

ORDINANCE NO. 1989

**AN ORDINANCE AMENDING CPMC CHAPTER 17.05, APPLICATIONS AND TYPES OF REVIEW PROCEDURES; CHAPTER 17.08, DEFINITIONS; CHAPTER 17.10, ZONING MAP AND TEXT AMENDMENTS AND CHAPTER 17.96 AMENDMENT TO THE COMPREHENSIVE LAND-USE PLAN**

**RECITALS:**

- A. Pursuant to CPMC, Chapter 1.01.040, the City Council, may from time to time make revisions to its municipal code which shall become part of the overall document and citation.
- B. On May 6, 2014, the Central Point Planning Commission recommended approval of a code amendment to CPMC Chapter 17.05; Chapter 17.08 and Chapter 17.10 (zoning) clarifying the procedures for Comprehensive Plan Amendments and Application Review.
- C. On May 8, 2014, the City of Central Point City Council held a property advertised public hearing; reviewed the Staff Report and findings; heard testimony and comments, and deliberated on approval of the Municipal Code Amendment.

**THE PEOPLE OF THE CITY OF CENTRAL POINT DO ORDAIN AS FOLLOWS:**

SECTION 1. Amendments to Chapter 17.05; Chapter 17.08 and Chapter 17.10 adds language to the zoning code to clarify procedures for Comprehensive Plan Amendment and Application Review.

**Chapter 17.05  
APPLICATIONS AND ~~TYPES OF DEVELOPMENT PERMIT~~ REVIEW  
PROCEDURES**

Sections:

- 17.05.100 Purpose and applicability of review procedures.
- 17.05.200 Type I procedure (administrative).
- 17.05.300 Type II procedure (administrative).
- 17.05.400 Type III procedure (quasi-judicial).
- 17.05.500 Type IV procedure (legislative).
- 17.05.600 General provisions--One-hundred-twenty-day rule--Time computation--  
Pre-application conferences--Acceptance and review--~~Planning~~  
~~official's~~Community Development Director's duties--Amended

applicationsDecision Process—Resubmittal Process—City Council  
Review.

17.05.700 Special procedures.

17.05.800 Reserved

17.05.900 Traffic impact analysis.

**17.05.100 Purpose and applicability of review procedures.**

A. Purpose. The purpose of this chapter is to establish standard decision-making procedures that will enable the city, the applicant, and the public to review development permit applications and participate in the local decision-making process in a timely and effective way consistent with the Citizen's Involvement Element of the comprehensive plan. Table 17.05.1 provides a key for determining to identify the review procedures, applicable regulations, and the decision-making body approving authority for particular approvals development permit applications.

B. Applicability of Review Procedures. All ~~land use and~~ development permit applications ~~and approvals~~ identified in Table 17.05.1, except building permits, shall be decided by using the appropriate procedures contained in ~~this~~ chapter 17.05. The procedural ~~type~~ Type assigned to each development permit application governs the decision-making process for that permit ~~or approval~~. There are four ~~types~~ Types of ~~permit/approval~~ procedures: Type I, II, III, and IV, ~~which are~~ These procedures are described as follows: in subsections (B)(1) through (4) of this section. Table ~~17.05.1 lists all of the city's land use and development approvals and their required review procedure(s)~~.

1. ~~Type I Procedure (Administrative)~~. Type I ~~decisions~~ procedures are apply to administrative decisions made by the community development director or designee without public notice and without a public hearing. ~~The~~ Type I ~~procedures is~~ are used only when there are clear and objective approval standards and criteria, the application of which does not require the use of discretion and applying city standards and criteria requires no use of discretion;

A Type I decision is the City's final decision. There are no appeals to a Type I procedural decision.

2. ~~Type II Procedure (Administrative)~~. ~~Type II decisions-procedures apply to administrative decisions that involve clear and objective approval standards and criteria the application of which requires the use of limited discretion. Type II decisions~~ and are made by the community development director or designee with public notice, and an opportunity for a public hearing if appealed. The appeal of a Type II decision is treated as a Type III procedure, except that the scope of the hearing is limited as provided in Section 17.05.100(B)(3), and is considered heard by the planning commission, who makes the city's final decision.

