

W. S. A.

AGENDA COVER MEMO

DATE: January 9, 2006 (Memo)
January 25, 2006 (First Reading)
February 15, 2006 (Second Reading/Public Hearing)

TO: LANE COUNTY BOARD OF COMMISSIONERS

FROM: Stephanie Schulz/Planner

DEPARTMENT: Public Works/Land Management Division

TITLE: **ORDINANCE NO. 2-06** IN THE MATTER OF AMENDING CHAPTER 10 OF LANE CODE TO ADOPT AMENDMENTS TO THE SPRINGFIELD DEVELOPMENT REGULATIONS FOR APPLICATION TO URBANIZABLE LANDS WITHIN THE SPRINGFIELD URBAN GROWTH AREA (LC 10.600-15) AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES. (Applicant: City of Springfield)

I. MOTION

1. For January 25, 2006: I move approval of the first reading and setting the second reading and public hearing on Ordinance No. 2-06 for February 15, 2006 at 1:30 p.m.

2. For February 25, 2006: I move approval of Ordinance No. 2-06.

II. ISSUE

Should the Board adopt the amendments to the Springfield Development Code (SDC) contained in City Ordinance No. 6133 for application to the urbanizable lands outside Springfield city limits and within the Urban Growth Boundary (UGB) of Springfield? (LC 10.600-15)

The proposed amendments to the Springfield Development Code apply to all or portions of Articles: 1-6, 9-12, 14-18, 26, 29, 31, 32, 34, 35, 37, and 38. See Exhibit A to this Ordinance for the full text of the SDC Amendments, and Attachment 'B' to this staff report for a section by section overview summary of the proposed SDC 'housekeeping' amendments.

II. DISCUSSION

A. Background

The Springfield Development Code contains the implementing regulations for construction and development of land in Springfield. It was adopted in 1986, and since then, city planners have amended the document over 60 times. The last major SDC review and amendment was in 1993. The proposed "housekeeping" amendments presented here generally involve the reformatting of articles, clarifications of text and compliance with recently adopted Oregon Revised Statutes, and as requested by the Planning Commission; amends the SDC's review procedures making Type III quasi-judicial public hearing approval from the Planning Commission and/or the Hearings Official for Interpretations (Article 4) and Expansion of a Non-Conforming Use (Article 5) a Type II staff review.

D. Alternatives

1. Approve Ordinance 2-06 as presented.
2. Revise Ordinance 2-06 as directed by the Board and return for approval of the revised Ordinance on a date and time certain set by the Board.
3. Do not approve Ordinance No. 2-06 and deny the request for adoption of SDC amendments for application to urbanizable lands in Springfield.

E. Recommendation

Staff finds the applicant has met the criteria for adoption of these Springfield Development Code Amendments into Lane Code for application to the urbanizable area of Springfield by Lane County, and recommends Alternative 1, including the amendment to Section 5.090 for BM 37 consistency.

IV. ATTACHMENTS

- A. Ordinance No. 2-06
 - Exhibit A – City Ordinance No. 6133 and adopted amendment to 5.090
 - Exhibit B – Findings of Compliance
- B. Section by Section Overview of the Proposed SDC ‘Housekeeping’ Amendments (Summary)
- C. Draft Springfield City Council Ordinance amending SDC Section 5.090 for consistency regarding the status of transferability of property under a BM37 claim (City Council Action 1-17-06)
- D. October 18, 2005 Planning Commission minutes; Work session & Hearing

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. 2-06

IN THE MATTER OF AMENDING CHAPTER 10 OF LANE CODE TO ADOPT AMENDMENTS TO THE SPRINGFIELD DEVELOPMENT REGULATIONS FOR APPLICATION TO URBANIZABLE LANDS WITHIN THE SPRINGFIELD URBAN GROWTH AREA (LC 10.600-15) AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES

WHEREAS, on November 24, 1986 the Lane County Board of Commissioners enacted Ordinance No. 16-86 to adopt the City of Springfield land use regulations for application to urbanizable lands within the Springfield Urban Growth Boundary in accordance with an urban transition agreement with the City of Springfield; and

WHEREAS, that urban transition agreement provides for joint development and adoption of land use regulations applicable to urbanizable lands within the Springfield Urban Growth Boundary; and

WHEREAS, the Springfield Planning Commission and Lane County Planning Commission held public hearings and after further deliberations, both recommended approval of the amendments to the Springfield Development Code; and

WHEREAS, the Springfield City Council held hearings and adopted the amendments to the Springfield Development Code and has requested adoption of the proposed changes by the Lane County Board of Commissioners for application to the urbanizable lands within the Springfield Urban Growth Area; and

WHEREAS, the Board of County Commissioners has conducted a public hearing, reviewed the record, and is ready to take action.

NOW, THEREFORE, the Board of County Commissioners of Lane County **ORDAINS** as follows:

Section 1. The provisions of the Springfield Development Code, as adopted by Lane County Ordinance No. 16-86 and amended by Lane County Ordinance Nos. 5-89, 18-90, 9-91, 13-91, 14-92, 5-93, 13-94, 3-97, 7-99, 10-00, 13-04 and 2-05 are hereby further amended to add the amendments as specified in the attached Exhibit "A," incorporated here by this reference. These amendments are adopted and incorporated herein by this reference for application on the urbanizable lands within the Springfield Urban Growth Area and shall not be codified into Lane Code.

Section 2. Chapter 10 of Lane Code is hereby amended by removing and inserting the following sections:

REMOVE THIS SECTION

10.600-15
i.e. 10-814
(a total of 1 page)

INSERT THIS SECTION

10.600-15
i.e. 10-814
(a total of 1 page)

Said section is attached hereto and incorporated herein by this reference. The purpose of this substitution and addition is to amend Lane Code Chapter 10 to include specific reference to this Board of County Commissioners action adopting amendments to the City of Springfield land use regulations to be applied by the City of Springfield on urbanizable lands within the Springfield Urban Growth Area.

Section 3. Ordinances and regulations amended by this Ordinance shall remain in force to authorize a punishment, penalty or forfeiture incurred, or a suit, prosecution or proceeding pending when the amendment takes effect, for an offense or violation committed under the amended Ordinance or regulation prior to the effective date of this Ordinance.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

While not part of this Ordinance, the findings attached as Exhibit "B" and incorporated herein by this reference are adopted in support of this decision.

ENACTED this _____ day of _____, 2006.

Chair, Lane County Board of Commissioners

Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 1-18-2006 Lane County


OFFICE OF LEGAL COUNSEL

ORDINANCE

ORDINANCE NO. 6133 (General)

AN ORDINANCE AMENDING THE SPRINGFIELD DEVELOPMENT CODE, ARTICLE 1 GENERAL PROVISIONS; ARTICLE 2 DEFINITIONS; ARTICLE 3 DEVELOPMENT APPROVAL AND LAND USE DECISION PROVISIONS; ARTICLE 4 INTERPRETATIONS; ARTICLE 5 NON-CONFORMING USES; ARTICLE 6 ANNEXATIONS; ARTICLE 9 VACATIONS; ARTICLE 10 DISCRETIONARY USE; ARTICLE 11 VARIANCES; ARTICLE 12 OFFICIAL ZONING MAP AMENDMENTS; ARTICLE 14 PUBLIC HEARINGS; ARTICLE 15 APPEALS; ARTICLE 16 RESIDENTIAL ZONING DISTRICTS; ARTICLE 17 DWP DRINKING WATER PROTECTION OVERLAY DISTRICT; ARTICLE 18 COMMERCIAL ZONING DISTRICTS; ARTICLE 26 HD HILLSIDE DEVELOPMENT OVERLAY DISTRICT; ARTICLE 29 UF-10 URBANIZABLE FRINGE OVERLAY DISTRICT; ARTICLE 31 MINIMUM DEVELOPMENT STANDARDS AND SITE PLAN REVIEW STANDARDS; ARTICLE 32 PUBLIC AND PRIVATE IMPROVEMENTS; ARTICLE 34 PARTITION STANDARDS; ARTICLE 35 SUBDIVISION STANDARDS; ARTICLE 37 MASTER PLANS; AND ARTICLE 38 TREE FELLING STANDARDS; ADOPTING A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

THE CITY COUNCIL OF THE CITY OF SPRINGFIELD FINDS THAT:

WHEREAS, the Springfield Development Code (SDC) was adopted by the Springfield City Council on May 5, 1986, and amendments thereto were subsequently adopted by Ordinance; and

WHEREAS, Article 7 of the SDC sets forth procedures for the amendment of this document; and

WHEREAS, the intent of the proposed SDC "housekeeping" amendments is to: reformat articles; clarify text, comply with recently adopted Oregon Revised Statutes amendments and to follow Planning Commission direction to have more applications reviewed by staff; and

WHEREAS, on May 3, 2005, the Springfield Planning Commission held a work session on this SDC "housekeeping" amendment application (Case Number LRP 2005-00012).

WHEREAS, on June 7, 2005, the Springfield Planning Commission held another work session and a public hearing on this SDC "housekeeping" amendment application and voted 7 to 0 to recommend approval of these amendments to the City Council based upon findings in support of adoption of these amendments to the SDC as set forth in the Staff Report and the Recommendation to the Council incorporated herein by reference; and

WHEREAS, on June 27, 2005, the Springfield City Council held a work session on this SDC "housekeeping" amendment application.

WHEREAS, on July 18, 2005, the Springfield City Council held a public hearing and is now ready to take action on this matter based upon the above recommendation and the evidence and testimony already in the record as well as the evidence and testimony presented at this public hearing held in the matter of adopting this ordinance amending the SDC.

NOW THEREFORE, THE CITY OF SPRINGFIELD ORDAINS AS FOLLOWS:

Section 1: The Article 1 Title page is hereby amended to read as follows:

“ARTICLE 1

GENERAL PROVISIONS

1.010 TITLE

1.020 PURPOSE

1.030 APPLICABILITY

1.035 OFFICIAL ZONING MAPS

1.040 ENFORCEMENT

1.050 VIOLATION AND PENALTIES

1.060 SEVERABILITY

1.070 FEES”

Section 2: Section 1.020 is hereby amended to read as follows:

“1.020 PURPOSE.

The regulations contained in this Code are intended to ensure that development shall be:

- (1) Sited on property zoned in accordance with the applicable Metro Plan diagram and/or applicable Refinement Plan diagram, Plan District map, and Conceptual Development Plan;
- (2) Served by a full range of key urban facilities and services that can be provided in an orderly and efficient manner; and
- (3) Consistent with the applicable standards of this Code.”

Section 3: Section 1.030, Subsection (2) is hereby amended to read as follows:

"1.030 APPLICABILITY.

