and outdoor). The Council adopted Version 2. Because the ordinance received more than one "no" vote, the ordinance was forwarded to Council for a second reading at the November 19, 2015, meeting. After considerable deliberation, the Council postponed the item indefinitely and directed staff to return with a similar ordinance that, if adopted, would be referred to the voters at the November 8, 2016, election.

On May 19, 2016, the City Council passed Council Bill No. 2016-60 which modified Sections 5.650-5.654 of the Municipal Code pertaining to control of recreational and medical marijuana, specifically a ban on outdoor production of marijuana. The ordinance was referred to the electors of the City of Medford at the November 8, 2016, statewide general election. The electorate approved a ban on outdoor production of marijuana in residential areas.

On December 8, 2016, the City Council held a study session to discuss whether greenhouses are considered indoor or outdoor production for the purpose of growing marijuana. The City had received complaints and questions about what constitutes indoor versus outdoor production.

On October 26, 2017, the City Council held a study session to further define the issue of indoor versus outdoor production of marijuana in residential areas and to provide direction to staff on how to revise the code language.

ANALYSIS

After the statewide election in November 2016, the City banned the outdoor production of marijuana at a dwelling or on vacant land in residential areas. The ordinance, however, did not provide definitions or guidance on what is considered indoor versus outdoor production causing uncertainty for staff and residents when trying to navigate this code. The City's Code Enforcement Division began tracking outdoor grow complaints in December 2016. The first case was received in June 2017. Between June and October 2017, a total of 32 complaints related to outdoor production of marijuana and related odors in residential areas were received. A number of the complaints centered on the type of structure being used to grow marijuana, many being temporary, tarp covered structures.

Staff has drafted three alternatives for the Council's consideration. In general, the sections are amended to define new terms such as 'Cannabis structure', 'garage', indoors/indoor production', and 'outdoor production', and identify which structures can be used to grow marijuana in residential areas. In all of the scenarios, a carbon filter system for odor control is required if four or more mature marijuana plants are being grown in the structure. The differences in the alternatives are identified below.

Alternative #1:	Defines Cannabis structure as a fully-enclosed building, secure from unauthorized entry, with a roof and walls made of non-transparent materials; use of plastic sheeting is not permitted on a Cannabis structure; allows for a cultivator to grow in a dwelling and in either a Cannabis structure or garage (either attached or detached)
Alternative #2:	Removes definition for Cannabis structure; only allows for the growing of marijuana in a dwelling or garage.
Alternative #3:	Defines Cannabis structure to include allowance for use of glass, plastic sheeting, and other similar materials; allows for a cultivator to grow in a dwelling and in either a Cannabis structure or garage (either attached or detached); indicates use of artificial lighting cannot cause glare or be visible from surrounding property owners

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

The resource considerations pertain to staff time involved in addressing Code Enforcement complaints regarding the production of marijuana in residential zones. There were 32 complaints on file between June and October 2017 regarding this topic.

TIMING ISSUES

None.

COUNCIL OPTIONS

- Approve one of the three ordinances as presented.
- Modify one of the three ordinances as presented.
- Decline to approve any of the ordinances as presented, and direct staff regarding further action.

STAFF RECOMMENDATION

Staff does not propose to make a recommendation.

SUGGESTED MOTION
I move to approve the ordinance modifying Sections 5.651 and 5.653 of the Municipal Code.

EXHIBITS
Ordinance
Alternative #1: Draft Code Language for Sections 5.650 and 5.654
Alternative #2: Draft Code Language for Sections 5.650 and 5.654
Alternative #3: Draft Code Language for Sections 5.650 and 5.654
City Council Study Session Minutes, December 8, 2016
City Council Study Session Minutes, October 26, 2017

ORDINANCE NO. 2018-74

AN ORDINANCE amending sections 5.651 and 5.653 of the Medford Municipal Code pertaining to outdoor production of marijuana.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 5.651 of the Medford Municipal Code is amended to read as follows:

5.651 Definitions.
Words and phrases used in Sections 5.650 to 5.654 shall have the following meanings ascribed to them:

(1) "Cannabis Structure" means a building that is fully-enclosed and secure against unauthorized entry; complies with the City's building code and land use regulations; has a complete roof enclosure supported by connecting walls extending from the ground to the roof; has a foundation, slab, or equivalent base to which the floor is secured by bolts or similar attachments; and is accessible only through one or more lockable doors. Walls and roofs must be constructed of solid, non-transparent material, such as two-inch by four-inch or thicker studs overlaid with three-eighths inch or thicker weather resistant siding or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

(~~1~~2) "Dwelling" means any building or portion thereof containing living facilities, such as a house, apartment**, accessory dwelling unit,** or manufactured home. ~~The term includes the accessory building and outdoor areas of a dwelling, if any.~~

(3) "Garage" means a fully enclosed structure built for the parking, shelter, or repair of automotive vehicles.

(4) "Indoors/Indoor production" means producing marijuana in a dwelling, Cannabis structure or garage, utilizing artificial lighting on marijuana plants.

(~~2~~5) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(~~3~~6) "Marijuana cultivator" means a person engaged in the production of marijuana and includes:

(a) any person engaged in the production of medical marijuana in accordance with state law; including, but not limited to, a registry identification cardholder, designated primary caregiver or person responsible for a marijuana grow site;

(b) any person engaged in the production of recreational homegrown marijuana in accordance with state law; or

(c) a landlord or property owner that permits or allows a marijuana cultivator to engage in the production of marijuana.

(47) "Offensive Odor of Marijuana" means an odor of marijuana that is offensive to an ordinary, reasonable person under the totality of the circumstances. Factors to be considered may include the intensity, duration and frequency of the marijuana odor, whether the marijuana odor is continuous or intermittent, and the circumstances in which the marijuana odor is smelled.

(8) "Outdoor production" means producing marijuana in an expanse of open or cleared ground open to the air; or in a greenhouse, hoop house, or similar non-rigid or glass structure that does not utilize man-made lighting, heating, or cooling systems.
(~~5~~**9**) "Production of Marijuana" means the planting, cultivation, growing or harvesting of marijuana, and includes the trimming or drying of marijuana leaves or flowers.
(~~6~~**10**) "Property" means any home, business, publicly-owned property, **privately-owned property,** or public right-of-way.

SECTION 2. Section 5.653 of the Medford Municipal Code is amended to read as follows:

5.653 Ban on Outdoor Production of Marijuana.
(1) No marijuana cultivator shall engage in the outdoor production of marijuana ~~at a dwelling~~ **on a property** or on vacant land in residential areas.
(2) Marijuana cultivators shall be allowed to cultivate or produce homegrown marijuana and medical marijuana in a residential zone subject to the following conditions:
(A) All cultivation or production of marijuana shall be conducted indoors;
(B) A marijuana cultivator is permitted to grow marijuana in their dwelling (if applicable) and in no more than one of the following non-habitable structures on the property:
i.) A Cannabis structure; or
ii.) An attached garage; or
iv.) A detached garage.
(C) Cultivating or producing marijuana shall meet the requirements of all adopted City building and life/safety codes;
(D) A structure as noted under (2)(B) above that contains four or more mature marijuana plants shall be equipped with a carbon filtration system for odor control. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well as or better than the carbon filtration system otherwise required.
(~~2~~**3**) Violation of this section constitutes a violation. Every day in which the violation exists constitutes a separate violation.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2018.

ATTEST: _____ _____
City Recorder Mayor

APPROVED _____, 2018 _____
Mayor

NOTE: Matter in **bold** is new. Matter ~~struck out~~ is existing law to be omitted.

ORDINANCE NO. 2018-74

AN ORDINANCE amending sections 5.651 and 5.653 of the Medford Municipal Code pertaining to outdoor production of marijuana.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 5.651 of the Medford Municipal Code is amended to read as follows:

5.651 Definitions.
Words and phrases used in Sections 5.650 to 5.654 shall have the following meanings ascribed to them:
(1) "Dwelling" means any building or portion thereof containing living facilities, such as a house, apartment**, accessory dwelling unit,** or manufactured home. ~~The term includes the accessory building and outdoor areas of a dwelling, if any.~~
(2) "Indoors/Indoor production" means producing marijuana in a dwelling or garage, utilizing artificial lighting on marijuana plants.
(~~2~~3) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.
(~~3~~4) "Marijuana cultivator" means a person engaged in the production of marijuana and includes:
(a) any person engaged in the production of medical marijuana in accordance with state law; including, but not limited to, a registry identification cardholder, designated primary caregiver or person responsible for a marijuana grow site;
(b) any person engaged in the production of recreational homegrown marijuana in accordance with state law; or
(c) a landlord or property owner that permits or allows a marijuana cultivator to engage in the production of marijuana.
(~~4~~5) "Offensive Odor of Marijuana" means an odor of marijuana that is offensive to an ordinary, reasonable person under the totality of the circumstances. Factors to be considered may include the intensity, duration and frequency of the marijuana odor, whether the marijuana odor is continuous or intermittent, and the circumstances in which the marijuana odor is smelled.
(6) "Outdoor production" means producing marijuana in an expanse of open or cleared ground open to the air; or in a greenhouse, hoop house, or similar non-rigid or glass structure that does not utilize man-made lighting, heating, or cooling systems.
(~~5~~7) "Production of Marijuana" means the planting, cultivation, growing or harvesting of marijuana, and includes the trimming or drying of marijuana leaves or flowers.
(~~6~~8) "Property" means any home, business, publicly-owned property, or public right-of-way.
(9) "Garage" means a fully enclosed structure built for the parking, shelter, or repair of automotive vehicles.
///
///
///
///

SECTION 2. Section 5.653 of the Medford Municipal Code is amended to read as follows:

5.653 Ban on Outdoor Production of Marijuana.
(1) No marijuana cultivator shall engage in the outdoor production of marijuana **on a property** ~~at a dwelling~~ or on vacant land in residential areas.
(2) Marijuana cultivators shall be allowed to cultivate or produce homegrown marijuana and medical marijuana in a residential zone subject to the following conditions:
(A) All cultivation or production of marijuana shall be conducted indoors;
(B) A marijuana cultivator is permitted to grow marijuana in their dwelling or in either an attached or detached garage.
(C) Cultivating or producing marijuana shall meet the requirements of all adopted City building and life/safety codes;
(D) A structure as noted under (2)(B) above that contains four or more mature marijuana plants shall be equipped with a carbon filtration system for odor control. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well as or better than the carbon filtration system otherwise required.
(~~2~~3) Violation of this section constitutes a violation. Every day in which the violation exists constitutes a separate violation.