3. ~~Type III Procedure (Quasi-Judicial)~~. ~~Type III decisions-procedures are quasi-judicial decisions that involve the application of existing policies. Type III decisions generally use discretionary approval criteria, and do not have a significant effect beyond the immediate area of the application. Type III decisions are based on special studies or other information which will serve as the factual basis to support the decision. Type III decisions, when made by the planning commission, may be appealed to the city council.~~

~~made by the planning commission after a public hearing, with appeals reviewed by the city council. Type III decisions generally use discretionary approval criteria.~~

4. ~~Type IV Procedure (Legislative)~~. ~~Type IV procedures decisions apply to~~ legislative ~~matters~~ decisions that establish by law general policies and regulations for future land use decisions, such as the adoption or revision of the comprehensive plan, and revisions to the zoning and the land division ordinance. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., that have widespread and significant impact beyond the immediate area, i.e. quantitative changes producing large volumes of traffic, or a qualitative change in the character of the land use itself, such as conversion of residential to industrial use; or a spatial change that affects large areas or many different ownerships, adoption of land use regulations, zone changes, and comprehensive plan amendments that apply to entire districts, rather than just one property). Unless otherwise noted all Type IV decisions are considered initially by the citizens advisory committee and the planning commission, with final decisions

made by the city council. Type IV matters are considered initially by the planning commission with final decisions made by the city council.

Table 17.05.1 provides a key to identify the review procedure for each land development permit.

<b>TABLE 17.05.1</b>				
<b><u>LAND DEVELOPMENT PERMIT*</u></b>	<b><u>PROCEDURAL TYPE</u></b>	<b><u>APPLICABLE REGULATIONS</u></b>	<b><u>APPROVING AUTHORITY</u></b>	<b><u>LIMITED LAND-USE DECISION 120 DAY RULE</u></b>
<b><u>Annexation</u></b>				
<b><u>Quasi-Judicial</u></b>	Type III	Chapter 1.20	City Council	No
<b><u>Legislative</u></b>	Type IV	Chapter 1.20	City Council	No
<b><u>Comprehensive Plan &amp; UGB Amendments</u></b>				
<b><u>Major</u></b>	Type IV	Chapter 17.96	City Council	No
<b><u>Minor</u></b>	Type III	Chapter 17.96	City Council	No
<b><u>Conditional Use Permit</u></b>	Type III	Chapter 17.76	Planning Commission	No/Yes
<b><u>Conversion Plan</u></b>	Type II	Chapter 16.32	Director	Yes
<b><u>Extensions</u></b>				
<b><u>Type I Procedures</u></b>	Type I	Chapter 17.05.200(G)	Director	No/Yes
<b><u>Type II Procedures</u></b>	Type II	Chapter 17.05.300(H)	Director	No/Yes
<b><u>Home Occupation</u></b>	Type I	Chapter 17.60.190	Director	No/Yes
<b><u>Land Division</u></b>				
<b><u>Tentative Plan, Partition</u></b>	Type II	Chapter 16.36	Director	Yes
<b><u>Tentative Plan, Subdivision</u></b>	Type III	Chapter 16.10	Planning Commission	Yes
<b><u>Final Plat</u></b>	Type I	Chapter 16.12	Director	No