- (2) It is the intent of this Code that all development will comply with the applicable requirements of the following: Federal programs, regulations and statutes, including but not limited to, the Clean Water Act, the Safe Water Act and the Endangered Species Act; State programs, regulations and statutes, including but not limited to, permitting agencies such as the Oregon Division of State Lands, the Oregon Department of Transportation and the Oregon Department of Environmental Quality; and local programs, regulations and statutes, including but not limited to, the Metro Plan together with functional plans and applicable refinement plans, the Springfield Municipal Code (SMC) 1997, the Springfield Building Safety Codes and the Springfield Fire and Life Safety Codes which may be applicable to a development. All citations of other City, regional, state, or federal regulations in this Code refer to the most current version and citation for those regulations in effect at the time of the development application submittal, unless specifically indicated otherwise. The specific enforcement of and compliance with applicable state and Federal regulations shall be under the jurisdiction of the appropriate agency, unless specified in this Code or the SMC. Therefore, approvals granted through the administration of this Code do not constitute Federal or state approvals."

Section 4: Section 1.035 is hereby amended by the addition of the following section:

"1.035 OFFICIAL ZONING MAPS. Zoning district boundaries are shown on the Official Zoning Maps of the City. The Official Zoning Maps are a part of this Code, but are published separately. Maps that delineate areas subject to additional zoning regulations may be included in this Code, attached to an adopting ordinance, or adopted by reference. The Development Services Department shall maintain the Official Zoning Maps.

- (1) Zone changes. A proposed change to the Official Zoning Maps shall be subject to the amendment process described in Article 12 of this Code.
- (2) Determination of Zoning District Boundaries. Where uncertainty exists relating to any zoning district boundaries shown on the Official Zoning Maps, the Director shall determine the boundaries in accordance with the following standards:
 - (a) Lot Lines. Where zoning district boundaries are indicated as approximately following lot lines, the lot lines shall be considered to be the boundaries.
 - (b) Multi-zoned Lots. Where a zoning district's boundary line divides a lot and the boundary line location is not otherwise designated by ordinance, the location of the boundary line shall be determined by use of the scale appearing on the Official Zoning Maps.
 - (c) Street Lines.

1. Where zoning district boundaries are indicated as approximately following the centerline of a public right-of-way, these lines shall be considered to be the district boundaries.
 2. When a public right-of-way is lawfully vacated, the zoning district boundary shall be in the center, unless specifically indicated otherwise.
 3. The lands formerly within the public right-of-way shall be subject to the same zoning regulations that are applicable to the underlying property, unless the zoning is changed by separate action.
- (d) Water Courses. Zoning district boundary lines shall follow the center lines of water courses, unless the boundary lines are fixed by dimensions shown on the Official Zoning Maps.
- (e) Geographic Areas. Zoning District boundary lines may follow ridgelines, the toe of a hill and/or specific elevation contours.
- (3) A property owner may obtain a written verification of the zoning of a lot or parcel by applying for a Land Use and Zoning Compatibility Statement.”

Section 5: Section 1.070 is hereby amended to read as follows:

“1.070 FEES.

- (1) The City Council shall establish fees by separate Resolution for the performance of the actions and reviews required by this Code. The list of fees is available at the Development Services Department.
- (2) Payment of these fees shall be required at the time of application submittal. No application will be accepted without payment of the appropriate fee in full, unless the applicant qualifies for a fee waiver.
- (3) Fee Waivers. The following fee waivers shall apply only within the Springfield city limits.
 - (a) Non-profit affordable housing providers.
 1. Applicable development fees required by this Code may be waived for up to 50 affordable housing units per year or more, upon the determination of need by the Director in order to encourage the construction of affordable housing. Affordable housing is defined as newly constructed housing that shall be either for:
 - a. Rental housing, rented to households with incomes below 60% of the area median income, as determined by the Federal

Housing and Urban Development (HUD) income limits in effect at the time of submittal; or

- b. Home ownership housing sold to households with incomes below 80% of the area median income, as determined by the HUD income limits in effect at the time of submittal.

2. The property owner shall enter into a contractual agreement with the City for a five-year period of affordability for each project to assure compliance with the stated intent of the project. In addition, all of the approval criteria listed below shall be met:

- a. Proof of registered non-profit status;
- b. Adequate documentation that the housing meets appropriate standards regarding household income, rent levels, sales price, location, and number of units;
- c. For rental housing, adequate documentation that such housing shall remain exclusively available to low-income households at affordable rents for the period of affordability;
- d. For home ownership housing, adequate documentation that this housing shall be sold exclusively to low-income households at an affordable sales price, and additional documentation that if the housing is resold within the period of affordability, such housing shall only be sold another low-income household at an affordable sales price.
- e. Adequate documentation that if, within the period of affordability, the use of the property is no longer for low-income housing, the owner shall pay the waived development fee from which the owner or any prior owner was exempt; and
- f. Recording of appropriate covenants and documentation to insure compliance with the requirements set forth in this Subsection.

- (b) Low income citizens. Applicable development fees required by this Code may be waived by the Director when the applicant is considered to be low income, as determined by the HUD income limits in effect at the time of submittal.

(4) After denial of an application by the Approval Authority, application resubmittal shall occur as specified in Section 3.050(7) of this Code. However the fees in effect at the time of application resubmittal shall be imposed.

- (5) For modifications or amendments to an approved application requiring Development Approval, an additional fee shall be required.
- (6) Application withdrawal. The Director shall determine the return of any fees upon a written request by the applicant based upon the following factors:
 - (a) The time and level of review that went into the preparation of the staff report; and
 - (b) City expenses prior to and during the preparation of the staff report.
 - (c) Postage fees shall not be returned in any case.”

Section 6: Section 2.020 is hereby amended to read as follows:

”ABUT. To share a common lot/parcel/property line or zoning district boundary that may or may not be separated by a street or alley.

ADJACENT. To share a common lot/parcel/property line or zoning district boundary that is separated by a street or alley.

AGRICULTURE. The cultivation of tree crops, plants, orchards, pasture, flower, berry and bush crops or the keeping, raising or breeding of livestock or poultry where permitted by the Springfield Municipal Code 1997, and on any lot or parcel with a valid farm deferral tax classification from the Oregon State Department of Revenue. Agricultural structures, as defined elsewhere in this Code, also shall be defined as “Agriculture.”

ANNEXATION AGREEMENT. A written agreement between the City and owners of land requesting annexation that states the terms, conditions and obligations of the parties to mitigate fiscal and service impacts to the City associated with the annexation and future development of the property. The agreement may be used to ensure annexation consistent with the Metro Plan.

BUILDING BOARD OF APPEALS. A board appointed in accordance with Section 2.500 to 2.522 of the Springfield Municipal Code 1997, to hear requests for alternate building methods/materials.

BUILDING ENVELOPE. That portion of a lot or parcel that has no development restrictions where the placement of driveways and structures can be established. The building envelope shall not include the area of any required setbacks, tree protection plans, conservation zones or other protected areas in a tree protection plan as authorized by a limited land use decision.

CHANGE OF USE. A change from an existing permitted to another permitted use in the applicable zoning district.

FUTURE DEVELOPMENT PLAN. A line drawing (required for some land division proposals, or building permits in the City’s urbanizable area) that include the following information: the location of future right-of-way dedications based on TransPlan, the Local Street

Plan or block length and lot size standards of the SDC; a re-division plan at minimum urban density based on the existing Metro Plan designation of the property for any lot that is large enough to further divide; and the location of hillsides, riparian areas drainage ways, jurisdictional wetlands and wooded areas showing how future development will address preservation, protection or removal.

HAZARDOUS MATERIALS. Those chemicals or substances which are physical or health hazards as defined and classified in the most recently adopted or amended Fire Code by the City, whether the materials are in usable or waste condition.

OFFICIAL ZONING MAPS. Maps delineating the boundaries of the various zoning districts within the city limits and the City's urbanizable area that are adopted by ordinance and maintained by the Planning and Development Department.

PLAN DISTRICT. A planning tool that addresses concerns unique to an area when other zoning tools cannot achieve the desired results. An area may be unique based on natural, economic or historic attributes; be subject to problems from rapid transition in land use; or contain public facilities that require specific land use regulations for their efficient operation. Plan Districts provide a means to modify zoning regulations for specific areas defined in special plans or studies. Each Plan District has its own nontransferable set of regulations. This contrasts with base zone and overlay zone provisions, which are intended to be applicable in more than one area. However, Plan Districts are not intended for small areas or individual properties.

SPRINGFIELD MUNICIPAL CODE. Springfield Municipal Code, 1997 and any amendment thereto.”

Section 7: The Article 3 Title page is hereby amended to read as follows:

“ARTICLE 3

DEVELOPMENT APPROVAL AND LAND USE DECISION PROCEDURES

3.010 DESCRIPTION OF PERMIT/DECISION-MAKING PROCEDURES

3.020 DEVELOPMENT APPROVAL - EXEMPTIONS

3.030 THE DEVELOPMENT REVIEW COMMITTEE

3.040 THE DEVELOPMENT ISSUES MEETING, THE PRE-APPLICATION REPORT AND THE PRE-SUBMITTAL MEETING

3.050 APPLICATION SUBMITTAL

3.060 RESERVED FOR FUTURE USE

3.070 REVIEW - TYPE I PROCEDURE

- 3.080 REVIEW - TYPE II PROCEDURE
- 3.090 REVIEW - TYPE III PROCEDURE
- 3.100 REVIEW - TYPE IV PROCEDURE
- 3.110 EXPEDITED LAND DIVISION"

Section 8: Section 3.010 is hereby amended to read as follows:

"3.010 DESCRIPTION OF PERMIT/DECISION-MAKING PROCEDURES.

All applications required by this Code are decided by using Type I, II, III, and IV review procedures. The procedure "type" assigned to each application governs the decision-making process for that application. Sections 3.070 through 3.100 describe the four review procedure types and list all of this Code's applications applicable to that procedure type. The Building Official shall not issue a Building Permit for which Development Approval is required and has not been obtained."

Section 9: Section 3.020, Subsections (1) and (7) are hereby amended to read as follows:

"3.020 DEVELOPMENT APPROVAL - EXEMPTIONS.

The following developments and activities do not require Type I, II, III, or IV review procedures, but shall conform to all other applicable provisions of this Code or any other applicable Code as determined by the Director.

- (1) Normal maintenance, replacement or enhancement of existing landscaping consistent with approved plans.

EXCEPTION. Development approval may be required for replacement or enhancement of landscaping as specified in Articles 25, 26, 31, 32, 34, 35 and 38 of this Code.