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2018.

ATTEST: _____ _____
City Recorder Mayor

APPROVED _____, 2018 _____
Mayor

NOTE: Matter in **bold** is new. Matter ~~struck out~~ is existing law to be omitted.

ORDINANCE NO. 2018-74

AN ORDINANCE amending sections 5.651 and 5.653 of the Medford Municipal Code pertaining to outdoor production of marijuana.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 5.651 of the Medford Municipal Code is amended to read as follows:

5.651 Definitions.
Words and phrases used in Sections 5.650 to 5.654 shall have the following meanings ascribed to them:
(1) "Cannabis Structure" means a building that is fully-enclosed; complies with the City's building code and land use regulations; and is accessible only through one or more openings. Walls and roofs may be constructed of transparent material, such as glass, plastic sheeting resistant to tears, fiber glass, or corrugated plastic.
(~~1~~**2**) "Dwelling" means any building or portion thereof containing living facilities, such as a house, apartment**, accessory dwelling unit,** or manufactured home. ~~The term includes the accessory building and outdoor areas of a dwelling, if any.~~
(3) "Garage" means a fully enclosed structure built for the parking, shelter, or repair of automotive vehicles.
(4) "Indoors/Indoor production" means producing marijuana in a dwelling, Cannabis structure, or garage, utilizing natural or artificial lighting on marijuana plants.
(~~2~~**5**) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.
(~~3~~**6**) "Marijuana cultivator" means a person engaged in the production of marijuana and includes:
(a) any person engaged in the production of medical marijuana in accordance with state law; including, but not limited to, a registry identification cardholder, designated primary caregiver or person responsible for a marijuana grow site;
(b) any person engaged in the production of recreational homegrown marijuana in accordance with state law; or
(c) a landlord or property owner that permits or allows a marijuana cultivator to engage in the production of marijuana.
(~~4~~**7**) "Offensive Odor of Marijuana" means an odor of marijuana that is offensive to an ordinary, reasonable person under the totality of the circumstances. Factors to be considered may include the intensity, duration and frequency of the marijuana odor, whether the marijuana odor is continuous or intermittent, and the circumstances in which the marijuana odor is smelled.
(8) "Outdoor production" means producing marijuana in an expanse of open or cleared ground open to the air.
(~~5~~**9**) "Production of Marijuana" means the planting, cultivation, growing or harvesting of marijuana, and includes the trimming or drying of marijuana leaves or flowers.
(~~6~~**10**) "Property" means any home, business, publicly-owned property, **privately-owned property,** or public right-of-way.

SECTION 2. Section 5.653 of the Medford Municipal Code is amended to read as follows:

5.653 Ban on Outdoor Production of Marijuana.
(1) No marijuana cultivator shall engage in the outdoor production of marijuana ~~at a dwelling~~ **on a property** or on vacant land in residential areas.
(2) Marijuana cultivators shall be allowed to cultivate or produce homegrown marijuana and medical marijuana in a residential zone subject to the following conditions:
(A) All cultivation or production of marijuana shall be conducted indoors;
(B) A marijuana cultivator is permitted to grow marijuana in their dwelling (if applicable) and in no more than one of the following non-habitable structures on the property:
i.) A Cannabis structure; or
ii.) An attached garage; or
iv.) A detached garage.
(C) Cultivating or producing marijuana shall meet the requirements of all adopted City building and life/safety codes;
(D) A structure as noted under (2)(B) above that contains four or more mature marijuana plants shall be equipped with a carbon filtration system for odor control. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well as or better than the carbon filtration system otherwise required.
(E) The use of artificial lighting shall not cause glare or be visible from surrounding property owners.
(~~2~~3) Violation of this section constitutes a violation. Every day in which the violation exists constitutes a separate violation.

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2018.

ATTEST: _____ _____
City Recorder Mayor

APPROVED _____, 2018 _____
Mayor

NOTE: Matter in **bold** is new. Matter ~~struck out~~ is existing law to be omitted.

5.651 Definitions

Words and phrases used in Sections 5.650 to 5.654 shall have the following meanings ascribed to them:

(1) "Cannabis Structure" means a building that is fully-enclosed and secure against unauthorized entry; complies with the City's building code and land use regulations; has a complete roof enclosure supported by connecting walls extending from the ground to the roof; has a foundation, slab, or equivalent base to which the floor is secured by bolts or similar attachments; and is accessible only through one or more lockable doors. Walls and roofs must be constructed of solid, non-transparent material, such as two-inch by four-inch or thicker studs overlaid with three-eighths inch or thicker weather resistant siding or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

(~~1~~2) "Dwelling" means any building or portion thereof containing living facilities, such as a house, apartment, accessory dwelling unit, or manufactured home. ~~The term includes the accessory building and outdoor areas of a dwelling, if any.~~

(3) "Garage" means a fully enclosed structure built for the parking, shelter, or repair of automotive vehicles.

(4) "Indoors/Indoor production" means producing marijuana in a dwelling, Cannabis structure or garage, utilizing artificial lighting on marijuana plants.

(~~2~~5) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(~~3~~6) "Marijuana cultivator" means a person engaged in the production of marijuana and includes:
(a) any person engaged in the production of medical marijuana in accordance with state law; including, but not limited to, a registry identification cardholder, designated primary caregiver or person responsible for a marijuana grow site;
(b) any person engaged in the production of recreational homegrown marijuana in accordance with state law; or
(c) a landlord or property owner that permits or allows a marijuana cultivator to engage in the production of marijuana.

(~~4~~7) "Offensive Odor of Marijuana" means an odor of marijuana that is offensive to an ordinary, reasonable person under the totality of the circumstances. Factors to be considered may include the intensity, duration and frequency of the marijuana odor, whether the marijuana odor is continuous or intermittent, and the circumstances in which the marijuana odor is smelled.

(8) "Outdoor production" means producing marijuana in an expanse of open or cleared ground open to the air; or in a greenhouse, hoop house, or similar non-rigid or glass structure that does not utilize man-made lighting, heating, or cooling systems.

(~~5~~9) "Production of Marijuana" means the planting, cultivation, growing or harvesting of

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marijuana, and includes the trimming or drying of marijuana leaves or flowers.

(~~6~~10) "Property" means any home, business, publicly-owned property, privately-owned property, or public right-of-way.

5.653 Ban on Outdoor Production of Marijuana

(1) No marijuana cultivator shall engage in the outdoor production of marijuana on a property ~~at a dwelling~~ or on vacant land in residential areas.

(2) Marijuana cultivators shall be allowed to cultivate or produce homegrown marijuana and medical marijuana in a residential zone subject to the following conditions:

A) All cultivation or production of marijuana shall be conducted indoors;

(B) A marijuana cultivator is permitted to grow marijuana in their dwelling (if applicable) and in no more than one of the following non-habitable structures on the property:

i.) A Cannabis structure; or

ii.) An attached garage; or

iv.) A detached garage.

(C) Cultivating or producing marijuana shall meet the requirements of all adopted City building and life/safety codes;

(D) A structure as noted under (2)(B) above that contains four or more mature marijuana plants shall be equipped with a carbon filtration system for odor control. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well as or better than the carbon filtration system otherwise required.

(~~2~~3) Violation of this section constitutes a violation. Every day in which the violation exists constitutes a separate violation.

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5.651 Definitions

Words and phrases used in Sections 5.650 to 5.654 shall have the following meanings ascribed to them:

(1) "Dwelling" means any building or portion thereof containing living facilities, such as a house, apartment, accessory dwelling unit, or manufactured home. ~~The term includes the accessory building and outdoor areas of a dwelling, if any.~~

(2) "Indoors/Indoor production" means producing marijuana in a dwelling or garage, utilizing artificial lighting on marijuana plants.

(~~2~~3) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(~~3~~4) "Marijuana cultivator" means a person engaged in the production of marijuana and includes:
(a) any person engaged in the production of medical marijuana in accordance with state law; including, but not limited to, a registry identification cardholder, designated primary caregiver or person responsible for a marijuana grow site;
(b) any person engaged in the production of recreational homegrown marijuana in accordance with state law; or
(c) a landlord or property owner that permits or allows a marijuana cultivator to engage in the production of marijuana.

(~~4~~5) "Offensive Odor of Marijuana" means an odor of marijuana that is offensive to an ordinary, reasonable person under the totality of the circumstances. Factors to be considered may include the intensity, duration and frequency of the marijuana odor, whether the marijuana odor is continuous or intermittent, and the circumstances in which the marijuana odor is smelled.

(6) "Outdoor production" means producing marijuana in an expanse of open or cleared ground open to the air; or in a greenhouse, hoop house, or similar non-rigid or glass structure that does not utilize man-made lighting, heating, or cooling systems.

(~~5~~7) "Production of Marijuana" means the planting, cultivation, growing or harvesting of marijuana, and includes the trimming or drying of marijuana leaves or flowers.

(~~6~~8) "Property" means any home, business, publicly-owned property, privately-owned property, or public right-of-way.

(9) "Garage" means a fully enclosed structure built for the parking, shelter, or repair of automotive vehicles.

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5.653 Ban on Outdoor Production of Marijuana

(1) No marijuana cultivator shall engage in the outdoor production of marijuana on a property ~~at a dwelling~~ or on vacant land in residential areas.