<u>Property Line Adjustment/Consolidation</u>	<u>Type I</u>	<u>Chapter 16.50</u>	<u>Director</u>	<u>Yes</u>
<u>Modification of Approval</u>				
<u>Major</u>	<u>Type III</u>	<u>Chapter 17.09.300</u>	<u>Planning Commission</u>	<u>Yes</u>
<u>Minor</u>	<u>Type II</u>	<u>Chapter 17.09.400</u>	<u>Director</u>	<u>Yes</u>
<u>Non-Conforming Use Designation</u>	<u>Type III</u>	<u>Chapter 17.56.040</u>	<u>Planning Commission</u>	<u>No</u>
<u>Planned Unit Development</u>	<u>Type III</u>	<u>Chapter 17.68</u>	<u>Planning Commission</u>	<u>Yes</u>
<u>Right-of-Way Vacation</u>	<u>Type III</u>	<u>Chapter 12.28</u>	<u>City Council</u>	<u>No</u>
<u>Site Plan and Architectural Review</u>				
<u>Minor</u>	<u>Type I</u>	<u>Chapter 17.72</u>	<u>Director</u>	<u>Yes</u>
<u>Major</u>	<u>Type II</u>	<u>Chapter 17.72</u>	<u>Director</u>	<u>Yes</u>
<u>TOD District/Corridor Master Plan</u>	<u>Type III</u>	<u>Chapter 17.66</u>	<u>Planning Commission</u>	<u>Yes</u>
<u>Tree Removal</u>	<u>Type II</u>	<u>Chapter 12.36</u>	<u>Director</u>	<u>Yes</u>
<u>Variance</u>				
<u>Class A</u>	<u>Type II</u>	<u>Chapter 17.13.300</u>	<u>Director</u>	<u>Yes</u>
<u>Class B</u>	<u>Type III</u>	<u>Chapter 17.13.400</u>	<u>Planning Commission</u>	<u>Yes</u>
<u>Class C</u>	<u>Type III</u>	<u>Chapter 17.13.500</u>	<u>Planning Commission</u>	<u>Yes</u>
<u>Zoning Map and Zoning and Land Division Code Text Amendments</u>				
<u>Minor</u>	<u>Type III</u>	<u>Chapter 17.10</u>	<u>City Council</u>	<u>No/Yes</u>
<u>Major</u>	<u>Type IV</u>	<u>Chapter 17.10</u>	<u>City Council</u>	<u>No</u>

**Table 17.05.1**

Approvals*	Review Procedures	Applicable Regulations
Annexation	Type IV	Chapter <u>1.20</u>
Code Interpretation	Type II	Chapter <u>17.11</u>
Code Amendment	Type IV	Chapter <u>17.10</u>
Comprehensive Plan Text Amendment	Type IV	Chapter <u>17.96</u>
Conditional Use Permit	Type III	Chapter <u>17.76</u>
Extension Request	Type I	Chapter <u>17.05</u>
Home Occupation	Type I	Section <u>17.60.190</u>
Planned Unit Development	Type III	Chapter <u>17.68</u>
Modification to Approval	-	-
- Minor	Type II	Chapter <u>17.09</u>
- Major	Type III	Chapter <u>17.09</u>
Plan Amendment or Zone Change	-	-
- Quasi-Judicial	Type III	Section <u>17.12.030</u>
- Legislative	Type IV	Chapter <u>17.96</u>
Property Line Adjustments and Lot Consolidations	Type I	-
Transit Oriented District/Corridor Review	Type III	Chapter <u>17.66</u>
Nonconforming Use	Type II	Chapter <u>17.56</u>
- Partition	-	-
- Tentative Plan	Type II	Chapter <u>16.36</u>
- Final Plat	Type I	Chapter <u>16.12</u>
Land Use Review	Type I	-
Site Plan, Landscaping and Construction Plan Review	Type II	Chapter <u>17.72</u>
- Subdivision	-	-

- Tentative Plan	Type III	Chapter <del>16.10</del>
- Final Plat	Type I	Chapter <del>16.12</del>
Right-of-Way Vacation	Type IV	Section <del>12.28.020</del>
Tree Removal	Type II	Chapter <del>12.36</del>
Variance	Type II or III	Chapter <del>17.13</del>
- Zoning, Major	Type III	Chapter <del>17.13</del>
- Zoning, Minor	Type II	Chapter <del>17.13</del>
- Subdivisions, Major	Type III	Chapter <del>17.13</del>
- Subdivisions, Minor	Type II	Chapter <del>17.13</del>
Conversion Plan Review	Type II	Chapter <del>16.32</del>
Uncategorized Decision	Type II	-

\* An applicant may be required to obtain approvals from other agencies, such as the Oregon Department of Transportation, or Rogue Valley Sewer. The city may notify other agencies of applications that may affect their facilities or services.

(Ord. 1941 §§1, 2, 3, 2010; Ord. 1874 §1(part), 2006).

**17.05.200 Type I procedure (~~administrative~~).**

A. Pre-Application Conference. A pre-application conference is not required for a Type I permit application.

B. Application Requirements.

1. Application Forms. Type I permit applications shall be made on forms provided by the planning department.

2. ~~Application~~ Submittal Requirements. Type I applications shall include:

- a. ~~Include the~~ The information requested on the application form;
- b. Findings addressing ~~Address the~~ Applicable Regulations per Table 17.05.1 ~~criteria in sufficient detail for review and action;~~ and
- c. ~~Be filed with the~~ The required fee.