- (6) Excavation or filling of land in accordance with Springfield Municipal Code, 1997.

EXCEPTION:

Work in the FP Flood Plain and WG Willamette Greenway Overlay Districts or when an identified Goal 5 resource is present.

- (7) Single-family homes on lawfully created lots or parcels within the city limits and duplexes on MDR and HDR property that do not require Site Plan Review.

- (8) Single-family homes on lawfully created lots or parcels in the City's urbanizable area zoned LDR that are less than 5 acres."

Section 10: Section 3.040, Subsections (1) and (3) are hereby amended to read as follows:

"3.040 THE DEVELOPMENT ISSUES MEETING, THE PRE-APPLICATION REPORT AND THE PRE-SUBMITTAL MEETING

Pre-Application Options. The City has established three pre-application processes to assist prospective applicants through the application review process:

- (1) The Development Issues Meeting. The purpose of the Development Issues Meeting is to give a prospective applicant the opportunity to discuss a limited number of development issues with City staff. The discussions can be general or specific depending on the questions submitted with the application. The Development Issues Meeting is voluntary, unless specifically required elsewhere in this Code.
- (3) The Pre-Submittal Meeting. The purpose of the Pre-Submittal Meeting is to provide an opportunity for the property owner, applicant and the development team to meet with City staff to determine that an application is complete for processing prior to formal submittal to the City. A complete application will facilitate the review process. The Pre-Submittal Meeting will examine key elements of the application, including but not limited to: transportation, stormwater management, sanitary sewer facilities, and landscaping. The Pre-Submittal Meeting shall be mandatory for all Site Plan Review, Subdivision and Partition applications. The Pre-Submittal Meeting shall be required even if the meetings specified in Subsection (1) and (2) of this Section have been utilized. Applications shall be reviewed by the Director within 30 days of receipt to determine if they meet the requirements specified in Section 3.050 of this Article and are complete."

Section 11: Section 3.050, Subsections (4) and (6) are hereby amended to read as follows:

"3.050 APPLICATION SUBMITTAL.

- (2) All applications required by this Code shall be submitted to the Development Services Department.
- (4) When the Director determines that an application is incomplete, a written list of items shall be provided to the applicant describing the omitted information. For those incomplete applications that require a Pre-Submittal Meeting, the application shall be deemed complete by the Director upon receipt of the revised submittal that provides the missing information. For those incomplete applications that do not require a Pre-Submittal Meeting, the completeness regulations specified in ORS 227.178 shall apply.

- (6) A final decision on an application, including any local appeal, shall be granted within 120 calendar days of the Director's acceptance of a completed application as specified in ORS 227.178, unless specified elsewhere in this Code. The 120 days may be extended for a reasonable period of time at the request of the applicant."

Section 12: Section 3.070 is hereby amended to read as follows:

"3.070 TYPE I PROCEDURE (MINISTERIAL). Type I decisions shall be made by the Director without public notice and without a public hearing. Type I procedure is used when there are clear and objective approval criteria, and/or City standards that do not require the use of discretion. Type I applications shall be reviewed as described below:

- (1) Type I applications shall be submitted in accordance with the submittal requirements of Section 3.050. The Director shall determine application completeness.
- (2) The Director's decision shall address all of the applicable approval criteria and/or development standards. The Director may approve, approve with conditions, or deny the application.
- (3) The Director's decision shall be the final decision of the City. The Director's decision shall be effective on the day it is mailed or otherwise provided to the applicant.

**TABLE 3-1
TYPE I APPLICATIONS**

Application	SDC Reference
Accessory Dwelling Unit	Article 16
Determination of Non-Conforming Use Status	Article 5
Development Issues Meeting	Article 3
Drinking Water Protection Overlay District Development	Article 17
Final Site Plan Review/Development Agreement	Article 31
Final Site Plan Equivalent	Article 31
Floodplain Development	Article 27
Historic Commission Review - Minor Alterations	Article 30
Home Occupations	Article 16
Manufactured Dwelling Park Space Line Adjustment	Article 36
Manufactured Home - Temporary Residential Use	Article 36
Minimum Development Standards	Article 31
Partition/Replat Plat	Articles 34 + 42
Pre-Application Report	Article 3
Pre-Submittal Meeting	Article 3
Property Line Adjustment – Single	Article 33
Site Plan Modification – Minor	Article 31
Subdivision/Replat Plat	Articles 35 + 42
Time Extensions for conditioned improvements	Article 31

Section 13: Section 3.080 is hereby amended to read as follows:

“3.080 TYPE II PROCEDURE (ADMINISTRATIVE). Type II decisions shall be made by the Director after public notice, but without a public hearing, unless appealed. Type II applications shall be reviewed as described below, unless the Director determines that the application should be reviewed as a Type III decision due to the complexity of the application or the need for discretionary review:

- (1) Type II applications shall be submitted in accordance with the submittal requirements of Section 3.050 of this Code. The Director shall determine application completeness.
- (2) The Director shall provide mailed notice to the property owners and occupants within 300 feet of the property being reviewed and to the applicable neighborhood association. In addition, the applicant shall post one sign, approved by the Director, on the subject property. For all Type II notices, an affidavit shall be completed by staff stating that the required notice was provided to the appropriate individuals. There shall be a 14 day period, beginning from the date of the notice, for persons to provide written comments to the Director. The Type II notice shall:
 - (a) State that issues which may provide the basis for an appeal shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient information to enable the Approval Authority to respond to the issue;
 - (b) List the applicable approval criteria from this Code that apply to the decision;
 - (c) Provide the street address and/or Lane County Tax Assessor's Map and tax lot number of the subject property;
 - (d) State the place, date and time that written comments are due;
 - (e) State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;
 - (f) Include the name and phone number of the assigned planner;
 - (g) Briefly summarize the local decision making process for the limited land use decision being made;
 - (h) Include a map locating the subject property and/or a Site Plan;
 - (i) Identify the application by Department file number;
 - (j) Identify the property owner and applicant; and

- (k) Explain the nature of the application and the proposed use or uses that could be authorized by the decision.
- (3) The Director shall distribute the application to the Development Review Committee or the Historical Commission for comments.
- (4) The Director's decision shall address all of the applicable approval criteria and/or development standards and any written comments from those persons who received notice. The Director may approve, approve with conditions, or deny the application.
- (5) The Director's decision shall be the City's final decision and is effective the day it is mailed to the applicant, property owner and those persons who submitted written comments, unless appealed. The Director's decision shall include an explanation of the rights of each party to appeal the decision.
- (6) The Director's decision may be appealed within 15 calendar days to the Planning Commission or Hearing's Official in accordance with Article 15, Appeals. Any action taken to begin development prior to the expiration of the appeal period is solely at the applicant's risk and expense. The City assumes no liability or expense if the development is ultimately terminated based upon the outcome of the appeal.

**TABLE 3-2
TYPE II APPLICATIONS**

Application	SDC Reference
<u>Expansion/Modification of a Non-Conforming Use</u>	<u>Article 5</u>
<u>Expedited Land Division</u>	<u>Articles 34 + 35</u>
<u>Hillside Development Overlay District</u>	<u>Article 26</u>
<u>Historic Commission Review - Major Alteration</u>	<u>Article 30</u>
<u>HS Hospital Support Overlay District</u>	<u>Article 28</u>
<u>Interpretation</u>	<u>Article 4</u>
<u>Manufactured Dwelling Medical Hardship</u>	<u>Article 36</u>
<u>Manufactured Dwelling Park</u>	<u>Article 36</u>
<u>Minor Variance</u>	<u>Article 11</u>
<u>Partition Tentative Plan</u>	<u>Article 34</u>
<u>Partition Replat Tentative Plan</u>	<u>Article 42</u>
<u>Property Line Adjustment – Serial</u>	<u>Article 33</u>
<u>Site Plan Review</u>	<u>Article 31</u>
<u>Site Plan Review Modification – Major</u>	<u>Article 31</u>
<u>Solar Access Guarantee</u>	<u>Article 39</u>
<u>Subdivision Replat Tentative Plan</u>	<u>Article 42</u>
<u>Subdivision Tentative Plan</u>	<u>Article 35</u>
<u>Tree Felling Permit</u>	<u>Article 38</u>
<u>Vacation of Public Easements</u>	<u>Article 9</u>
<u>Wireless Telecommunications Systems Facilities</u>	<u>Article 32</u>

Section 14: Section 3.090 is hereby amended to read as follows:

“3.090 TYPE III PROCEDURE (QUASI-JUDICIAL). Type III decisions shall be made by the Planning Commission or Hearings Official after a public hearing. Type III decisions may be complex in nature and generally use discretionary approval criteria. Type III applications shall be reviewed as described below:

- (1) Type III applications shall be submitted in accordance with the submittal requirements of Section 3.050 of this Code. The Director shall determine application completeness.
- (2) The Director shall provide newspaper notice and mailed notice to the property owners and occupants within 300 feet of the property being reviewed and to the appropriate neighborhood association as specified in Section 14.030 of this Code. In addition, the applicant shall post one sign, approved by the Director on the subject property. For all Type III mailed notices, an affidavit shall be completed by staff stating that the required notice was provided to the appropriate individuals. Any person may provide written comments to the Director through the day of the public hearing or may testify in person.
- (3) The Director shall distribute the application to the Development Review Committee or the Historical Commission for comments, where applicable.
- (4) The Planning Commission or Hearings Official may approve, approve with conditions, or deny the application. The Planning Commission's or Hearings Official's decision shall include findings that address all of the applicable approval criteria and/or development standards and any written or oral testimony.
- (5) The Planning Commission's or the Hearings Official's decision shall be the City's final decision, unless appealed. The decision shall be effective the day notice is mailed to the applicant, property owner and those persons who submitted written or oral testimony. The notice of decision shall include an explanation of the rights of each party to appeal the decision.
- (6) The Planning Commission's decision may be appealed within 15 calendar days to the City Council in accordance with Article 15, Appeals. The Hearings Official's decision may be appealed within 21 calendar days to the Land Use Board of Appeals in accordance with Article 15, Appeals. Any action taken to begin development prior to the expiration of the appeal period is solely at the applicant's risk and expense. The City assumes no liability or expense if the development is ultimately terminated based upon the outcome of the appeal.