(2) Marijuana cultivators shall be allowed to cultivate or produce homegrown marijuana and medical marijuana in a residential zone subject to the following conditions:

A) All cultivation or production of marijuana shall be conducted indoors;

(B) A marijuana cultivator is permitted to grow marijuana in their dwelling or in either an attached or detached garage.

(C) Cultivating or producing marijuana shall meet the requirements of all adopted City building and life/safety codes;

(D) A structure as noted under (2)(B) above that contains four or more mature marijuana plants shall be equipped with a carbon filtration system for odor control. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well as or better than the carbon filtration system otherwise required.

(~~2~~3) Violation of this section constitutes a violation. Every day in which the violation exists constitutes a separate violation.

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OPTION #2

5.651 Definitions

Words and phrases used in Sections 5.650 to 5.654 shall have the following meanings ascribed to them:

(1) "Cannabis Structure" means a building that is fully-enclosed; complies with the City's building code and land use regulations; and is accessible only through one or more openings. Walls and roofs may be constructed of transparent material, such as glass, plastic sheeting resistant to tears, fiber glass, or corrugated plastic.

(~~1~~2) **"Dwelling" means any building or portion thereof containing living facilities, such as a house, apartment,** accessory dwelling unit, **or manufactured home.** ~~The term includes the accessory building and outdoor areas of a dwelling, if any.~~

(3) "Garage" means a fully enclosed structure built for the parking, shelter, or repair of automotive vehicles.

(4) "Indoors/Indoor production" means producing marijuana in a dwelling, Cannabis structure or garage, utilizing natural or artificial lighting on marijuana plants.

(~~2~~5) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

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(a) any person engaged in the production of medical marijuana in accordance with state law; including, but not limited to, a registry identification cardholder, designated primary caregiver or person responsible for a marijuana grow site;
(b) any person engaged in the production of recreational homegrown marijuana in accordance with state law; or
(c) a landlord or property owner that permits or allows a marijuana cultivator to engage in the production of marijuana.

(~~4~~7) "Offensive Odor of Marijuana" means an odor of marijuana that is offensive to an ordinary, reasonable person under the totality of the circumstances. Factors to be considered may include the intensity, duration and frequency of the marijuana odor, whether the marijuana odor is continuous or intermittent, and the circumstances in which the marijuana odor is smelled.

(8) "Outdoor production" means producing marijuana in an expanse of open or cleared ground open to the air.

(~~5~~9) "Production of Marijuana" means the planting, cultivation, growing or harvesting of marijuana, and includes the trimming or drying of marijuana leaves or flowers.

(~~6~~10) "Property" means any home, business, publicly-owned property, privately-owned property, or public right-of-way.

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5.653 Ban on Outdoor Production of Marijuana

(1) No marijuana cultivator shall engage in the outdoor production of marijuana on a property ~~at a dwelling~~ or on vacant land in residential areas.

(2) Marijuana cultivators shall be allowed to cultivate or produce homegrown marijuana and medical marijuana in a residential zone subject to the following conditions:

A) All cultivation or production of marijuana shall be conducted indoors;

(B) A marijuana cultivator is permitted to grow marijuana in their dwelling (if applicable) and in no more than one of the following non-habitable structures on the property:

i.) A Cannabis structure; or

ii.) An attached garage; or

iv.) A detached garage.

(C) Cultivating or producing marijuana shall meet the requirements of all adopted City building and life/safety codes;

(D) A structure as noted under (2)(B) above that contains four or more mature marijuana plants shall be equipped with a carbon filtration system for odor control. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well as or better than the carbon filtration system otherwise required.

(E) The use of artificial lighting shall not cause glare or be visible from surrounding property owners.

(~~2~~3) Violation of this section constitutes a violation. Every day in which the violation exists constitutes a separate violation.

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OPTION #3

Medford City Council Study Session

Minutes

December 8, 2016
Medford City Hall, Medford Room
411 West 8th Street, Medford, Oregon

The Medford City Council Study Session was called to order at 6:00 p.m. in the Medford Room of the Medford City Hall on the above date with the following members and staff present:

Mayor Gary Wheeler; Councilmembers Clay Bearnson, Chris Corcoran, Dick Gordon, Tim Jackle, Eli Matthews, Kevin Stine, Michael Zarosinski* (via telephone)

Councilmembers Elect Kay Brooks, Tim D'Alessandro**

City Manager Brian Sjothun**; City Attorney Lori Cooper; City Recorder Karen Spoonts

Councilmember Daniel Bunn was absent.

*Disconnected and connected as noted.

**Arrived and left as noted.

State Lobbyist Cindy Robert

Our Lobbyist Cindy Robert, Rainmakers, outlined her process to have bills passed. She discussed the various topics expected to arise during 2017, noting:

- The governor's strategy is to reduce the budget but focus on children and poverty
  - With the failure of Measure 97, funding is needed. The following options were discussed:
    - Possible commercial activity tax (corporate tax), versus a minimum tax for businesses
    - Increase in liquor and tobacco taxes
    - However, new taxes need approval from two-thirds of the Legislature

- Transportation
  - Joint Committee on Transportation Preservation & Modernization and the Oregon Transportation Forum are working to determine ways to obtain the funding needed
  - Ms. Robert believes that a Transportation package will happen as a result
  - Vehicle mileage pilot project may become available for areas
  - Gas tax and changes in licensing fees are being considered

- Marijuana
  - Committee has reconvened to discuss the revenue received from marijuana
  - Councilmember Bearnson believed the market was poised to receive $44.4 million dollars, but the regulations and testing requirements reduced that amount by $10 million, so those regulations were revised

*Councilmember Zarosinski disconnected and reconnected.

- Medford 2017 Legislative Agenda
  - Recreational immunity issue will be presented next week

- Transportation
  - City will continue to oppose ROW and franchise fee changes
  - Work schedule mandate will effect hourly employees
    - Hourly employees must receive work schedule three weeks in advance
    - Construction workers will be exempt
    - Impacts private and public employers

- Right to rest
  - Enables homeless to reside and keep their belongings on public property without police intervention
  - Includes easements through private property
  - Transients on Bear Creek Greenway would be able to remain there

**Councilmember Elect Tim D'Alessandro arrived.

- Open records
  - Journalists would like to view public information without long response times or expense
  - Requires records requests to be completed within 15 days
  - Regulation does not consider cost for document production

- PERS
  - Some previous revisions were unconstitutional
  - Reinstituting the employee contribution
  - Capping salary at $100,000
  - Shouldn't impact current employees

- Options to ensure utility fee payments to the City through liens, property taxes or other option

*Councilmember Zarosinski disconnected and reconnected.

- Council discussed how the Legislative Committee would work with Ms. Roberts and provide recommendations to the Council.
  - Proposed bills will be compiled into a list to be more judicial with less comments by department heads

*City Manager Brian Sjothun left the meeting.

Marijuana Greenhouses – Lori Cooper

City Attorney Lori Cooper noted the City has received calls regarding whether greenhouses should be considered indoors or outdoors for marijuana growing.

Three options:

1. Consider them outdoor grows in residential areas and, therefore, prohibited
2. Consider them indoor grows and create regulations/rules
3. Do nothing and handle complaints as they arise

Greenhouses Code:

- Current Building Codes include greenhouses, but marijuana regulations could be different
- Currently greenhouses are considered outdoor
- There is no technical definition of a greenhouse in the Code
- Current Oregon Medical Marijuana regulations state greenhouses are outdoor

Mayor Wheeler preferred no outdoor growing period. Greenhouses should be prohibited to protect neighborhoods. Chief Sparacino specified the Police Department needed to prohibit criminal intent including theft and smell. He recommended blocking the view of the marijuana.

Mayor and Council discussed the pros and cons of greenhouse marijuana growing.

- Current Code allows greenhouses in residential areas

*Councilmember Zarosinski disconnected and reconnected.

- A greenhouse is generally a building that uses natural light
- Probably should be revised with specific requirements for greenhouses to be considered "indoor"
  - Private construction
  - Size
  - Material
  - Secured
  - Natural light
  - Opaque

Mayor and Council discussed the positive and negative impacts of the greenhouse requirement on citizens needing medicine. Councilmember Bearnson believed there were only 23 complaints received last year. Councilmember Gordon stated he received more than 23 complaints regarding smell, lights, dogs, traffic, etc.

Interim Planning Director Kelly Akin spoke regarding accessory structure requirements noting lot coverage, setbacks, and that rigid structures must be a minimum of 200 square feet. Permits are not required for structures smaller than 200 square feet, but they must meet standards. Mayor Wheeler requested the current accessory structure requirements be provided to Council.

The meeting adjourned at 7:40 p.m.

Karen M. Spoonts, MMC
City Recorder

AGENDA

October 26, 2017

6:00 p.m.

City Hall, Medford Room

411 W. 8th Street, Medford, Oregon

1. Self-insurance
2. Marijuana Indoor Grows
3. Shopping Cart Ordinance

MINUTES (Excerpt)

October 26, 2017

6:00 p.m.