~~BC.~~ Administrative ~~Decision~~ Requirements. The community development director's or designee's decision shall address all ~~relevant of the approval criteria and standards.~~ Based on the Applicable Regulations (Table 17.05.1) criteria and the facts contained within the record, the community development director or designee shall approve or deny the requested permit ~~or action~~. A written record of the decision shall be provided to the applicant and kept on file ~~at City Hall~~ in the Community Development Department.

~~CD.~~ Final Decision. A decision on a Type I ~~decision permit application~~ is the final decision of the city and may not be appealed ~~further~~.

~~DE.~~ Effective Date. A Type I decision is final on the date it is made per Section 17.05.200(C), and unless construction has been started and diligently pursued shall expire one-year from the decision date.

F. Appeal. A decision on a Type I application may not be appealed.

~~EG.~~ Extensions. The community development director shall, upon written request by the applicant and payment of the required fee, grant a written one-year extension of the original or last extension approval period; provided that:

1. The land development permit authorizes extensions;

2. No changes are made to the original application as approved by the city;

3. There have been no changes in the zoning, land division code, or applicable comprehensive plan provisions on which the approval was based. In the case where the plan conflicts with a code or comprehensive plan change, the extension shall be either:

a. Denied; or

b. At the discretion of the community development director the request for extension maybe re-reviewed as a modification per Section 17.09.300;

4. The extension request is made filed on or before the expiration of the original or latest extension approval per Section 17.05.200(E)plan;

45. If the time limit expired and no extension request has been filed~~granted~~, the application shall be void. (Ord. 1941 §4, 2010; Ord. 1874 §1(part), 2006).

**17.05.300 Type II procedure (administrative).**

A. Pre-Application Conference. A pre-application conference is optional for a Type II review~~permit application~~. The requirements and procedures for a pre-application conference are described in Section 17.05.600(C). ~~(Pre-application conference requirements and procedures are found in Section 17.05.600(C).)~~

B. Application Requirements.

1. Application Forms. Type II applications shall be made on forms provided by the planning department for the land development permit requested.

2. Submittal ~~Information~~Requirements. ~~The A Type II permit application shall include:~~

a. ~~Include the~~The information requested on the application form;

b. ~~Include a narrative statement that~~Findings addressing the Applicable Regulations per Table 17.05.1, explains how the application satisfies each of the relevant criteria and standards in sufficient detail for review and decision-making. Note: at the discretion of the community development director additional information may be required during the application process~~under the specific applicable requirements for each approval as referenced in Table 17.05.1;~~

c. ~~Include one~~One set of pre-addressed mailing labels for all real property owners of record who will receive a notice of the application as required in subsection C of this section. The records of the Jackson County assessor's office are the official records for determining ownership. The applicant shall produce the notice list using the most current Jackson County assessor's real property assessment records to produce the notice list. The city shall mail the notice of application; and

d. ~~Be accompanied by the~~ The required fee.

3. Notice of Acceptance. Within fourteen (14) days of submittal the community development director or designee shall notify the applicant in writing of:

a. The procedural type used for the application. In some circumstances, a Type II application may be referred to a Type III procedure. When such a referral is made it shall be made at the time of Notice of Acceptance, after which the application shall be processed as a Type III application. When a Type II application is referred to a Type III application no new application is required; and

b. Acceptance of the application; or

c. Non-acceptance of the application with an itemization of the deficiencies and deadline for correction of the deficiencies;

C. Notice of Application for Type II-~~Administrative~~ Decision.

1. Before making a Type II ~~administrative~~ decision, the community development director or designee shall mail notice to:

a. All owners of record of real property within a minimum of one hundred (100) feet of the exterior boundaries of the subject site;

b. All city-recognized neighborhood groups or associations whose boundaries include the site;

c. Any person who submits a written request to receive a notice; and

d. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the city. The city may notify other affected agencies. The city shall notify the county or ODOT, and the rail authority, when there is a proposed development abutting or within one hundred (100) feet of an affected transportation facility and allow the agency

to review, comment on, and suggest conditions of approval for the application.