**TABLE 3-3
TYPE III APPLICATIONS**

Application	SDC Reference
<u>Appeal of a Type II Director's Decision</u>	<u>Article 15</u>
<u>Appeal of an Expedited Land Division</u>	<u>Article 34 & 35</u>
<u>Conceptual Development Plan</u>	<u>Applicable Article</u>
<u>Conceptual Development Plan Amendment</u>	<u>Applicable Article</u>
<u>Demolition of Historic Landmark</u>	<u>Article 30</u>
<u>Discretionary Use</u>	<u>Article 10</u>
<u>Establishment of Historic Landmark Inventory</u>	<u>Article 30</u>
<u>Major Variance</u>	<u>Article 11</u>
<u>Master Plan Amendment - Type II</u>	<u>Article 37</u>
<u>Master Plan Amendment - Type III</u>	<u>Article 37</u>
<u>Master Plan Amendment – Approval</u>	<u>Article 37</u>
<u>Willamette Greenway Overlay District Development</u>	<u>Article 25</u>
<u>Wireless Telecommunications Systems Facilities</u>	<u>Article 32</u>
<u>Zoning Map Amendment</u>	<u>Article 12</u>

Section 15: Section 3.100 is hereby amended to read as follows:

“3.100 TYPE IV PROCEDURE (LEGISLATIVE). Type IV decisions shall be made by the City Council after a public hearing, upon a recommendation by the Planning Commission, where applicable. Type IV decisions apply to legislative matters involving the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations which apply to entire districts, Metro Plan amendments, etc.). Type IV applications shall be reviewed as described below:

- (1) Type IV applications shall be submitted in accordance with the submittal requirements of Section 3.050 of this Code. The Director shall determine application completeness.
- (2) The Director shall provide newspaper notice and mailed notice to the property owners and occupants within 300 feet of the property being reviewed and to the appropriate neighborhood association, where applicable. In addition, the applicant shall post one sign, approved by the Director on the subject property. For all Type IV mailed notices, an affidavit shall be completed by staff stating that the required notice was provided to the appropriate individuals. Where required, the Director shall also mail notice to the Department of Land Conservation and Development in accordance with OAR 660-18-0020. Any person may provide written comments to the Director through the day of the public hearing or may testify in person.
- (3) The Director shall distribute the application to the Development Review Committee or the Historical Commission for comments, where applicable.

- (4) The Planning Commission's decision shall address all of the applicable approval criteria and/or development standards and any written or oral testimony. The Planning Commission shall make a recommendation to the City Council to approve, approve with conditions, or deny the application.
- (5) The City Council may approve, approve with conditions, or deny the application. The City Council's decision shall include findings that address all of the applicable approval criteria and/or development standards and any written or oral testimony.
- (6) The City Council's decision shall be the City's final decision either on the date the decision is made, or 30 days after the decision is made if there is no emergency clause in the adopting ordinance. Notice of decision shall be mailed to the applicant, property owner and those persons who submitted written or oral testimony. Where required, the notice of decision shall also be mailed to the Department of Land Conservation and Development in accordance with OAR 660-18-0040.

EXCEPTION: For annexations, the City Council decision is final only upon concurrence of the Lane County Local Government Boundary Commission. For Metro Plan amendments that require adoption by the City, Eugene and/or Lane County, the City Council decision is final only upon concurrence of the Lane County Commissioners and the City of Eugene, as appropriate.

- (7) The City Council's decision may be appealed within 21 calendar days to the Land Use Board of Appeals in accordance with Article 15, Appeals. Any action taken to begin development prior to the expiration of the appeal period is solely at the applicant's risk and expense. The City assumes no liability or expense if the development is ultimately terminated based upon the outcome of the appeal.

TABLE 3-4	
TYPE IV APPLICATIONS	
Application	SDC Reference
<u>Amendment of Development Code Text</u>	<u>Article 8</u>
<u>Amendment of Refinement Plan Text or Diagram</u>	<u>Article 8</u>
<u>Annexation, including extraterritorial extensions</u>	<u>Article 6</u>
<u>Appeal of Type III Decision to City Council</u>	<u>Article 15</u>
<u>Metro Plan Amendment Type I</u>	<u>Article 7</u>
<u>Metro Plan Amendment Type II</u>	<u>Article 7</u>
<u>Vacation of Plats, Public Right-of-Way, or Other Public Property</u>	<u>Article 9</u>

Section 16: Section 3.110 is hereby amended by the addition of the following section:

“3.110 EXPEDITED LAND DIVISION.

An application for and any appeal of an expedited land division is subject to the process provisions in ORS 197.360 through ORS 197.380, however, the applicable standards of Articles 34 and 35 shall apply during application submittal and processing.”

Section 17: The Article 4 Title page is hereby amended to read as follows:

“ARTICLE 4

INTERPRETATION

4.010 PURPOSE

4.015 APPLICABILITY

4.020 REVIEW

4.030 INTERPRETATION OF NEW USES

4.040 INTERPRETATION OF TERMS OR PHRASES

4.050 INTERPRETATIONS REVIEWED UNDER TYPE III PROCEDURE

4.060 EFFECT OF A DECISION”

Section 18: Section 4.010 is hereby amended to read as follows:

“4.010 PURPOSE.

The purpose of an Interpretation is to:

- (1) Consider the applicability of new uses within each zoning district that are not specifically identified in this Code;
- (2) Clarify the meaning of terms or phrases found in this Code; or
- (3) Clarify planning policy contained in this Code, adopted refinement plans or the Metro Plan, or other policy documents.”

Section 19: Section 4.015 is hereby amended by the addition of the following section:

“4.015 APPLICABILITY.

The Director shall have the initial authority and responsibility to interpret the appropriateness of new uses and the meaning of all terms and phrases in this Code. The City Council shall have the authority to interpret planning policy contained in this Code, adopted refinement plans or the Metro Plan, or other policy documents.”

Section 20: Section 4.020 is hereby amended to read as follows:

“4.020 REVIEW.

A request for an Interpretation of this Code concerning new uses and terms and phrases shall be reviewed under Type II procedure, unless the Director determines that the application should be reviewed as a Type III decision by the Planning Commission or Hearings Official due to the complexity of the application or the need for discretionary review. Planning policy issues that include, but are not limited to this Code, adopted refinement plans or the Metro Plan shall be reviewed under Type IV procedure.”

Section 21: Section 4.030 is hereby amended to read as follows:

“4.030 INTERPRETATION OF NEW USES.

- (1) Application Submittal. The request shall be submitted in accordance with Section 3.050 of this Code and shall include information on the following characteristics of the new use:
 - (a) A description of proposed structures and the operational characteristics of the new use.
 - (b) Where commercial and industrial uses are involved, the following topics shall be considered:
 1. Emission of smoke, dust, fumes, vapors, odors, and gases;
 2. Use, storage and/or disposal of flammable or explosive materials;
 3. Glare;
 4. Use of hazardous materials that may impact groundwater quality;
 5. Noise;
 6. The potential for ground vibration; and
 7. The amount and type of traffic to be generated, parking required and hours of operation.

- (b) Where residential uses are involved, the following topics shall be considered:
 - 1. Density; and
 - 2. The amount and type of traffic to be generated and parking required.
- (2) Criteria of Approval. A new use may be considered to be a permitted use when, after consultation with the City Attorney or other City staff, the Director determines that the new use:
 - (a) Has the characteristics of one or more use categories currently listed in the applicable zoning district;
 - (b) Is similar to other permitted uses in operational characteristics, including but not limited to, traffic generation, parking or density; and
 - (c) Is consistent with all land use policies in this Code which are applicable to the particular zoning district.”

Section 22: Section 4.040 is hereby amended by the addition of the following section:

“4.040 INTERPRETATION OF TERMS OR PHRASES.

- (1) Application Submittal. The request shall be submitted in accordance with Section 3.050 of this Code and include:
 - (a) The particular term or phrase requiring Interpretation; and
 - (b) The applicant’s statement describing what the particular term or phrase means.
- (2) Criteria of Approval. The Director shall interpret a term or phrase, after consultation with the City Attorney and City staff. The meaning of any term or phrase:
 - (a) Shall be consistent with the purpose and intent of this Code, including any Article or Section to which the term or phrase is related;
 - (b) May be determined by legislative history, including staff reports and public hearing tapes and minutes; and
 - (c) Shall be consistent with any dictionary of common usage, if criteria (a) and/or (b) cannot be applied.”

Section 23: Section 4.050 is hereby amended by the addition of the following section:

5.050 ABANDONMENT

5.060 LOTS OF RECORD

5.070 VESTED RIGHTS – COMPLETION OF A NON-CONFORMING BUILDING OR STRUCTURE.

5.080 BALLOT MEASURE 37 DEMANDS”

Section 26: Section 5.010 is hereby amended to read as follows:

“5.010 PURPOSE.

(1) This Article:

(a) Provides for the regulation of legally created: non-conforming uses; buildings and/or structures; and lots of record; and

(b) Specifies those circumstances and conditions under which a non-conforming situation may be permitted to continue and/or expand.

(2) Approval of a Variance in accordance with Article 11 of this Code, by the Approval Authority, shall not be considered to make a use, building or structure, or lot of record non-conforming.”

Section 27: Section 5.015 is hereby amended by the addition of the following section:

“5.015 APPLICABILITY.

The procedures in this Article shall apply to all properties within the city limits and within the City’s urbanizable area.”

Section 28: Section 5.020 is hereby amended to read as follows:

“5.020 REVIEW.

(1) A request for non-conforming use status shall be reviewed under Type I procedure.

(2) A request for an expansion or modification of a non-conforming use and/or the expansion of a non-conforming building or structure shall be reviewed under Type II procedure, unless the Director determines that the application should be reviewed as a Type III decision by the Planning Commission or Hearings Official due to the complexity of the application or the need for discretionary review.

(3) A complete application together with all required materials shall be submitted to the Director prior to the review of the request in accordance with Section 3.050, Application Submittal.”

“4.050 INTERPRETATIONS REVIEWED UNDER TYPE III AND TYPE IV PROCEDURE.

- (1) Interpretations that the Director may elevate from a Type II to a Type III review shall follow the approval criteria specified in either Section 4.030 or 4.040 of this Article depending upon the nature of the interpretation requested. In addition, the Planning Commission or Hearings Official shall consider the Metro Plan and any refinement plans or other policy documents of the City, where applicable.
- (2) The Planning Commission or Hearings Official, upon a finding in support of a particular Interpretation, shall make a decision and may impose reasonable conditions to ensure compliance with the approval criteria.
- (3) Where there is an Interpretation of planning policy, the matter shall be forwarded to the City Council:
 - (a) For consideration on the record;
 - (b) To consider appropriate revisions to this Code to resolve the question; or
 - (c) To revise or supplement a policy issue.”

Section 24: Section 4.060 is hereby amended by the addition of the following section:

“4.060 EFFECT OF A DECISION.

An approved Interpretation shall be effective on the date of approval, unless appealed. An approved Interpretation may be superseded by a subsequent Interpretation or a Code amendment.”