City Hall, Medford Room

411 W. 8th Street, Medford, Oregon

The Medford City Council Study Session was called to order at 6:00 p.m. in the Medford Room of the Medford City Hall on the above date with the following members and staff present:

Mayor Gary Wheeler; Councilmembers Clay Bearnson, Kay Brooks (arrived at 6:05 p.m.), Tim D'Alessandro, Dick Gordon, Tim Jackle, Kevin Stine, Kim Wallan, and Michael Zarosinski

City Manager Brian Sjothun; Deputy City Manager Kelly Madding; City Attorney Lori Cooper; Human Resources Director Mike Snyder; Finance Director Alison Chan; Police Sergeant Don Lane; Public Works Director Cory Crebbin; Assistant Parks & Recreation Director Tim Stevens; Police Chief Randy Sparacino; Deputy City Recorder Winnie Shepard

Marijuana Indoor Grows:

Principal Planner Carla Paladino spoke regarding indoor marijuana grows, noting:

- Project a collaboration of Code Enforcement ....
- What is considered "outdoor grows", greenhouses, etc.
    - Complaints received regarding outdoor grows covered with various types of tarp covering
- Outlined regulations from various cities
- No current Code outlining greenhouse requirements

Council Comments:

- No outdoor grows, period
- Complaints were regarding smell and aesthetics
    - Code Enforcement cannot prohibit greenhouse grows because there is no set Code
- Defining what is allowed versus disallowed
- Should be allowed to grow in your house and your garage
- Could simply require charcoal filters to prevent odor; provide security
- Could use state definition; no plastic sheeting or fully glass houses
- Probably don't need setbacks and odor mitigation equipment; one or the other
- Current ADU Code states a maximum of 900 square feet or half the size of the main house
- Setbacks could prohibit grows on smaller lots
- Glass sides should be allowed
- Staff should bring forward options of ADU or types of outdoor buildings for review that are very specific and clear
    - Should meet building requirements
    - So few complaints; maybe we don't need any requirements

After discussion, Council did not want/need another study session on this topic; but they would like options brought forward regarding structures. City Attorney Lori Cooper stated there were three possible options.

The meeting adjourned at 8:17 p.m.

Winnie Shepard
Deputy City Recorder

CITY OF MEDFORD
AGENDA ITEM COMMENTARY

www.ci.medford.or.us

Item No: 80.6

DEPARTMENT: Legal Department
Planning Department
PHONE: (541) 774-2020; 541) 774-2380
STAFF CONTACT: Eric Mitton; Matt Brinkley

AGENDA SECTION: Ordinances and Resolutions

MEETING DATE: June 21, 2018

COUNCIL BILL 2018-74
An ordinance adding section 5.660 of the Medford Municipal Code pertaining to transportation of medical marijuana.

SUMMARY AND BACKGROUND
The proposed ordinance will add Section 5.660, "Home Delivery of Marijuana," to address emerging home delivery services for marijuana-related businesses.

PREVIOUS COUNCIL ACTIONS
On October 15, 2015, City Council adopted Ordinance No. 2015-104, establishing regulations for marijuana-related businesses in the City of Medford.

On May 17, 2018, City Council received testimony from the proprietors of a marijuana dispensary operating within the City of Medford regarding home delivery.

ANALYSIS
Regulations of the State of Oregon include regulations for marijuana-related businesses to conduct home delivery for both recreational and medical consumers of marijuana. Those regulations do not mandate that all municipalities may allow home delivery. The City of Medford's current marijuana regulations, specifically Section 10.839(1), state that marijuana-related businesses must conduct operations "inside secure, enclosed structures," and do not explicitly address the permissibility of home delivery. Home delivery was not directly debated during the adoption of Ordinance No. 2015-104.

Staff has drafted three alternatives for the Council's consideration. The differences in the alternatives are identified below.

Alternative #1: This would prohibit marijuana home delivery to both recreational and medical consumers of marijuana.

Alternative #2: This would prohibit marijuana home delivery to recreational consumers of marijuana, but would allow for delivery to medical consumers of marijuana subject to compliance with state regulations and local documentation requirements.

Alternative #3: This would allow home delivery to both recreational and medical consumers of marijuana, subject to compliance with state regulations and local documentation requirements.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS
None.

TIMING ISSUES
None.

COUNCIL OPTIONS
- Approve one of the three ordinances as presented.
- Modify one of the three ordinances as presented.
- Decline to approve any of the ordinances as presented, and direct staff regarding further action.

STAFF RECOMMENDATION
Staff takes no position on which of the three alternatives City Council should adopt.

SUGGESTED MOTION
I move to approve the ordinance enacting Section 5.660 of the Municipal Code.

EXHIBITS
Ordinance
Alternative #1: Draft Code Language for Section 5.660
Alternative #2: Draft Code Language for Section 5.660
Alternative #3: Draft Code Language for Section 5.660

ORDINANCE NO. 2018-75

AN ORDINANCE adding section 5.660 of the Medford Municipal Code pertaining to transportation of marijuana.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 5.660 of the Medford Municipal Code is added to read as follows:

5.660 Home Delivery of Marijuana
(1) No marijuana-related business shall engage in delivery of marijuana or marijuana items to a person's residence, either for medical purposes or recreational purposes.
(2) Violation of this section constitutes a violation. Every day in which the violation exists constitutes a separate violation.

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2018.

ATTEST: _____ _____
City Recorder Mayor

APPROVED _____, 2018 _____
Mayor

NOTE: Matter in **bold** is new. Matter ~~struck out~~ is existing law to be omitted.

Version 2

ORDINANCE NO. 2018-75

AN ORDINANCE adding section 5.660 of the Medford Municipal Code pertaining to transportation of marijuana.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 5.660 of the Medford Municipal Code is added to read as follows:

5.660 Home Delivery of Marijuana
(1) Except as described below, no marijuana-related business shall engage in delivery of marijuana or marijuana items to a person's residence.
(2) Home delivery of marijuana by a licensed marijuana-related business to an authorized person is permissible only as follows:
(a) the delivery business shall be licensed by the state, and comply with all applicable state laws and regulations;
(b) the driver must carry a printed invoice listing the items to be delivered, the name, address, and patient card number of the recipient, and the date and time the order was placed; and
(c) the person placing the order and receiving the marijuana or marijuana items must be a medical registry identification cardholder.
(3) Violation of this section constitutes a violation. Every day in which the violation exists constitutes a separate violation.

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2018.

ATTEST: _____ _____
City Recorder Mayor

APPROVED _____, 2018 _____
Mayor

NOTE: Matter in **bold** is new. Matter ~~struck out~~ is existing law to be omitted.

Version 3

ORDINANCE NO. 2018-75

AN ORDINANCE adding section 5.660 of the Medford Municipal Code pertaining to transportation of marijuana.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 5.660 of the Medford Municipal Code is added to read as follows:

5.660 Home Delivery of Marijuana
(1) Except as described below, no marijuana-related business shall engage in delivery of marijuana or marijuana items to a person's residence.
(2) Home delivery of marijuana by a licensed marijuana-related business to an authorized person is permissible only as follows:
(a) the delivery business shall be licensed by the state, and comply with all applicable state laws and regulations; and
(b) the driver must carry a printed invoice listing the items to be delivered, the name and address of the recipient, and the date and time the order was placed.
(3) Violation of this section constitutes a violation. Every day in which the violation exists constitutes a separate violation.

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2018.

ATTEST: _____ _____
City Recorder Mayor

APPROVED _____, 2018 _____
Mayor

NOTE: Matter in **bold** is new. Matter ~~struck out~~ is existing law to be omitted.

CITY OF MEDFORD
AGENDA ITEM COMMENTARY

www.ci.medford.or.us

Item No: 80.7

DEPARTMENT: Parks, Recreation, Facilities **AGENDA SECTION:** Ordinances and Resolutions
PHONE: (541) 774-2483 **MEETING DATE:** June 21, 2018
STAFF CONTACT: Rich Rosenthal, Director

COUNCIL BILL 2018-76
An ordinance authorizing the execution of an agreement with C.A. Galpin and Cedar Investment Group, LLC for the conveyance to the City of Medford of approximately 11.6 acres of open space and two miles of pathways within the Cedar Landing PUD.

SUMMARY AND BACKGROUND
Council is asked to approve an agreement with C.A. Galpin and Cedar Investment Group, LLC for conveyance of approximately 11.6 acres of open space and two miles of seven-foot-wide pathways within the Cedar Landing PUD to the City of Medford.

PREVIOUS COUNCIL ACTIONS
On March 3, 2011, City Council approved Council Bill 2011-31 authorizing a Purchase & Sale Agreement in the amount of $825,000 to acquire 5.5 acres of property known as Cedar Links Park.

On March 6, 2014, City Council approved Council Bill 2014-27 adopting the Cedar Links Park master plan.

On October 20, 2016, City Council approved Council Bill 2016-130 initiating a minor amendment to the City's Comprehensive Plan to include the 2016-25 Leisure Services Plan (LSP), which specifies the City's desired level of service pertaining to accessibility of parkland, trails, pathways and open space.

On January 19, 2017, City Council approved Council Bill 2017-10 authorizing a letter of intent with Cedar Investment Group acknowledging their intention to donate open space and pathways to the City of Medford.

ANALYSIS
Over the past three years, the Department has worked with Chris Galpin and Eric Artner, developers of Cedar Landing PUD, about donating open space and pathways for public use without an acquisition cost to the City of Medford. The open space and pathways are a condition of approval for the PUD and would come under the ownership and management of a private homeowners association if not donated to the City.

The proposed contract sets forth the conditions and standards through which the City will accept approximately 11.6 acres of open space and two miles of seven-foot-wide pathways to the City.

The open space and paths would enhance the service area, functionality and vitality of Cedar Links Park, a 5.5-acre neighborhood park currently under development on the west side of the PUD that serves one of the most densely populated areas of Medford.

If approved, the acquisition of designated areas through this unique public-private partnership will occur in conjunction with phased development within the PUD. Recreational improvements specified in the contract shall be completed prior to the recording of the final plat by the developer. Once the property is conveyed, the City is responsible for maintenance, with the exception of the seven-foot-wide concrete paths in front of homes, which would be the responsibility of property owners.

The contract outlines specifications and responsibilities for irrigation facilities, ground condition improvements, storm drainage, constructed wetlands and pathway development.

Open Space Area 2, as depicted on the Open Space Exhibit map, which contains 10.8 acres, is currently undergoing a ground condition improvement program recommended by the Department. In addition to augmenting the neighborhood parkland inventory, about four acres of relatively flat, versatile area could be used for more substantial recreational purposes in the future.

Open Space Area 1 serves as the storm water detention mitigation area for Cedar Links Park; Open Space Areas 3 and 4 are strategic pathway connectors.

The enlargement of the Cedar Links Park service area helps fulfill level-of-service goals outlined in the recently adopted Leisure Services Plan (LSP) and improves connectivity between neighborhoods identified in the City's Transportation System Plan. To meet LSP level-of-service goals based on growth estimates, the City needs to add 79 acres of neighborhood parkland and 16.45 miles of trails by 2026.