~~2. The purpose of the notice is to give nearby property owners and other interested people the opportunity to submit written comments about the application before the Type II decision is made. The goal of this notice is to invite affected persons to participate early in the decision-making process.~~

32. Notice of a pending Type II administrative decision shall:

- a. Provide a fourteen-~~day~~ (14) day period for submitting written comments before a decision is made on the permit;
- b. List the relevant approval criteria by name and number of code sections;
- c. State the place, date and time the comments are due, and the person to whom the comments should be addressed;
- d. Include the name and telephone number of a contact person regarding the administrative decision;
- e. Describe the proposal and identify the specific permits or approvals requested;
- f. Describe the street address or other easily understandable reference to the location of the site;
- g. State that, if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the land use board of appeals or circuit court on that issue and that only comments on relevant approval criteria are considered relevant evidence;
- h. State that all evidence relied upon by the community development director or designee to make this decision is in the public record, available for public

review. Copies of this evidence may be obtained at a reasonable cost from the city;

i. State that, after the comment period closes, the community development director or designee shall issue a Type II administrative decision, and that the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;

j. Contain the following notice: "Notice to mortgagee, lien holder, vendor, or seller: The City of Central Point Land Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

D. Administrative Decision Requirements. The community development director or designee shall make a Type II written decision addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the community development director or designee shall approve, approve with conditions, or deny the requested permit or action.

~~In some circumstances, a Type II application may be referred to a Type III procedure. When such a referral is made, the application shall be processed as a Type III application, including the requirements for a hearing and notice of decision.~~

E. Notice of Decision.

1. Within five (5) days after the community development director or designee signs the decision, a notice of decision shall be sent by mail to:

a. The applicant and all owners or contract purchasers of record of the site that is the subject of the application;

b. Any person who submitted a written request to receive notice, or provides comments during the application review period;

c. Any city-recognized neighborhood group or association whose boundaries include the site; and

d. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the city, and other agencies that were notified or provided comments during the application review period.

2. The community development director or designee shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law.

3. The Type II notice of decision shall contain:

- a. A description of the applicant's proposal and the city's decision on the proposal (i.e., may be a summary);
- b. The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area, where applicable;
- c. A statement of where a copy of the city's decision may be obtained;
- d. The date the decision shall become final, unless appealed;
- e. A statement that all persons entitled to notice may appeal the decision; and
- f. A statement briefly explaining how to file an appeal, the deadline for filing an appeal, and where to obtain further information concerning the appeal process.

F. ~~Final Decision and~~ Effective Date. A Type II ~~administrative~~ decision is final for purposes of appeal when the Notice of Decision per Section 17.05.300(E) is mailed by the city and becomes ~~A Type II administrative decision is effective on the day~~ ten (10) days from the date of mailing of the Notice of Decision after the appeal period expires. If an appeal is filed within the ten (10) day period, the decision ~~is~~ does not become effective ~~when until~~ the appeal is decided.

G. Appeal. A Type II ~~administrative~~ decision may be appealed to the planning commission as follows:

1. Who May Appeal. The following people have legal standing to appeal a Type II ~~administrative~~ decision:

- a. The applicant or owner of the subject property;
- b. Any person who was entitled to written notice of the Type II ~~administrative~~ decision;
- c. Any other person who participated in the proceeding by submitting written comments.

2. Appeal Filing Procedure.

a. Notice of Appeal. Any person with standing to appeal, as provided in ~~subsection Section 17.05.300(G)(1) of this section~~, may appeal a Type II ~~administrative~~ decision by filing a notice of appeal according to the following procedures;

b. Time for Filing. A notice of appeal shall be filed with the community development director or designee within ~~fourteen (10)~~ fourteen (10) days ~~of from~~ the date the notice of decision was mailed;

c. Content of Notice of Appeal. The notice of appeal shall contain:

- i. An identification of the decision being appealed, including the date of the decision;
- ii. A statement demonstrating the person filing the notice of appeal has standing to appeal;
- iii. A statement explaining the specific issues being raised on appeal;
- iv. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period; and

v. The applicable filing fee.

3. Scope of Appeal. The appeal of a Type II ~~administrative~~ decision by a person with standing shall be a hearing before the planning commission. The appeal shall be limited to the application materials, evidence and other documentation, and specific issues raised in the Type II ~~administrative~~ review.