Section 25: The Article 5 Title page is hereby amended to read as follows:

“ARTICLE 5

NON-CONFORMING USES

5.010 PURPOSE

5.015 APPLICABILITY

5.020 REVIEW

5.025 DETERMINATION OF NON-CONFORMING USE STATUS

5.030 CONTINUANCE

5.040 EXPANSION OR MODIFICATION

Section 29: Section 5.025 is hereby amended by the addition of the following section:

“5.025 DETERMINATION OF NON-CONFORMING USE STATUS.

A non-conforming use is an activity involving land, buildings, and/or structures for purposes which were legally established prior to the effective date of this Code, but which do not fully comply with the current development regulations, or subsequent amendments to this Code. These activities would not be permitted by this Code as a new use in the zone in which it is currently located. The Director shall make a determination regarding the legal status of a non-conforming use using the following approval criteria. The burden of proof shall be upon the property owner.

- (1) The applicant shall submit any of the following items as proof that the use was permitted by this Code at the time it was adopted or amended:
 - (a) Copies of building and/or land use permits issued at the time the use was established; and/or
 - (b) Copies of zoning code provisions and/or maps.
- (2) The applicant shall submit any of the following as proof that the use has been in operation over time and has not been abandoned as specified in Section 5.050 of this Article:
 - (a) Utility bills;
 - (b) Income tax records;
 - (c) Business licenses;
 - (d) Listings in telephone, business directories;
 - (e) Advertisements in dated publications, e.g., trade magazines;
 - (f) Building, land use or development permits and/or
 - (g) Any other information which the applicant believes is relevant.”

Section 30: Section 5.030 is hereby amended to read as follows:

“5.030 CONTINUANCE.

A non-conforming building, structure or use may continue so long as it remains otherwise lawful as specified below:

- (1) A non-conforming building or structure, which:

- (a) Requires routine maintenance and repairs may be repaired in compliance with the Building Safety Codes;
 - (b) Is determined to be substandard by the Building Official may be restored to a safe condition in compliance with the Building Safety Codes; or
 - (c) Suffers any damage may be restored to its original condition, provided development approval is obtained, where applicable, and a Building Permit is issued within the time line specified in Section 5.050 of this Article.
- (2) A non-conforming use within a building or structure discussed in Subsection (1) of this Section may continue until abandoned as specified in Section 5.050 of this Article.
 - (3) Existing single-wide manufactured dwellings on individual lots in Glenwood and in the Adams Plat area may be replaced with a single-wide manufactured dwelling of approximately the same size within the time line specified in Section 5.050 of this Article.
 - (4) Agriculture and agricultural uses and structures on land in Glenwood permitted under Section 9.384 of the Eugene Code prior to the adoption of the Glenwood Refinement Plan by the City, may continue until the land is annexed to the City at the request of the property owner.”

Section 31: Section 5.040 is hereby amended to read as follows:

“5.040 EXPANSION OR MODIFICATION.

An expansion or modification of a non-conforming use and/or the expansion of a non-conforming building or structure resulting in an increased impact upon adjacent properties shall be considered an expansion of a non-conforming use. Approval may be granted only when the Director determines that there will be no significant impact of the expansion upon adjacent properties. The Director may require conditions of approval to mitigate a significant impact. The applicant shall demonstrate all of the following applicable approval criteria have been met:

- (1) For residential zones, the expansion shall not lessen the residential character of the residential zone taking into account factors, including but not limited to:
 - (a) Building scale, placement, and facade;
 - (b) On-site parking placement;
 - (c) Vehicle trips to the site and impact on surrounding on-street parking;
 - (d) Buffering and the potential loss of privacy to abutting residential uses; and
 - (e) On-site lighting.

- (2) For all other zones other than residential, there shall be no significant impact compared to the current use or building or structure on the surrounding area taking into account factors, including but not limited to:
- (a) The hours of operation;
 - (b) An increase in building size or height;
 - (c) On-site parking placement;
 - (d) Vehicle trips to the site and impact on surrounding on-street parking;
 - (e) Noise, vibration, dust, odor, fumes, glare, smoke and on-site lighting; and
 - (f) The amount, location, and nature of any outside displays, storage, or activities.
- (3) **EXCEPTIONS:** The following situations shall not be considered to be an expansion or modification of a non-conforming use:
- (a) An existing building or structure conforming to use, but non-conforming as to height, setback and other dimensional standards, may be expanded or modified provided the expansion or modification does not result in an increased violation of this Code.
 - (b) The replacement of a single-wide manufactured dwelling as may be permitted in Section 5.030(3) of this Article.”

Section 32: Section 5.050 is hereby amended to read as follows:

“5.050 ABANDONMENT.

- (1) Any non-conforming use which is discontinued for 6 months or more, or any non-conforming building or structure which is not occupied or used for 6 months or more, shall be deemed abandoned and lose its status as a non-conforming use, building or structure on:
- (a) The date the building or structure is vacated; and/or
 - (b) The date the use ceases.
- (2) Any subsequent use or development shall be in compliance with the provisions of this Code.”

Section 33: Section 5.060 is hereby amended to read as follows:

“5.060 LOTS OF RECORD.

A lot of record is any legally approved lot which, at the time it was created, fully complied with all applicable laws and ordinances of the City, or Lane County for those lots within the City’s urbanizable area, but which is now non-conforming because the lot does not fully comply with the current requirements of this Code or any amendment to this Code.

- (1) Any lot of record that is non-conforming due to area, width and/or depth shall be a buildable lot, provided that the development standards of this Code can be met. For example, if a setback standard cannot be met due to lot area, a Variance to the setback standards of the applicable zoning district as specified in Article 11 of this Code shall be required prior to the issuance of a Building Permit.
- (2) Any lot of record that is non-conforming due to a public facility deficiency, including but not limited to, unimproved streets, lack of sidewalks, sanitary sewers or storm water facilities may be further developed in accordance with this Code. However, the public facility deficiency shall be addressed at the time of development.
- (3) **EXCEPTION:** The dedication of right-of-way during the development review process shall not be considered to create a non-conforming lot due to lot size or dimension.”

Section 34: Section 5.070 is hereby deleted and replaced by the addition of the following language:

“5.070 VESTED RIGHTS – COMPLETION OF A NON-CONFORMING BUILDING OR STRUCTURE.

- (1) A building or structure that has received a valid Building Permit prior to the adoption of this Code or subsequent amendments to it may be completed in accordance with the terms of that Building Permit and used for the purpose for which it was permitted. The structure and its use shall then be considered non-conforming. The burden of proof shall be on the applicant to demonstrate that the structure has received a valid Building Permit.
- (2) If a Building Permit is revoked by the Building Official or for any reason becomes void, all rights granted by this Section are terminated and the project shall thereafter be required to conform to all the provisions of this Code.”

Section 35: Section 5.080 is hereby amended by the addition of the following section:

“5.080 BALLOT MEASURE 37 DEMANDS.

Notwithstanding the foregoing provisions and regulations of this Article, any waivers to the standards of this Code granted by the City Council in response to a Demand for compensation, as may be permitted in accordance with the Springfield Municipal Code 1997, shall supersede the provisions and regulations of this Article and shall be transferable to a future purchaser of the property to the extent required by ORS 197.”

Section 36: The Article 6 Title page is hereby amended to read as follows:

“ARTICLE 6

ANNEXATIONS

6.010 PURPOSE.

6.015 APPLICABILITY

6.020 REVIEW

6.030 DEVELOPMENT ISSUES MEETING

6.040 ANNEXATION INITIATION AND APPLICATION SUBMITAL

6.050 NOTICE

6.060 FISCAL IMPACT AND ANNEXATION AGREEMENT

6.070 CRITERIA OF APPROVAL

6.080 SUBMITTAL OF THE COUNCIL’S RESOLUTION TO THE LCLGBC

6.090 ZONING

6.100 NOTIFICATION OF UTILITIES

6.110 WITHDRAWAL FROM SPECIAL SERVICE DISTRICTS”

Section 37: Section 6.010 is hereby amended to read as follows:

“6.010 PURPOSE.

The purpose of this Article is to:

- (1) Clearly define the process for Annexation of territory to the City; and
- (2) Provide a process for the withdrawal of territory from special service districts.”

Section 38: Section 6.015 is hereby amended by the addition of the following section:

“6.015 APPLICABILITY.

This Article applies to any Annexation of territory to the City that is within the City’s urbanizable area.”

discretion of the City. Where public facilities and services are available and can be extended, the applicant shall be required to do so.”

Section 44: Section 6.070 is hereby amended to read as follows:

“6.070 CRITERIA OF APPROVAL.

The City Council shall approve, modify or deny any Annexation application based upon the following approval criteria:

- (1) The territory proposed to be annexed is within the City’s urbanizable area;
- (2) Key urban services and facilities can be provided to the area in an orderly and efficient manner;
- (3) There will be a logical area and time within which to deliver urban services and facilities; and
- (4) Where applicable, fiscal impacts to the City have been mitigated through an Annexation Agreement or other mechanism approved by the City Council.”

Section 45: Section 6.080 is hereby amended by the addition of the following section:

“6.080 SUBMITTAL OF THE COUNCIL’S RESOLUTION TO THE LCLGBC.

The City Council shall adopt by resolution any Annexation recommendation. The Director shall forward all City Annexation recommendations to the LCLGBC.”

Section 46: Section 6.090 is hereby amended by the addition of the following section:

“6.090 ZONING.

Currently, all Lane County land within the City’s urbanizable area is zoned in compliance with the zoning districts listed in this Code and is designated in compliance with the Metro Plan. Land within the urbanizable area is distinguished from land within the city limits by the addition of the Urban Fringe (UF-10) Overlay District established in Article 29 of this Code. Upon approval of the Annexation by the LCLGBC:

- (1) The UF-10 Overlay District designation shall cease to apply automatically; and
- (2) The current zoning shall apply, unless a zoning map amendment has been submitted and approved by the City.”

Section 47: Section 6.100 is hereby amended by the addition of the following section:

Section 39: Section 6.020 is hereby amended to read as follows:

“6.020 REVIEW.

- (1) Annexation applications shall be reviewed under Type IV procedure, without Planning Commission consideration.
- (2) The Annexation of all territory to the City requires final action by the Lane County Local Government Boundary Commission (LCLGBC) in accordance with ORS 199.425.”

Section 40: Section 6.030 is hereby amended to read as follows:

“6.030 DEVELOPMENT ISSUES MEETING.

The applicant shall schedule a Development Issues Meeting (DIM) prior to filing an Annexation application, unless waived by the Director. The DIM will allow staff to inform the applicant of the Annexation application submittal requirements specified in this Article.”