Once conveyed to the City, development of open space pathways and landscaping will be incorporated into the Department's Capital Facilities Plan for funding in future biennia. The cost to maintain the parkland in its current condition is approximately $21,000 per year and would be absorbed into the Parks Maintenance Division operating budget.

The Council approved a letter of intent for the prospective donation in January 2017; the Parks and Recreation Commission recommends approval of the agreement.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS
The estimated cost to maintain the proposed parkland and trails is approximately $21,000 per year and would be absorbed into the Parks Maintenance Division operating budget.

TIMING ISSUES
The timing of the donation will coincide with the development of the various phases of the Cedar Landing PUD, an estimated 2-to-3-year timeframe.

COUNCIL OPTIONS
Approve, deny or amend the agreement.

STAFF RECOMMENDATION
Staff recommends approval of the agreement.

SUGGESTED MOTION
I move to approve an agreement with C.A. Galpin and Cedar Investment Group, LLC for conveyance of open space and pathways within the Cedar Landing PUD to the City of Medford.

EXHIBITS
Ordinance
Cedar Landing PUD agreement
Cedar Landing PUD open space and pathway map

ORDINANCE NO. 2018-76

AN ORDINANCE authorizing the execution of an agreement with C.A. Galpin and Cedar Investment Group, LLC for the conveyance to the City of Medford of approximately 11.6 acres of open space and two miles of pathways within the Cedar Landing PUD.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

That the execution of an agreement with C.A. Galpin and Cedar Investment Group, LLC for the conveyance to the City of Medford of approximately 11.6 acres of open space and two miles of pathways within the Cedar Landing PUD, which is on file in the City Recorder's office, is hereby authorized.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2018.

ATTEST: _____ _____
City Recorder Mayor

APPROVED _____, 2018. _____
Mayor

AGREEMENT RELATING TO CONVEYANCE OF REAL PROPERTY FOR PUBLIC PURPOSES

DATE: _____ 2018

BETWEEN: **C.A. Galpin**, ("Galpin")
an individual,
744 Cardley, Suite 100
Medford, Oregon 97504

AND: **Cedar Investment Group, LLC**, ("CIG")
an Oregon limited liability company,
315 W 9th Street Suite 808
Los Angeles, California 90015

AND: **City of Medford, Oregon** ("the City")
411 West 8th Street
Medford, Oregon 97501

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RECITALS

A. The City is the owner of certain real property located in Jackson County (City of Medford), Oregon, and commonly known as Township 37 South, Range 1 West, Section 16BC, Tax Lot 300 ("the Park Property"). The Park Property is to be developed as a municipal park currently known as Cedar Links Park.

B. Galpin is the owner of certain real property located in Jackson County (City of Medford), Oregon, and commonly known as Township 37 South, Range 1 West, Section 16BC, Tax Lots 201, 202, 204 and 205 (collectively, "the Galpin Property"). A more particular description of the Galpin Property is attached hereto as **Exhibit "A"**.

C. CIG is the owner of certain real property located in Jackson County (City of Medford), Oregon, and commonly known as Township 37, Range 1 West, Section 16BC, Tax Lots 100, 200 and 206; and Township 37 South, Range 1 West, Section 16BD, Tax Lots 200, 211 and 214 (collectively, "the CIG Property"). A more particular description of the CIG Property is attached hereto as **Exhibit "A"**. For the purposes of this Agreement, the Galpin Property and the CIG Property shall be collectively referred to herein as "the subject property" and Galpin and CIG shall be collectively referred to herein as "Developer" or "Developers".

D. On April 27, 2006, a Planned Unit Development was approved for the subject property by the City (File No. PUD-05-035) ("the Original PUD"). The Original PUD was subsequently revised pursuant PUD-13-119, PUD-14-136, PUD-15-043 and PUD-16-024. For the purposes of this Agreement, the Original PUD and the subsequent revisions shall be collectively referred to herein as "the PUD". A map depicting the PUD ("the Map") is attached

hereto as **Exhibit "B"**. The PUD contains multiple phases (collectively, "the Phase(s)") allowing for the recording of multiple final plats on the subject property.

E. The PUD currently requires Developers to make certain recreational and open space improvements on the subject property as well as the ongoing maintenance, repair and replacement of said improvements. The City recognizes that these recreational improvements will be a valuable community asset provided they are available for use by the general public. Developer desires to convey certain completed recreational improvements and specific open space areas to the City for public purposes in exchange for the City taking responsibility for the ongoing maintenance, repair and replacement of the recreational improvements. The parties desire to amend the PUD consistent with the terms and conditions of this Agreement.

F. The City and Galpin are entering into a separate agreement whereby Galpin is going to complete certain site work on behalf of the City for the benefit of the Park Property ("the City/Galpin Agreement").

AGREEMENT

In consideration of the mutual promises, covenants and undertakings of the parties herein contained, the parties hereby agree as follows:

1. Recitals. The parties acknowledge and agree that the Recitals set forth above and the Exhibits attached hereto are incorporated herein and deemed a material part of this Agreement.

2. Definitions. For the purposes of this Agreement, the following definitions shall apply:

2.1 "Open Space Areas" shall collectively mean the open space areas depicted in green on the Map (gray on a recorded copy). There are four (4) specific Open Space Area designations depicted on the Map. "Open Space Area 1" contains approximately 0.77 acres and is located in the northwest corner of the PUD. The primary purpose of Open Space Area 1 is storm water detention facilities and associated open space. "Open Space Area 2" contains approximately 10.8 acres, is located in the northern portion of the PUD, is the primary open/recreational space area and will also contain storm water detention facilities including constructed wetlands. "Open Space Area 3" consists of one minor open space/trail area immediately adjacent to and north of the Park Property. "Open Space Area 4" consists of one open space/trail area located just east of the Park Property adjacent to Cedar Links Drive between proposed Longstone Drive and Yamsay Drive. The specific designated Open Space Areas are denoted on the Map.

2.2 "Pathway(s)" shall collectively mean all recreational pathways depicted on the Map. "Open Space Pathways" shall collectively mean all Pathways located within a designated Open Space Area. "Residential Pathways" shall collectively mean all Pathways located outside of the designated Open Space Areas. The Pathway locations are depicted on the Map as solid burgundy lines (black on a recorded copy). Both Open Space Pathways and Residential

Pathways shall be at least 7-feet in width and constructed in accordance with the standards set forth in **Exhibit "C"** attached hereto.

2.3 "Ground Condition Improvements" shall mean the ground condition improvements to be completed by Developers (i.e. grading, seeding, etc.) located within the Open Space Areas excluding areas for Pathways, Public Works Improvements, and other facilities approved by the City, if any. The specific Ground Condition Improvements for each Open Space Area is set forth in Section 4 of this Agreement.

2.4 "Public Works Improvement(s)" shall collectively mean all improvements required to be completed by Developers in the Open Space Areas pursuant to the PUD including, but not limited to storm drainage and detention facilities, water quality facilities, utility lines and facilities, sewer lines and facilities, constructed wetlands, maintenance roadways and surveying of such facilities (i.e. as-builts). All Public Work Improvements shall be completed by Developers, at Developers' sole expense. A Public Work Improvement shall be deemed completed upon inspection and approval by the City in conjunction with an as-built survey for such improvement. Developer, at Developer's sole expense, shall continue to be responsible for all maintenance and monitoring requirements imposed on Developer for any Public Works Improvement approved pursuant to any governmental permit and/or approval (i.e. constructed wetland maintenance and monitoring).

2.5 "Recreational Improvements" shall collectively mean Open Space Areas, Open Space Pathways and Ground Condition Improvements. Recreational Improvements exclude any improvements required to be completed by Developers pursuant to the PUD, including but not limited to streets, lights, sidewalks, storm water and sewer facilities and other utilities and improvements.

2.6 "Final Plat" shall collectively mean the final recording of a completed subdivision plat or partition plat relating to the PUD or any Phase thereof with the Jackson County Clerk. The term "Lot" shall mean a lot created by subdivision as defined by ORS 92.010(4) and a parcel created by partition as defined by ORS 92.010(6).

3. Recreational Improvements. Developers', at Developers' sole expense, shall be responsible for the completion of the Recreational Improvements set forth herein in accordance with the terms and conditions of this Agreement. Each Developer, or their successor, shall be solely responsible for the Recreational Improvements located on their respective property. All Recreational Improvements shall be completed in a good and workmanlike manner in accordance with the standards and specifications set forth herein (i.e. the **Exhibits** attached hereto). Any conveyance of real property to the City set forth herein shall be by Statutory Warranty Deed free and clear of any other claims of title and subject only to encumbrances of record acceptable to the City and such recurring assessments and liens for real property taxes, irrigation districts or other governmental or quasi-governmental entities. Developer, at Developer's sole expense, shall provide the City with a standard owner's title insurance policy consistent with the foregoing as a requirement for any conveyance to be accepted by the City. The City shall have the right to refuse any conveyance in the event a preliminary title report for such conveyance shows encumbrances not allowed by this Section. Upon conveyance of the

Recreational Improvements to the City, the City shall be responsible for the maintenance, repair and replacement of the Recreational Improvements except for any contractor or Developer warranty-based obligations.

4. Open Space Areas. Open Space Areas 1, 3 and 4 and all Recreational Improvements located within said Open Space Areas shall be conveyed to the City simultaneously with Final Plat. Tax Lots 100 and 200 (37-1W-16BC) and Tax Lots 211 and 214 (37-1W-16BD), which are located within Open Space Area 2, shall be conveyed to the City within 60 days of the date of this Agreement. The remainder of Open Space Area 2 shall be conveyed to the City simultaneously with Final Plat.