4. Appeal Procedures. Type III notice, hearing procedures, and decision process shall ~~also~~ be used for all Type II ~~administrative~~ appeals, as provided in Sections 17.05.400 (C) through (E);

5. Final Decision. The decision of the planning commission regarding an appeal of a Type II ~~administrative~~ decision is the final decision of the city. (Ord. 1874 §1(part), 2006).

H. Extensions. The community development director shall, upon written request by the applicant and payment of the required fee, grant a written one-year extension of the original or last extension approval period; provided:

1. The land development permit authorizes extensions;

2. No changes are made to the original application as approved by the city;

3. There have been no changes in the zoning, land division code, or applicable comprehensive plan provisions on which the approval was based. In the case where the plan conflicts with a code or comprehensive plan change, the extension shall be either:

a. Denied; or

b. At the discretion of the community development director the request for extension maybe re-reviewed as a modification per Section 17.09.300;

4. The extension request is filed on or before the expiration of the original or latest extension approval per Section 17.05.300(F);

5. If the time limit expired and no extension request has been filed, the application shall be void..

**17.05.400 Type III procedure (quasi-judicial).**

A. Pre-Application Conference. A pre-application conference is required for all Type III applications. The requirements and procedures for a pre-application conference are described in Section 17.05.600(C).

B. Application Requirements.

1. Application Forms. Type III applications shall be made on forms provided by the community development director or designee for the land development permit requested. ~~; however, if a Type II application is referred to a Type III hearing, either voluntarily by the applicant or staff, or upon appeal, no new application is required.~~

2. Submittal ~~Information~~ Requirements. When a Type III application is required, it shall include:

a. ~~Include the information requested on the application form~~ A completed application form with required attachments;

b. ~~Be filed with one~~ One copy of a narrative statement (findings and conclusions) that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making. Note: additional information may be required under the specific applicable regulations for each approval as referenced in Table 17.05.1;

c. ~~Be accompanied by the~~ The required fee; and

d. ~~Include one~~ One set of pre-addressed mailing labels for all real property owners of record who will receive a notice of the application as required in Sections 17.05.400(C)(1)(a)(i), (ii), (iv) and (v). The records of the Jackson County assessor's office are the official records for determining ownership.

The applicant shall produce the notice list using the most current Jackson County assessor's real property assessment records to produce the notice list. The city shall mail the notice of application. The failure of a property owner to receive notice as provided in Section 17.05.400(C) shall not invalidate such proceedings provided the city can demonstrate by affidavit that such notice was given.

C. Notice of Hearing Notification Requirements.

1. Mailed Notice. The city shall mail the notice of the Type III ~~action~~ hearing. ~~The records of the Jackson County assessor's office shall be the official records for determining ownership.~~ Notice of a Type III ~~application~~ hearing or Type II ~~appeal hearing~~ shall be given by the community development director or designee in the following manner:

a. At least twenty (20) days before the hearing date, or if two or more hearings are allowed, ten (10) days before the first hearing, notice shall be mailed to:

i. The applicant and all owners or contract purchasers of record of the property on the most recent property tax assessment role that is the subject of the application;

ii. All property owners of record on the most recent property tax assessment role within one-hundred (100) feet of the site, including tenants of a mobile home or manufactured dwelling park;

iii. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the city. The city may notify other affected agencies. The city shall notify the county road authority, or ODOT, and rail authority ~~and owner~~ for applications that are when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application.

iv. Owners of airports in the vicinity shall be notified of a proposed zone change in accordance with ORS 227.175;

v. Any neighborhood or community organization recognized by the city council and whose boundaries include the property proposed for development;

vi. Any person who submits a written request to receive notice;

vii. For appeals, the appellant and all persons who provided testimony in the original decision; and

~~viii. For a land use district change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.~~

viii. At the applicants discretion notice may also be provided to the Department of Land Conservation and Development.

b. The community development director or designee shall prepare an affidavit of notice and the affidavit shall be made a part of the file. The affidavit shall state the date that the notice was mailed to the persons who were sent notice.