Section 41: Section 6.040 is amended to read as follows:

“6.040 ANNEXATION INITIATION AND APPLICATION SUBMITAL.

- (1) Annexation of territory to the City may be initiated either by a citizen or the City Council.
- (2) All Annexation applications shall be submitted to the Development Services Department in accordance with Section 3.050 of this Code and shall include information to address the approval criteria specified in Section 6.070 of this Article.”

Section 42: Section 6.050 is hereby amended to read as follows:

“6.050 NOTICE.

Newspaper notice shall be required as specified in Section 14.030(2) of this Code.”

Section 43: Section 6.060 is hereby amended to read as follows:

“6.060 FISCAL IMPACT AND ANNEXATION AGREEMENT.

- (1) The Director shall utilize the information submitted by the applicant to determine the fiscal impact of the proposed Annexation on the City and whether the applicant has addressed the approval criteria in Section 6.070 of this Article.
- (2) Fiscal impacts may be resolved by using an Annexation Agreement. The Annexation Agreement shall address, at a minimum, connection to and extension of public facilities and services. Connection to public facilities and services shall be at the

“6.100 NOTIFICATION OF UTILITIES.

The City Recorder shall provide notice by certified mail to all public utility providers operating in the City within 10 days of receipt of the LCLGBC action approving the Annexation. The notice shall contain each site address as recorded on the Lane County assessment and tax rolls, a legal description, a map of the boundary change and a copy of the LCLGBC action.”

Section 48: Section 6.110 is hereby amended by the addition of the following section:

“6.110 WITHDRAWAL FROM SPECIAL SERVICE DISTRICTS.

Withdrawal from a special service district is not automatic when annexed territory remains within that district. The Director shall instruct the City Council to consider withdrawal from a special service district in accordance with ORS 222 upon receipt of the LCLGBC action approving the Annexation, and after the effective date of the Annexation.”

Section 49: The Article 9 Title page is hereby amended to read as follows:

“ARTICLE 9

VACATIONS

9.010 PURPOSE

9.020 APPLICABILITY

9.030 REVIEW

9.040 APPLICATION SUBMITTAL

9.050 NOTICE

9.060 CRITERIA OF APPROVAL

9.070 CONDITIONS OF APPROVAL”

Section 50: Section 9.010 is hereby amended to read as follows:

“9.010 PURPOSE.

As land develops, and as land uses change over time, certain public property and easements may no longer be necessary or may need to be relocated. The reconfiguration of Subdivisions and Partitions may also be desired. This Code, the Springfield Municipal Code Sections 3.200 through 3.206 and ORS 271.080 et seq. provide procedures, requirements, and approval criteria for Vacations.”

Section 51: Section 9.020 is hereby amended to read as follows:

“9.020 APPLICABILITY.

- (1) The Vacation process shall apply to public rights-of-way, other public land, public utility and other easements and recorded Subdivision and Partition Plats under the jurisdiction of the City.
- (2) The City’s Vacation process shall not apply to:
 - (a) Lands over which Lane County or the State have jurisdiction such as public rights-of-way or Subdivision and Partition Plats within the City’s urbanizable area; or
 - (b) Lane County streets and State highways within the city limits where jurisdiction has not been transferred to the City.”

Section 52: Section 9.030 is hereby amended to read as follows:

“9.030 REVIEW.

- (1) The Vacation of all public easements shall be reviewed under Type II procedure.

EXCEPTION: Public utility easements within Partition and Subdivision Plats may also be realigned, reduced in width or omitted as part of the Replat process as specified in Article 42 of this Code.

- (2) The Vacation of any public rights-of-way, any other public land as specified in ORS 271.080 et seq., and the Vacation of Partition and Subdivision Plats in part or in their entirety, including public rights-of-way and public utility easements located within the Plat, shall be reviewed under Type IV procedure.”

Section 53: Section 9.040 is hereby amended by the addition of the following section:

“9.040 APPLICATION SUBMITTAL.

- (1) Vacation of public rights-of-way and public easements may be applied for by property owners, public agencies, or initiated by the City Council.
- (2) Vacation of Partition and Subdivision Plats may be applied for by property owners.
- (3) A complete application together with all required materials shall be submitted to the Director prior to the review of the request as specified in Section 3.050, Application Submittal. The application shall include:
 - (a) A legal description of the public rights-of-way, easement or plat to be vacated prepared by an Oregon Licensed Land Surveyor or other professional approved by the Director;

- (b) The reason for the Vacation;
 - (c) The proposed use of the property after Vacation;
 - (d) For citizen initiated Vacations of public rights-of-way or Partition and Subdivision Plats, the petition of affected property owners;
 - (e) A map prepared by an Oregon Licensed Land Surveyor or other professional approved by the Director of the area proposed to be vacated. The map shall show:
 1. The date, north arrow, and standard scale;
 2. The Assessor's Map and Tax Lot numbers of the affected properties and adjacent properties;
 3. A Vicinity Map on the Site Plan (Vicinity Map does not need to be to scale);
 4. All adjacent streets including street name, alleys, and accessways, and right-of-way and paving widths;
 5. All dimensions of existing public utility easements and any other areas restricting use of the parcels, such as conservation areas, slope easements, access easements, etc.;
 6. Existing dimensions and square footage of the lots/parcels involved;
 7. Proposed dimensions and square footage of the lots/parcels involved (applies to Vacations of undeveloped Subdivision Plats and right-of-way Vacations);
 8. For public easement and right-of-way Vacations, clearly show dimensions of entire easement or right-of-way on or adjacent to the subject lots/parcels. Also clearly show dimensions of that portion proposed for Vacation, including square footage; and
 9. For right-of-way Vacations, demonstrate compliance with the boundary requirements of ORS 271.080 et seq.
 10. The legal description of the easement, right-of-way or Plat, or portion thereof, proposed to be vacated.
- (4) Where public easements are proposed to be vacated, a notarized letter of concurrence with the Vacation from all utility providers other than the City (telephone, cable TV, electric, water and gas), shall be submitted with the application."

Section 54: Section 9.050 is hereby amended by the addition of the following section:

“9.050 NOTICE.

- (1) Notice for Vacations reviewed under Type II procedure shall be as specified in Section 3.080(2) of this Code.
- (2) Notice for Vacations reviewed under Type IV procedure shall be as specified in Section 14.030(2) of this Code.

EXCEPTIONS:

- (a) Newspaper notice shall be published once each week for two consecutive weeks prior to the public hearing. The first day of publication and the posting shall be not less than 14 days before the hearing.
- (b) The applicant shall post two signs, approved by the Director on the subject property, or if right-of-way is proposed to be vacated, the notice shall be attached to a telephone or other similar utility pole within the Vacation area.
- (3) Notice for all Vacations shall be mailed to all utility providers providing service within the city limits and the City’s urbanizable area.”

Section 55: Section 9.060 is hereby amended by the addition of the following section:

“9.060 CRITERIA OF APPROVAL.

- (1) For the Vacation of public utility easements, the Director shall approve, approve with conditions, or deny the application. The application shall be approved if the Vacation is found to be consistent with the following criteria:
 - (a) There are no present or future services, facilities, or utilities deemed to be necessary by a utility provider and the easement is not necessary; or
 - (b) If the utility provider deems the easement to be necessary, public services, facilities, or utilities can be extended in an orderly and efficient manner in an alternate location.
- (2) Where the proposed Vacation of public rights-of-way, other City property, or Partition or Subdivision Plats is reviewed under Type IV procedure, the City Council shall approve, approve with conditions, or deny the Vacation application. The application shall be approved if the Vacation is found to be consistent with the following approval criteria.
 - (a) The Vacation shall be in conformance with the Metro Plan, TransPlan, the Conceptual Local Street Map and adopted Functional Plans, and applicable Refinement Plan diagram, Plan District map, or Conceptual Development Plan;

10.030 CRITERIA OF APPROVAL

10.035 CRITERIA FOR MULTI-UNIT DEVELOPMENTS

10.040 CONDITIONS OF APPROVAL”

Section 58: Section 10.010 is hereby amended to read as follows:

“10.010 PURPOSE.

There are certain uses which, due to the nature of their impacts on nearby uses and public facilities, require a case-by-case review and analysis at the Planning Commission or Hearings Official level. These impacts, include but are not limited to, the size of the area required for the full development of a proposed use, the nature of the traffic problems incidental to operation of the uses, and the effect such uses have on any nearby uses. To mitigate these and other possible impacts, conditions may be applied to address potential adverse effects associated with the proposed use. This Article provides standards and procedures under which a Discretionary Use may be permitted, expanded or altered.”

Section 59: Section 10.013 is hereby amended by the addition of the following section:

“10.013 APPLICABILITY.

This Article shall apply to all Discretionary Uses identified in the various zoning and overlay districts in this Code, both within the city limits and Springfield’s urban services area.”

Section 60: Section 10.015 is hereby amended by the addition of the following section:

“10.015 SITING OF SCHOOLS.

Schools are identified in the Metro Plan as key urban services, which shall be provided in an efficient and logical manner to keep pace with demand. Schools may be located in any zone that permits schools. The siting of public and private elementary, middle and high schools shall require Discretionary Use approval, unless exempted elsewhere in this Code.”

Section 61: Section 10.020, is hereby amended to read as follows:

“10.020 REVIEW.

- (1) New Discretionary Uses shall be reviewed under Type III procedure.
- (2) Expansions and alterations shall be reviewed under:
 - (a) Type I or Type II Site Plan Modification procedures as specified in Section 31.100, if the Director determines that there will be no adverse impact on adjoining land uses; or

- (b) Type III Discretionary review, if the Director determines that there may be an adverse impact on adjoining land uses.
- (3) A complete application together with all required materials shall be submitted to the Director prior to the review of the request as specified in Section 3.050, Application Submittal.”

Section 62: Section 10.030 is hereby amended to read as follows:

“10.030 CRITERIA OF APPROVAL.

A Discretionary Use may be approved only if the Planning Commission or Hearings Official finds that the proposal conforms with the Site Plan Review approval criteria specified in Section 31.060 of this Code, where applicable, and the following approval criteria:

- (1) The proposed use conforms with applicable:
 - (a) Provisions of the Metro Plan;
 - (b) Refinement plans;
 - (c) Plan District standards;
 - (d) Conceptual Development Plans or
 - (e) Special use standards in this Code;
- (2) The site is suitable for the proposed use, considering:
 - (a) The location, size, design and operating characteristics of the use (operating characteristics include but are not limited to parking, traffic, noise, vibration, emissions, light, glare, odor, dust, visibility, safety, and aesthetic considerations, where applicable);
 - (b). Adequate and safe circulation exists for vehicular access to and from the proposed site, and on-site circulation and emergency response as well as pedestrian, bicycle and transit circulation;
 - (c) The natural and physical features of the site, including but not limited to, riparian areas, regulated wetlands, natural stormwater management/drainage areas and wooded areas shall be adequately considered in the project design; and
 - (d) Adequate public facilities and services are available, including but not limited to, utilities, streets, storm drainage facilities, sanitary sewer and other public infrastructure.