4.1 Open Space Area 1. Open Space Area 1 shall be conveyed to the City at Final Plat for the Phase containing Open Space Area 1. Developer, at Developer's sole expense, shall cause the following improvements to be completed prior to Final Plat: (a) Public Works Improvements; (b) Open Space Pathway Improvements; and (c) Ground Condition Improvements. In Open Space Area 1 the Ground Condition Improvements shall be performed in accordance with the requirements set forth in **Exhibit "D"** attached hereto. Developer, at Developer's sole expense, shall install waterline service (1.25") stub and power to Open Space Area 1.

4.2 Open Space Area 2. Tax Lots 100 and 200 (37-1W-16BC) and Tax Lots 211 and 214 (37-1W-16BD), which are located within Open Space Area 2, shall be conveyed to the City within 60 days of the date of this Agreement. The remainder of Open Space Area 2 shall be conveyed to the City simultaneously with Final Plat for the Phase containing the remainder of Open Space Area 2. All Public Works Improvements within Open Space Area 2 shall be completed by Developer, at Developer's sole expense, prior to December 31, 2019. Developers and City acknowledge agree that Developers have expended substantial costs towards the improvement of the ground condition of Open Space Area 2 as of the date of this Agreement. Accordingly, Developer shall not be required to make any additional improvements to Open Space Area 2 prior to conveyance as part of this Agreement. The City, at the City's sole expense, may develop a trail system within Open Space Area 2 if the City so desires. Notwithstanding the Map, the City shall have sole discretion as to the location and extent of any improvements within Open Space Area 2. Specifically, the City intends to maintain Open Space Area 2 in an unimproved natural condition for the foreseeable future. Any marketing by the Developers relating to Open Space Area 2 shall be consistent with the foregoing.

4.3 Open Space Area 3. Open Space Area 3, which consists of one minor open space/trail area immediately adjacent to and north of the Park Property, shall be conveyed to the City at Final Plat for the Phase containing Open Space Area 3. Developer shall not be required to make any improvements to Open Space Area 3 prior to conveyance as part of this Agreement.

4.4 Open Space Area 4. Open Space Area 4, which consists of one open space/trail area located just east of the Park Property adjacent to Cedar Links Drive between proposed Longstone Drive and Yamsay Drive, shall be conveyed to the City at Final Plat for the Phase containing Open Space Area 4. Open Space Area 4 Recreational Improvements shall be constructed, and costs allocated pursuant to the City/Galpin Agreement.

5. Residential Pathways. In the event a Phase contains a designated Residential Pathway based on the Map, the Residential Pathway Improvements shall be completed by Developer, at Developer's sole expense, prior to final occupancy for any Lot on which the Residential Pathway is located. Each owner of a Lot shall be solely responsible for the Maintenance of that portion of the Residential Pathway located on said owner's respective Lot. For the purposes of this Section, the term "Maintenance" shall include the maintenance and repair of the Residential Pathway in good condition free and clear of any refuse, weeds and encroaching landscaping (i.e. vegetation, bark, gravel, etc.) and in compliance with any applicable City ordinance, rule or regulation and all applicable private covenants (i.e. CC&R's).

6. Indemnity. Developers, and each of them individually, shall indemnify and defend the City from, and reimburse the City for, any cost, claim, loss, or liability, including cost of defense, suffered directly or from a third-party claim arising out of or related to any activity of the Developers, including Developers' agents, employees and contractors, on the subject property or any condition of the subject property during the time period that Developers own the subject property or any portion thereof. Notwithstanding the foregoing, Developers shall continue to be responsible for all monitoring responsibilities imposed on Developers pursuant to any permit or approval obtained by Developers or imposed pursuant to the terms of this Agreement and shall indemnify and defend the City consistent with this Section for any claim based on failure to comply with any permit or approval obtained by Developers, including monitoring obligations. The City shall have no liability to the Developers, including Developers' agents, employees and contractors, for any injury, loss, or damage caused by third parties, or by any condition of the subject property.

7. Applicable Regulations.

7.1 Applicable Regulations. The City and Developers shall apply the applicable land use standards and regulations in effect at the time of Final Plat.

7.2 Construction Standards. Any Party undertaking construction of improvements pursuant to the terms of this Agreement shall comply with all applicable laws, including, but not limited to, the Americans with Disabilities Act (42 U.S.C. Section 1201 et seq).

8. Default; Remedies

8.1 Default by Developers. A default shall occur:

8.1.1 If a Developer breaches any material provision of this Agreement, whether by action or inaction, and such breach continues and is not remedied within thirty (30) days after said Developer receives written notice from the City specifying the breach. In the case of a breach which cannot with due diligence be cured within such thirty (30) day period, a default shall occur if the breaching Developer does not commence to cure the breach within such thirty (30) day period and thereafter diligently pursue the cure to completion. Notwithstanding the foregoing, the parties acknowledge and agree that each of the Developers, or their successors in interest, shall be responsible for the Recreational Improvements on their respective properties. Specifically, Galpin shall be solely responsible for the Recreational Improvements on the Galpin Property and CIG shall be solely responsible for the Recreational Improvements on the CIG

Property. Consequently, a default by one Developer does not constitute a default by the other Developer.

8.1.2 If Developers make any assignment for the benefit of creditors, or are adjudicated in bankruptcy, or have a receiver, trustee or creditor's committee appointed over either entity that is not removed within ninety (90) days after appointment.

8.2 Default by City. A default shall occur if City breaches any material provision of this Agreement, whether by action or inaction, and such breach continues and is not remedied within thirty (30) days after the City receives written notice from Developers specifying the breach. In the case of a breach which cannot with due diligence be cured within such thirty (30) day period, a default shall occur if City does not commence to cure the breach within such thirty (30) day period and thereafter diligently pursue the cure to completion.

8.3 Nonexclusive Remedies. The rights and remedies provided by this Agreement shall not be deemed exclusive, except where otherwise indicated, and shall be in addition to any and all rights otherwise available. The exercise by any party of one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedy for the same default or of any of its remedies for any other default by the other party, including, without limitation, the right to compel specific performance. Any limitation of remedies set forth herein should not limit or affect the obligations of a party under any contractual indemnities set forth herein.

8.4 Dispute Resolution.

8.4.1 Mediation If a dispute between the parties arises out of or relating to this Agreement or the interpretation of this Agreement, the parties agree to submit such dispute to a mutually agreed upon mediator, and to continue good faith mediation efforts until such dispute is resolved or any party notifies the others in writing that it elects to withdraw from mediation.

8.5 Unavoidable Delay. No party nor that party's successor in interest shall be considered in breach of or in default with respect to any obligation created hereunder or progress in respect thereto of the Medford Land Development Code if the delay in performance of such obligations is due to causes that are unforeseeable, beyond its control and without its fault or negligence, including but not limited to acts of God, acts of the public enemy, acts of the state or federal government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosions, mob violence, not, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation or arbitration involving a party or others relating to zoning or other governmental action or inaction pertaining to the PUD, malicious mischief, condemnation action, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar events and/or occurrences beyond the reasonable control of such party (the "Unavoidable Delay").

8.6 Request. It is the purpose and intent of this provision that, in the event of the occurrence of any such Unavoidable Delay, the time or times for the performance of the

obligations of any party shall be extended for the period of the Unavoidable Delay, provided, however, that the party seeking relief under this Section shall, within fifteen (15) days after the party becomes aware of the causes of any such unavoidable Delay, notify the other party or parties in writing of the cause or causes of the delay and the estimated time of correction and the other party or parties mutually agree this is an Unavoidable Delay and also agree to the time of correction. In any event, however, the total period of Unavoidable Delay shall not exceed One Hundred Eighty (180) days unless mutually agreed upon by the parties. Such mutual agreement to extend the time of the Unavoidable Delay shall not serve to diminish the enforceability of any other Section of this Agreement.

9. Council Approval. The parties acknowledge and agree that this Agreement is subject to approval by the Medford City Council ("the Council"). In the event this Agreement is not approved by the Council by December 31, 2018, this Agreement shall be of no further force or effect.

10. Term of Agreement. The term of this Agreement shall be a period of 15 years commencing on the date all parties have executed this Agreement.

11. Miscellaneous Provisions.

11.1 Conflict of Interests. No member, official or employee of City shall make any decision relating to the Agreement which affects the member's, official's, or employee's personal interests or the interests of any corporation, partnership or association in which member, official, or employee is directly or indirectly interested. Developers warrant that they have not paid or given, and shall not pay or give, any third person any money or other consideration for obtaining this Agreement.

11.2 Non-Liability of City Officials, Employees, and Agents. No member, official, employee or agent of the City shall be personally liable to Developers, or any successor in interest, in the event of any default or breach by City or for any amount, which may become due to Developers or successor or on any obligation under the terms of this Agreement.

11.3 Discrimination. Developers, for themselves and their successors and assigns, agree that in carrying out their obligations under this Agreement, they will not discriminate against any employee or applicant for employment because of race, color, religion, age, gender, sexual orientation or national origin.

11.4 Notice. Any notice or communication under this Agreement by any party to the others shall be deemed given and delivered (a) forty-eight (48) hours after being dispatched by registered or certified U S mail, postage prepaid, return receipt requested, or (b) when received if personally delivered.

11.5 Place of Enforcement. Any action or suit to enforce or construe any provision of this Agreement by any party shall be brought in the Circuit Court of the State of Oregon for Jackson County, or the United States District Court for the District of Oregon, in the venue assigned for Medford, Oregon.

11.6 No Partnership. Nothing contained in this Agreement or any acts of the parties hereby shall be deemed or construed by the parties, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or any association between any of the parties.

11.7 Non-Waiver of Government Rights. Subject to the terms and conditions of this Agreement, by making this Agreement and complying with the applicable provisions hereof, the City is specifically not obligating the City, or any other agency with respect to any discretionary governmental action relating to development or operation of the improvements to be constructed within or as a part of the PUD, including, but not limited to budgetary, variances, environmental clearances or any other governmental approvals which are or may be required, except as expressly set forth herein.

11.8 Amendments and Modifications. Any amendments or modifications to this Agreement shall be made in writing, approved in the manner as this Agreement was initially approved, and executed by all parties. Notwithstanding this general requirement, the City Manager may approve minor modifications to this Agreement without City Council approval. For purposes of the Section, minor modifications include corrections of errors, clarifications, or other modifications that do not change the substantive content of this Agreement.

11.9 Time is of the Essence. Time is of the essence in the performance of and adherence to each and every provision of this Agreement.

11.10 Non-Waiver. Waiver by any party of strict performance of any provision of this Agreement shall not be deemed a waiver of or prejudice a party's right to require strict performance of the same or any other provision in the future. A claimed waiver must be in writing and signed by the applicable party granting a waiver. A waiver of one provision of this Agreement shall be a waiver of only that provision. A waiver of a provision in one instance shall be a waiver only for that instance, unless the waiver explicitly waives that provision for all instances.

11.11 Partial Invalidity. If any provision of this Agreement is held to be invalid or unenforceable, the remainder of this Agreement, and the application of such provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. If a material provision of this Agreement is held invalid or unenforceable such that a party does not receive the benefit of its bargain, then the other parties shall renegotiate in good faith terms and provisions that will effectuate the spirit and intent of the parties' agreement herein.

11.12 Calculation of Time. Unless referred to as Business Days, all periods of time shall include Saturdays, Sundays, and Legal Holidays. However, if the last day of any period falls on a Saturday, Sunday, or Legal Holiday, then the period shall be extended to include the next day which is not a Saturday, Sunday, or Legal Holiday. "Business Days" shall mean Monday through Friday, and "Legal Holiday" shall mean any holiday observed by the State of Oregon.

11.13 Headings. The section Headings are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

11.14 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterpart shall constitute one and the same instrument.

11.15 Attorneys' Fees. If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Agreement or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover its attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary, as determined by the court at trial or on any appeal or review, in addition to all other amounts provided by law.

11.16 Entire Agreement. This Agreement constitutes the entire agreement between the Parties as to the subject matter covered by this Agreement.

11.17 Interpretation of Agreement. This Agreement is the result of arm's length negotiations between the parties and shall not be construed against any party by reason of its preparation of this Agreement.

11.18 Future Assurances. Each of the parties shall promptly execute and deliver such additional documents and shall do such acts that are reasonably necessary, in connection with the performance of their respective obligations under this Agreement and any applicable schedules so as to carry out the intent of this Agreement.

11.19 Capacity to Execute; Mutual Representations. The parties each warrant and represent to the others that this Agreement constitutes a legal, valid, and binding obligation of that party. Without limiting the generality of the foregoing, each party represents that it's governing authority and, in the case of the City and Council respectively, has authorized the execution, delivery, and performance of this Agreement by it. The individuals executing this Agreement warrant that they have full authority to execute this Agreement on behalf of the entity for whom they purport to be acting or on that party's individual behalf. Each party represents to the others that neither the execution and delivery of the Agreement, nor the consummation of the transactions contemplated hereby will, violate any constitution, statute, regulation, rule, injunction, judgment, order, decree, ruling, charge, or other restriction of any government, government agency, or court to which it is subject or any provision of its charter or bylaws, or conflict with, result in a breach of, or constitute a default under any other agreement to which it is a party or by which it is bound. Each party represents to the others that it does not need to give any notice to, make any filing with, or obtain the consent of any other entity or person to consummate the transaction contemplated by this Agreement.

/ / /
/ / /
/ / /
/ / /

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below.

CITY OF MEDFORD:

Date: _____, 2018

_____
By: _____
Its: _____

GALPIN:

Date: _____, 2018

_____
By: C.A. Galpin

CEDAR INVESTMENT GROUP, LLC:

Date: _____, 2018

_____
By: John S. Keese
Its: Member

State of Oregon)
) ss
County of Jackson)

_____, 2018

Personally appeared _____, of the City of Medford, who being duly sworn, acknowledged and said instrument to be its voluntary act and deed.

_____
Notary Public of Oregon
My commission expires: _____

///
///
///
///

State of Oregon)
) ss
County of Jackson)

_____, 2018

This record was acknowledged before me on the date set forth above by John S. Keese as Member of CEDAR INVESTMENT GROUP, LLC.

_____
Notary Public of Oregon
My commission expires: _____

State of Oregon)
) ss
County of Jackson)

_____, 2018

Personally appeared John S. Keese, who being duly sworn, acknowledged and said instrument to be its voluntary act and deed.

_____
Notary Public of Oregon
My commission expires: _____

EXHIBIT "A"

Galpin Property:

LOTS 92 AND 93 IN SKY LAKES VILLAGE AT CEDAR LANDING PHASE 7A, A PLANNED COMMUNITY IN THE CITY OF MEDFORD, JACKSON COUNTY, OREGON, ACCORDING TO THE OFFICIAL PLAT THEREOF, RECORDED IN VOLUME 41, PAGE 3 OF PLAT RECORDS.

AND

LOTS 122 AND 123 IN REPLAT OF LOT 91 AND 94 OF SKY LAKES VILLAGE AT CEDAR LANDING PHASE 7A, A PLANNED COMMUNITY IN THE CITY OF MEDFORD, JACKSON COUNTY, OREGON, ACCORDING TO THE OFFICIAL PLAT THEREOF, RECORDED IN VOLUME 42, PAGE 26 OF PLAT RECORDS.

CIG Property:

OPEN SPACE "A" IN REPLAT OF LOT 91 AND 94 OF SKY LAKES VILLAGE AT CEDAR LANDING PHASE 7A, A PLANNED COMMUNITY IN THE CITY OF MEDFORD, JACKSON COUNTY, OREGON, ACCORDING TO THE OFFICIAL PLAT THEREOF, RECORDED IN VOLUME 42, PAGE 26 OF PLAT RECORDS.

AND

TRACT A COMMON AREA IN SKY LAKES VILLAGE AT CEDAR LANDING PHASES 5 AND 6, A PLANNED COMMUNITY IN THE CITY OF MEDFORD, JACKSON COUNTY, OREGON, ACCORDING TO THE OFFICIAL PLAT THEREOF, RECORDED IN VOLUME 33, PAGE 75 OF PLAT RECORDS.

AND

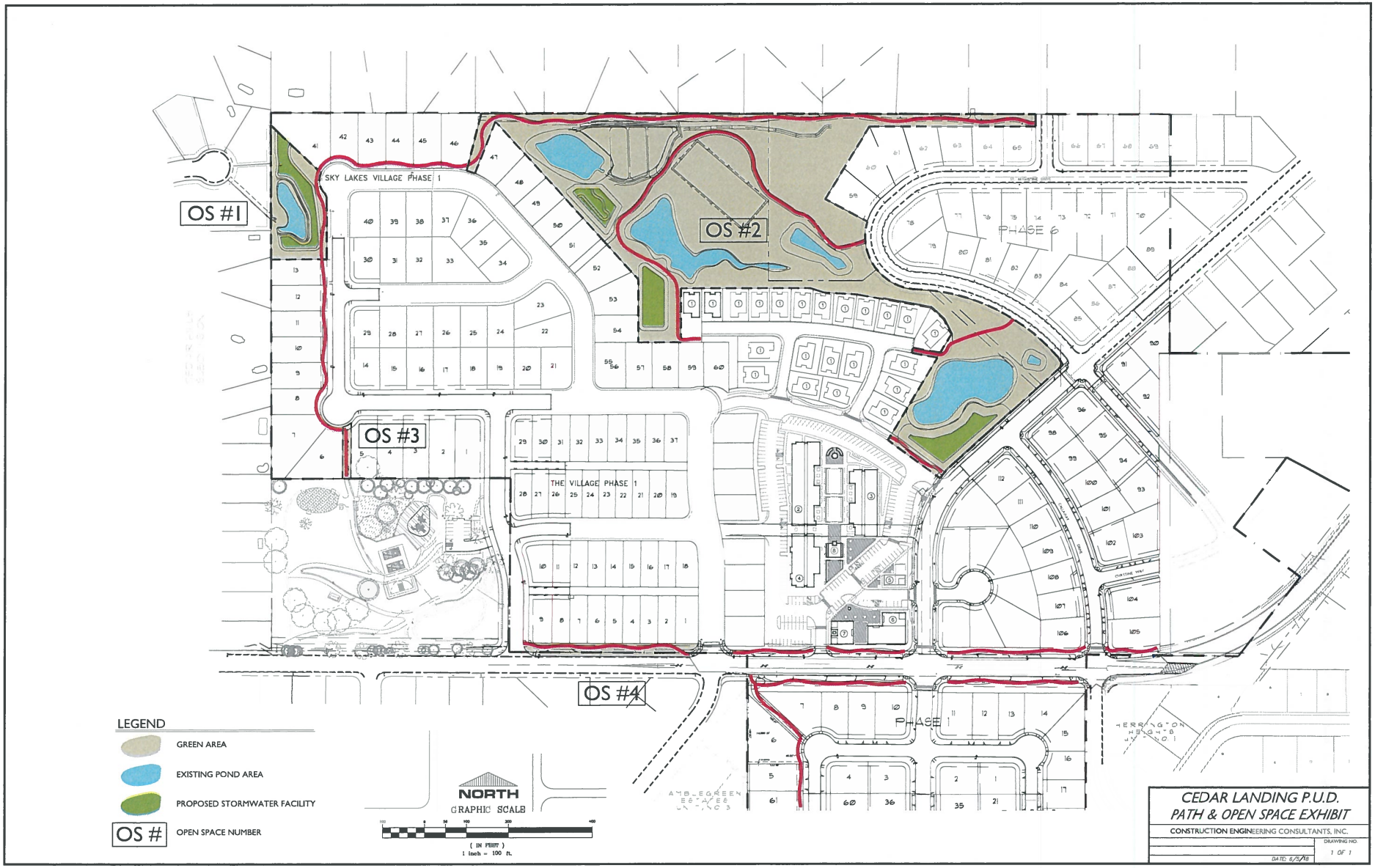
LOT 127 RESERVE AREA IN REPLAT OF LOT 91 AND 94 OF SKY LAKES VILLAGE AT CEDAR LANDING PHASES 5 AND 6, A PLANNED COMMUNITY IN THE CITY OF MEDFORD, JACKSON COUNTY, OREGON, ACCORDING TO THE OFFICIAL PLAT THEREOF, RECORDED IN VOLUME 42, PAGE 26 OF PLAT RECORDS.