- (3) Any adverse effects of the proposed use on adjacent properties and on the public can be mitigated through the:
- (a) Application of other Code standards, for example buffering from less intensive uses, increased setbacks, etc.;
 - (b) Site Plan Review conditions of approval, where applicable;
 - (c) Other conditions of approval that may be required by the Approval Authority; and/or
 - (d) A proposal by the applicant that meets or exceeds the cited Code standards and/or conditions of approval.

EXCEPTION:

Wireless telecommunications systems facilities requiring Discretionary Use approval shall be exempt from Subsections (1)-(3) above, but shall comply with the approval criteria specified in Section 32.130 of this Code.”

Section 63: Section 10.040 is hereby amended to read as follows:

“10.040 CONDITIONS OF APPROVAL.

The Approval Authority may attach any conditions as may be reasonably necessary in order to allow the Discretionary Use approval to be granted.”

Section 64: The Article 11 Title page is hereby amended to read as follows:

“ARTICLE 11

VARIANCES

11.010 PURPOSE

11.013 APPLICABILITY

11.015 PROHIBITED VARIANCES

11.020 REVIEW

11.030 MINOR VARIANCES – CRITERIA OF APPROVAL

11.033 MAJOR VARIANCES – CRITERIA OF APPROVAL

11.035 CRITERIA FOR MULTI-UNIT DESIGN STANDARDS

11.040 CONDITIONS OF APPROVAL”

Section 65: Section 11.010 is hereby amended to read as follows:

“11.010 PURPOSE.

It is the intent of this Article that a Variance may be granted when the strict application of certain provisions of this Code create a unique circumstance caused by unusual conditions related to a specific property, building or structure. An authorized Variance is not personal to the applicant, but runs with the land and/or use, as applicable. The granting of a Variance does not create a non-conforming use, lot or parcel.”

Section 66: Section 11.013 is hereby amended by the addition of the following section:

“11.013 APPLICABILITY.

The Variance provisions apply:

- (1) To buildings, structures and lots/parcels;
- (2) Within in the city limits and the City’s urbanizable area.”

Section 67: Section 11.015 is hereby amended by the addition of the following section:

“11.015 PROHIBITED VARIANCES.

No Variance shall be granted that:

- (1) Authorizes a use that is not permitted in the applicable zoning, overlay or Plan District;
- (2) Conflicts with adopted Fire and Life Safety Codes or Building Safety Codes; and/or
- (3) Varies from state or federally mandated regulations, unless otherwise specified in this Code.

EXCEPTION: Floodplain Variances are processed as specified in Article 27 of this Code.”

Section 68: Section 11.020 is hereby amended to read as follows:

“11.020 REVIEW.

- (1) A Minor Variance shall be reviewed under Type II procedure.
- (2) A Major Variance shall be reviewed under Type III procedure.

- (3) A complete application together with all required materials shall be submitted to the Director prior to the review of the request as specified in Section 3.050, Application Submittal.”

Section 69: Section 11.030 is hereby amended to read as follows:

“11.030 MINOR VARIANCES – CRITERIA OF APPROVAL.

- (1) Minor Variances are limited to certain specific numeric standards in this Code. The Director may adjust the following numeric standards by up to 30 percent as a Minor Variance:
- (a) Building setbacks;
 - (b) Lot/parcel dimensions that do not reduce the required lot/parcel size below the minimum required in the applicable zoning district;
 - (c) Building height;
 - (d) Lot/parcel coverage outside of the HD Overlay District as described in Section 26.030 of this Code; and
 - (e) Parking standards on certain infill lots.
- (2) If the Minor Variance involves a setback, the plot plan shall be prepared by an Oregon registered surveyor.
- (3) The Director may consider additional categories of Minor Variance, on a case by case basis, without the need for an Interpretation, as specified in Article 4 of this Code.
- (4) The Director shall approve the Minor Variance if the applicant demonstrates compliance with all of the applicable approval criteria:
- (a) Locational or dimensional problems have been identified that can be resolved by a Minor Variance;
 - (b) The request is the minimum necessary to alleviate the identified dimensional or locational problem;
 - (c) Where applicable, the request shall result in the preservation of on-site trees 5” dba and above;
 - (d) The request shall not impede adequate emergency access to the site;
 - (e) The request shall not unreasonably adversely impact public or private easements; and

- (f) The request shall not unreasonably limit solar access standards for abutting properties. In order to meet this criterion, the Director may require that the building or structure be placed as close to the south property line as possible.
- (g) In addition to the applicable approval criteria specified in Subsections (a)-(f) above, the following approval criteria shall also apply to a request involving parking reductions on infill lots in the Commercial and Industrial Districts when there is a change of use, addition or expansion that requires Site Plan Review Modification. The Minor Variance for parking reductions shall not apply to MDS applications as specified in Section 31.010(4)(d) of this Code:
 - 1. The individual characteristics of the proposed use require more parking than is generally required for a use of this type;
 - 2. The Minor Variance for a parking reduction shall run with the use or uses to which it pertains and not run with the land itself;
 - 3. The need for additional parking cannot reasonably be met through provision of on-street parking or shared parking with adjacent or nearby uses because:
 - a. The owners of abutting properties cannot agree to execute a joint access/parking agreement, and/or
 - b. The Public Works Director has determined the proposed shared parking area is a safety hazard because it is located too far from the proposed use;
 - 4. The request shall not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic on the streets.
 - 5. The property otherwise complies with the regulations of this Code.”

Section 70: Section 11.033 is hereby amended by the addition of the following section:

“11.033 CRITERIA OF APPROVAL FOR MAJOR VARIANCES.

Major Variances involve discretionary decision-making and apply to those Variances that are not Minor Variances as specified in Section 11.030 of this Article. The Approval Authority may approve or approve with conditions a Major Variance on finding that all of the following approval criteria are satisfied, otherwise the request shall be denied:

- (1) An unusual condition exists that is unique to: a lot, building or structure; lot size, shape or topography; the location or size of physical improvements; or other similar

circumstances not anticipated by this Code related to the property that would deprive the owner of rights commonly enjoyed by other property owners similarly situated in the same zoning district;

- (2) The Variance shall not be inconsistent with the development standards of this Code or of any applicable Refinement Plan diagram, Plan District map, Conceptual Development Plan or other applicable plans or studies;
- (3) The Variance shall have no significant adverse affects on other properties in the same zoning district and/or vicinity, or the request can be conditioned so that there are no significant adverse affects;
- (4) The unusual condition described in Subsection (1) of this Section shall not; arise from a previous Code violation or rely only on loss of profit or financial need.
- (5) The Variance requested is the minimum necessary to alleviate the unusual condition.”

Section 71: Section 11.040 is hereby amended to read as follows:

“11.040 CONDITIONS OF APPROVAL.

The Approval Authority may attach conditions as may be reasonably necessary in order to allow the Minor or Major Variance to be granted.”

Section 72: The Article 12 Title page is hereby amended to read as follows:

“ARTICLE 12

OFFICIAL ZONING MAP AMENDMENTS

12.010 PURPOSE

12.015 APPLICABILITY

12.020 REVIEW

12.030 CRITERIA

12.040 CONDITIONS OF APPROVAL

12.050 MOBILE HOME PARKS”

Section 73: The Article title and Section 12.010 is hereby amended to read as follows:

“ARTICLE 12

OFFICIAL ZONING MAP AMENDMENTS

12.010 PURPOSE.

The purpose of this Article is to provide standards and procedures for legislative and quasi-judicial amendments to the Official Zoning Maps.”

Section 74: Section 12.015 is hereby amended by the addition of the following section:

“12.015 APPLICABILITY.

The provisions of this Article apply to all lots and parcels within the city limits and the City’s urbanizable area.”

Section 75: Section 12.020 is hereby amended to read as follows:

“12.020 REVIEW.

(1) Official Zoning Map amendments may be initiated by the Director, the Planning Commission, the Hearings Official, the City Council or a property owner. Zoning Map amendments shall be reviewed as follows:

(a) Legislative Zoning Map amendments involve broad public policy decisions that apply to other than an individual property owner, generally affecting a large area and/or require a concurrent Metro Plan diagram amendment as specified in Article 7 of this Code. Legislative Zoning Map amendments shall be reviewed using Type IV procedure.

1. Metro Plan diagram amendment determination. An amendment to the Metro Plan diagram shall be required if the proposed Zoning Map amendment is not consistent with the Metro Plan diagram. Both amendments may be processed concurrently.

2. Transportation Planning Rule Compliance. Where applicable, legislative Zoning Map amendments shall be reviewed to determine whether the application significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060. In this case a Traffic Impact Study shall be submitted in accordance with Section 32.020(1)(c) of this Code.

(b) Quasi-judicial Zoning Map amendments involve the application of existing policy to a specific factual setting, generally affecting a single or limited group of properties and may or may not include a Metro Plan diagram amendment. Quasi-judicial Zoning Map amendments shall be reviewed

using Type III procedure, unless a Metro Plan diagram amendment is required. In this case, the Quasi-judicial Zoning Map amendment shall be raised to a Type IV review.

- (2) A complete application together with all required materials shall be submitted to the Director prior to the review of the request as specified in Section 3.050, Application Submittal.”

Section 76: Section 12.030 is hereby amended to read as follows:

“12.030 CRITERIA.

- (1) Quasi-judicial Zoning Map amendments. The Planning Commission or Hearings Official may approve, approve with conditions or deny a quasi-judicial Zoning Map amendment based upon approval criteria (3)(a)-(c), below. The Planning Commission or Hearings Official shall make the final local decision on all quasi-judicial Zoning map amendments that do not include a Metro Plan diagram amendment.
- (2) Legislative Zoning Map amendments and quasi-judicial Zoning Map amendments raised to a Type IV review. The Planning Commission or Hearings Official may make a recommendation to the City Council to approve, approve with conditions or deny Zoning Map amendment and Metro Plan diagram amendment based upon approval criteria (3)(a)-(d), below. The City Council shall make the final local decision on all Zoning Map amendments involving a Metro Plan diagram amendment.
- (3) Zoning Map amendment criteria of approval:
 - (a) Consistency with applicable Metro Plan policies and the Metro Plan diagram;
 - (b) Consistency with applicable Refinement Plans, Plan District maps, Conceptual Development Plans and functional plans; and
 - (c) The property is presently provided with adequate public facilities, services and transportation networks to support the use, or these facilities, services and transportation networks are planned to be provided concurrently with the development of the property.
 - (d) Legislative Zoning Map amendments that involve a Metro Plan Diagram amendment shall:
 1. Meet the approval criteria specified in Article 7 of this Code; and
 2. Comply with Oregon Administrative Rule (OAR) 660-012-0060, where applicable.”

Section 77: Section 12.040 is hereby amended to read as follows:

“12.040 CONDITIONS OF APPROVAL.

The Approval Authority may attach conditions as may be reasonably necessary in order to allow the Zoning Map amendment to be granted.”

Section 78: Section 12.050 is hereby amended to read as follows:

“12.050 MOBILE HOME PARKS.

If a Zoning Map amendment involves property containing an existing mobile home park, the Director shall provide written notice to each unit in the mobile home park as specified in Section 14.030 of this Code and in accordance with ORS 90.630(5).”

Section 79: The Article 14 Title Page is hereby amended to read as follows:

“ARTICLE 14

PUBLIC HEARINGS

14.010 PURPOSE

14.020 APPLICABILITY

14.030 NOTICE.

14.040 RESERVED FOR FUTURE USE

14.050 NATURE AND CONDUCT - GENERAL

14.060 CONFLICTS, DISCLOSURE AND CHALLENGE FOR BIAS

14.070 DUTIES OF THE PRESIDING OFFICER

14.080 ORDER OF PROCEDURE

14.090 BURDEN OF PROOF

14.100 RECORD OF PROCEEDINGS, EVIDENCE AND SUMMARY OF
TESTIMONY

14.110 AMENDMENT AND SUSPENSION

14.120 FINALITY OF DECISION”

Section 80: Section 14.010 is amended to read as follows:

“14.010 PURPOSE.

This Article provides a public hearing process that makes available a venue for citizen involvement before the Planning Commission, Hearings Official and the City Council.”

Section 81: Section 14.020, Subsections (1) and (7) are hereby amended to read as follows:

“14.020 APPLICABILITY.

- (1) The Planning Commission shall hear:
 - (a) Type II review procedure administrative appeals within the city limits;
 - (b) Type III review procedure quasi-judicial applications within the city limits;
 - (c) Type IV review procedure legislative applications that require a recommendation to the City Council; and
 - (d) Appeals as may be assigned by the City Council.
- (2) The Hearings Official shall hear:
 - (a) Type II review procedure administrative appeals within the City’s urbanizable area and appeals of all expedited land division actions as defined in ORS 197.360;
 - (b) Type III review procedure quasi-judicial applications within the City’s urbanizable area; and
 - (c) Appeals as may be assigned by the City Council.
- (3) The City Council shall hear:
 - (a) Type III review procedure quasi-judicial appeals within the city limits; and
 - (b) Type IV review procedure legislative applications final decisions.”

Section 82: Section 14.030, Subsections (1) and (3) are hereby amended to read as follows:

“14.030 NOTICE.

- (1) Mailed Notice. Where required, notice of the public hearings shall be given by mail sent at least 20 days before the date of the hearing. If two public hearings are required, notice may be sent 10 days before the first public hearing. The mailed notice shall be sent to the applicant and the owners of record of the subject property, all property

owners and occupants within 300 feet of the subject property and to the appropriate neighborhood association. In addition, the applicant shall post one sign, approved by the Director on the subject property. Information pertaining to property ownership shall be obtained from the most recent property tax assessment role. The mailed notice shall contain the following:”

Section 83: The Article 15 Title page is hereby amended to read as follows:

“ARTICLE 15 APPEALS

APPEALS

15.003 PURPOSE

15.005 APPLICABILITY

15.010 REVIEW

15.020 APPEALS OF THE DIRECTOR'S OR HEARINGS OFFICIAL'S DECISION

15.030 APPEALS OF THE PLANNING COMMISSION'S DECISION

15.040 APPEALS OF THE HEARINGS OFFICIAL'S AND CITY COUNCIL'S FINAL ACTION”

Section 84: Section 15.003 is hereby amended by the addition of the following section:

“15.003 PURPOSE.

This Article provides procedures and approval criteria for the review of appeals of the Director's, Hearings Official's, Planning Commission's or City Council's decision on land use and development matters.”

Section 85: Section 15.005 is hereby amended by the addition of the following section:

“15.005 APPLICABILITY.

The procedures in this Article apply to all properties within the city limits and within the City's urbanizable area.”

Section 86: Section 15.010 is hereby amended to read as follows:

“15.010 REVIEW.

Appeals of decisions under this Code shall be reviewed as follows.

- (1) Type III procedure. The Director's decision, which is a Type II procedure, may be appealed to the Planning Commission or Hearings Official by a party as specified in Section 15.020 of this Article.
 - (a) The Planning Commission shall hear appeals of the Director's decision within the city limits.
 - (b) The Hearings Official shall hear:
 1. Appeals of the Director's decision outside of the city limits but inside the City's urbanizable area;
 2. Appeals of expedited land division actions as specified in ORS 197.375; and
 3. Appeals of a Drinking Water Protection application in accordance with Sections 17.050(7), 17.060 and 17.070(1)(a) of this Code.
- (2) Type IV procedure. The Planning Commission's quasi-judicial decision, which is a Type III procedure, may be appealed to the City Council by a party as specified in Section 15.030 of this Article.
- (3) If more than one party files an appeal on a decision, the Director may consolidate the appeals which then may be heard as one proceeding.
- (4) A complete application together with all required materials shall be submitted to the Director prior to the review of the request as specified in Section 3.050 Application Submittal."

Section 87: Section 15.020, Subsections (1) and (7) are hereby amended to read as follows:

"15.020 APPEALS OF THE DIRECTOR'S OR HEARINGS OFFICIAL'S DECISION.

- (1) Standing to Appeal. Only the property owner, applicant, if different and those persons who submitted written comments within the specific comment period for limited land use decisions, or those persons entitled to notice for non-limited land use decisions shall have standing to appeal the Director's or Hearings Official's decision.
- (2) Filing an Appeal. An appeal application shall be filed with the Director within 15 calendar days of the Director's or Hearings Official's decision.
- (3) Notice. The Director shall provide notice of the public hearing to the property owner, applicant, if different, the appellant and all persons previously noticed as part of the process leading to the Director's or Hearings Official's decision. The notice of the appeal hearing shall be in accordance with Section 14.030 of this Code.

- (4) Review. The review shall be de novo and the public hearing shall be conducted as specified in Section 14.080 of this Code.
- (5) Decision. The Planning Commission or Hearings Official shall consider the Director's report and all other evidence presented, including oral and written testimony in making their decision. The Planning Commission or Hearings Official may affirm, modify or reverse the decision of the Director and shall adopt findings in support of their decision. The Planning Commission or Hearing's Official may attach conditions as may be reasonably necessary in order to allow the appeal to be granted. The Planning Commission's or Hearings Official's decision shall be final.

EXCEPTION: A Type III appeal decision may be reviewed as an appeal by the City Council on their own motion.”

Section 88: Section 15.030 is hereby amended to read as follows:

“15.030 APPEALS OF THE PLANNING COMMISSION’S DECISION.

- (1) Standing to Appeal. Only those persons who participated either orally or in writing have standing to appeal the decision of the Planning Commission. Grounds for appeal are limited to those issues raised either orally or in writing before the close of the public record.
- (2) Filing an Appeal. An appeal application shall be filed with the Director within 15 calendar days of the Planning Commission’s decision.
- (3) Notice. The Director shall provide notice of the public hearing to all parties who participated either orally or in writing before the close of the public record leading to the Planning Commission’s decision. The notice of the appeal hearing shall include the information specified in Section 14.030 of this Code.
- (4) Review. The review shall be as determined by the City Council. The parties may be permitted to present their oral or written arguments as to all matters within that record. The public hearing shall be conducted as specified in Section 14.080 of this Code.
- (5) Decision. The City Council shall consider the Director's report and all other evidence presented, including oral and written testimony in making their decision. The City Council may affirm, modify or reverse the decision of the Director and shall adopt findings in support of their decision. The City Council may attach conditions as may be reasonably necessary in order to allow the appeal to be granted. The City Council’s decision shall be final.”

Section 89: Section 15.040 is hereby amended by the addition of the following section:

“15.040 APPEALS OF THE HEARINGS OFFICIAL’S AND CITY COUNCIL’S FINAL ACTION.

A decision of the Hearings Official or the City Council shall be appealed to the Oregon Land Use Board of Appeals in accordance with ORS Chapter 197.

EXCEPTION: A decision of the Hearings Official on an Expedited Land Division shall be appealed to the Oregon Court of Appeals in accordance with ORS Chapter 197.”

Section 90: Section 16.010, Subsections (2) and (3) are hereby amended to read as follows:

“16.010 ESTABLISHMENT OF RESIDENTIAL ZONING DISTRICTS.

In order to fully implement the policies of the Metro Plan, regulate the use of land, structures and buildings, and protect the public health, safety and welfare, the following zoning districts are established in this Article:

- (2) **MDR MEDIUM DENSITY RESIDENTIAL DISTRICT.** The MDR District is intended to fully implement the Metro Plan Medium Density Residential designation, any applicable refinement plan and establishes sites for medium density residential development where the minimum level of urban services are provided. Single family or multiple family dwellings are permitted with a minimum density of more than 10 units per developable acre and a maximum density of 20 units per developable acre, consistent with the provisions of this Code. Fractions will be rounded down to the next whole number. Land divisions shall not be used to diminish the minimum density standard.
- (3) **HDR HIGH DENSITY RESIDENTIAL DISTRICT.** The HDR District is intended to fully implement the Metro Plan High Density Residential designation, any applicable refinement plan and establishes sites for high-density residential development where the minimum level of urban services are provided. Single family or multiple family dwellings are permitted with a minimum density of more than 20 units per developable acre and a maximum density of 30 units per developable acre, consistent with the provisions of this Code. Fractions will be rounded down to the next whole number. Land divisions shall not be used to diminish the minimum density standard.”

Section 91: Section 16.020, Subsections (5)(b) is hereby amended to read as follows:

“16.020 SCHEDULE OF USE CATEGORIES

USE CATEGORIES/ USES	DISTRICTS		
	LDR	MDR	HDR
(5) Dwellings			
(b) Cluster Development (Section 16.100(3))	S	S	S “