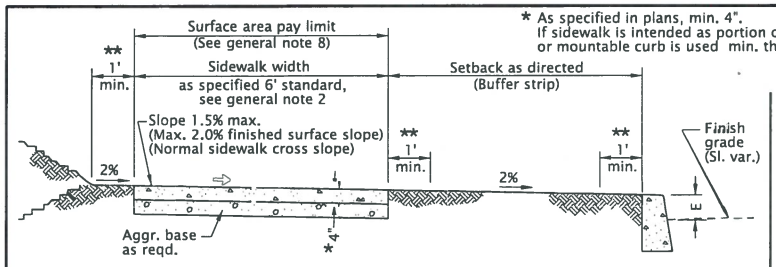
CEDAR LANDING P.U.D.
PATH & OPEN SPACE EXHIBIT

CONSTRUCTION ENGINEERING CONSULTANTS, INC.

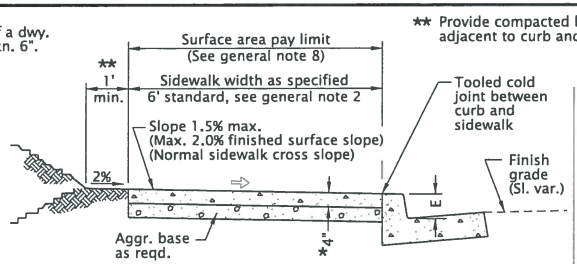
DRAWING NO.
1 OF 1

DATE: 5/10/18

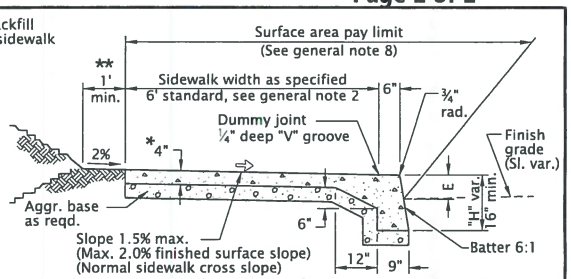

OS #1
OS #2
OS #3
OS #4
SKY LAKES VILLAGE PHASE 1
THE VILLAGE PHASE 1
PHASE 6
PHASE 1
LEGEND
GREEN AREA
EXISTING POND AREA
PROPOSED STORMWATER FACILITY
OS #
OPEN SPACE NUMBER
NORTH
GRAPHIC SCALE
(IN FEET)
1 inch = 100 ft.
CEDAR LANDING P.U.D.
PATH & OPEN SPACE EXHIBIT
CONSTRUCTION ENGINEERING CONSULTANTS, INC.
DRAWING NO.
1 OF 1
DATE: 6/5/18



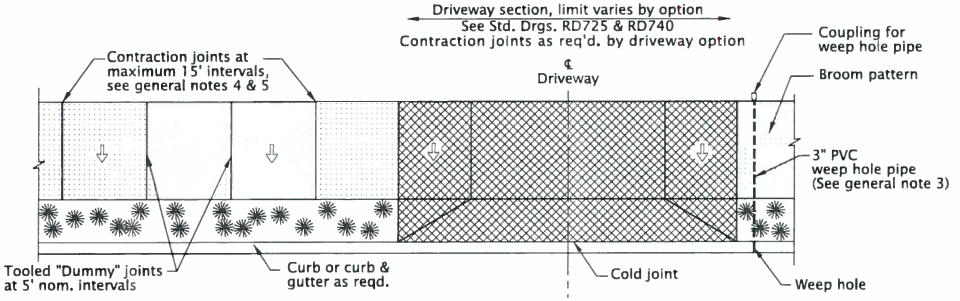
TYPICAL SETBACK SIDEWALK CROSS SECTION
E = curb exposure, see general note 6



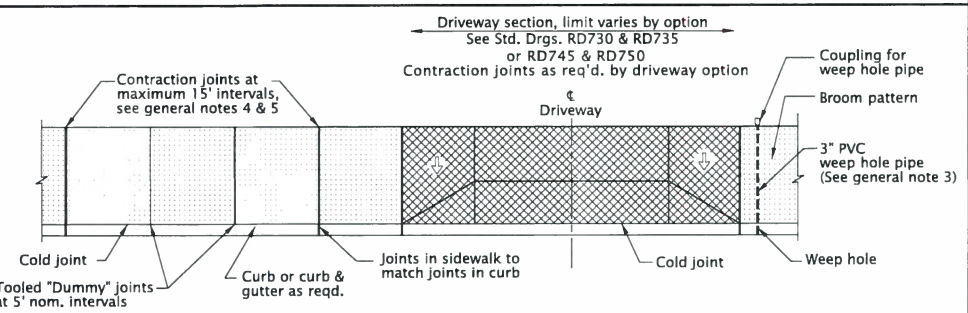
TYPICAL CURB SIDEWALK CROSS SECTION
E = curb exposure, see general note 6



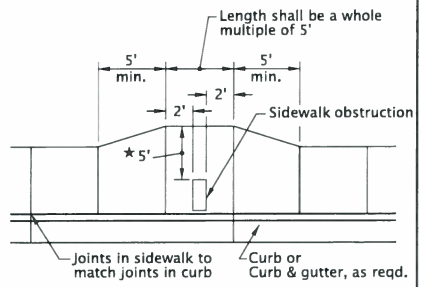
TYPICAL MONOLITHIC CURB & SIDEWALK CROSS SECTION
E = curb exposure, see general note 6



TYPICAL PLAN VIEW - SEPARATED SIDEWALK



TYPICAL PLAN VIEW – CURB LINE SIDEWALK



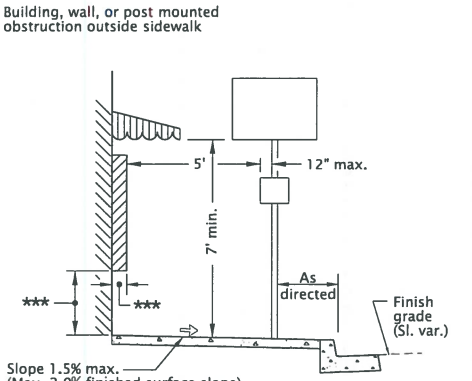
★ When site constraints prohibit a 5' passage, the Engineer may direct this to be reduced, but no less than 4'.

REQUIRED SIDEWALK WIDENING AROUND OBSTRUCTIONS

Sidewalk

General configuration of driveway pay limit (See general note 8), varies by option. (See project plans for details not shown)

Slope 1.5% max. (Max. 2.0% finished surface slope) (Normal sidewalk cross slope)



*** Objects with base below 2'-4" may protrude any distance as long as the 5' circulation path is maintained. When an object with a base higher than 2'-4" protrudes further than 4" provide a curb below protrusion to delineate edge.

CLEAR CIRCULATION PATH

GENERAL NOTES FOR ALL DETAILS:

1. Include additional paved or unpaved 2' clearance to vertical faces higher than 5' such as retaining walls, sound walls, fences and buildings.
2. Curb type and sidewalk width as shown on plans or as directed. On sidewalks 8' and wider, provide a longitudinal joint at the midpoint.
3. Install 3" pvc weep hole pipes in sidewalks where shown on plans, and allowed by jurisdiction. Place contraction joint over top of pipe. See Std. Dwg. RD700 for weep hole detail.
4. Const. expansion joints at 200' maximum spacing, and at points of tangency, and at ends of each driveway. For monolithic curb & sidewalk, const. expansion joints at 45' maximum spacing.
4. Const. expansion joints at 200' maximum spacing, and at points of tangency, and at ends of each driveway. For monolithic curb & sidewalk, const. expansion joints at 45' maximum spacing.
5. Const. contraction joints at 15' maximum spacing, and at ends of each driveway and ramp.
6. For curb details, see Std. Dwgs. RD700 & RD701.
7. Sidewalk details are based on United States Access Board Standards.
8. For driveway details not shown, see Std. Dwgs. RD725, RD730, RD735, RD740, RD745 & RD750.
9. See project plans for details not shown.

CALC. BOOK NO. N/A

BASELINE REPORT DATE 23-JAN-2017

NOTE: All material and workmanship shall be in accordance with the current Oregon Standard Specifications

The selection and use of this Standard Drawing, while designed in accordance with generally accepted engineering principles and practices, is the sole responsibility of the user and should not be used without consulting a Registered Professional Engineer.

OREGON STANDARD DRAWINGS

SIDEWALKS

2018

DATE	REVISION DESCRIPTION
	Residential Pathways shall be a minimum of of seven feet in width.

25-JUL-2017

rd720.dgn

RD720

EXHIBIT "D"
(Open Space Area 1)

The following Ground Condition Improvements shall be completed by Developers in the following order prior to conveyance to the City:

1. **All weeds shall be removed;**
2. **In conjunction with the initial weed removal, herbicide treatment shall also be applied to discourage weed regrowth;**
3. **All rocks and debris that could potentially damage mowing equipment shall be removed;**
4. **All moderately sloped ground areas around the Public Works Improvements shall be terra-seeded with annual ryegrass and organic matter;**
5. **Customary periodic herbicide treatments and physical weed removal, as necessary, to maintain a weed free ground condition, until such time Open Space Area 1 is conveyed to the City;**
6. **Customary periodic fertilizer treatments (i.e. spring and fall applications) until such time Open Space Area 1 is conveyed to the City.**
7. **Install waterline service (1.25" stub) to Open Space Area 1; and**
8. **Install power to Open Space Area 1.**