~~e. At least fourteen business days before the hearing, notice of the hearing shall be printed in a newspaper of general circulation in the city as well as on the city's website. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.~~

2. Content of Notice. Notice ~~of appeal of a Type II administrative decision or notice~~ of a Type III hearing ~~shall~~ be mailed ~~and published per subsection~~ Section 17.05.400(C)(4) of this section and shall contain the following information:

a. An explanation of the ~~The~~ nature of the application and the proposed land use or uses that could be authorized for the property;

b. The applicable criteria and standards from the zoning and subdivision development code(s), and comprehensive plan that apply to the application;

c. The street address or other easily understood geographical reference to the subject property;

d. The date, time, and location of the public hearing;

e. A statement that the failure to raise an issue in person, or in writing at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue prior to the close of the final hearing, means that an appeal based on that issue cannot be raised at the State Land Use Board of Appeals;

f. The name of a city representative to contact and the telephone number and email address where additional information on the application may be obtained;

g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at the city of Central Point City Hall at no cost and that copies shall be provided at a reasonable cost;

h. A statement that a copy of the city's staff report and recommendation to the hearings body shall be available for review at no cost at least seven (7) days before the hearing, and that a copy shall be provided on request at a reasonable cost;

i. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and

j. The following notice: "Notice to mortgagee, lien holder, vendor, or seller: The City of Central Point Land Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

#### D. Conduct of the Public Hearing.

l. At the commencement of the hearing, the hearings body shall state to those in attendance:

a. The applicable approval criteria and standards that apply to the application or appeal;

b. A statement that testimony and evidence shall be directed at the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;

c. A statement that failure to raise an issue with sufficient detail to give the hearings body and the parties an opportunity to respond to the issue means that no appeal may be made to the State Land Use Board of Appeals on that issue;

d. Before the conclusion of the first evidentiary hearing, any participant may ask the hearings body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a “continuance”) per Section 17.05.400(E)(1), or by leaving the record open for additional written evidence or testimony per Section 17.05.400(E)(2).

2. If the ~~planning commission~~ hearings body grants a continuance, the ~~completion of the~~ hearing shall be continued to a date, time, and place at least seven (7) days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. *If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven (7) additional days, so that they can submit additional written evidence or testimony in response to the new written evidence;*

3. If the ~~planning commission~~ hearings body leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven (7) days after the hearing. Any participant may ask the city in writing for an opportunity to respond to new evidence submitted during the period that the

record was left open. If such a request is filed, the hearings body shall reopen the record to allow rebuttal evidence.

a. If the hearings body reopens the record to admit new evidence or testimony, any person may raise new issues that relate to that new evidence or testimony;

b. An extension of the hearing or record for a limited land use granted pursuant to Section 17.05.400(E) is subject to the limitations of ORS 227.178 (“one-hundred-twenty-day rule”), unless the continuance or extension is requested or agreed to by the applicant;

c. If requested by the applicant, the hearings body shall allow the applicant at least seven (7) days after the record is closed to all other parties to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant’s final submittal shall be part of the record but shall not include any new evidence. For limited land use decisions the seven (7) day period shall not be subject to the limitations of ORS 227.178 and ORS 227.179;

d. The record shall contain all testimony and evidence that is submitted to the city and that the hearings body has not rejected;

e. In making its decision, the hearings body may take official notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous city decisions; case law; staff reports). The review authority must announce its intention to take notice of such facts in its deliberations, and allow persons who previously participated in the hearing to request the hearing record be reopened, if necessary, to present evidence concerning the noticed facts;

f. The city shall retain custody of the record until the city issues a final decision and all appeal deadlines have passed.

4. Participants in a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing ex parte contacts (see

Section 17.05.400(D)(5) of this section) as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:

a. At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing ex parte contacts (as defined in Section 17.05.400(D)(5) of this section) concerning the application or appeal. He or she shall also state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly. Hearing participants shall be entitled to question hearing body members as to ex parte contacts and to object to their participation as provided in Section 17.05.400(D)(5)(b) of this section;

b. A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two (2) years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;

c. Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;

d. If all members of the hearings body abstain or are disqualified, the city council shall be the hearing body. If all members of the city council abstain or are disqualified, a quorum of those members present who declare their reasons for abstention or disqualification shall be re-qualified to make a decision;

e. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this section.

5. Ex Parte Communications.

a. Members of the hearings body shall not:

i. Communicate directly or indirectly with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing without giving notice per Section 17.05.400(C);

ii. Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials.

b. No decision or action of the hearings body shall be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:

i. Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and

ii. Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.

c. A communication between city staff and the hearings body is not considered an ex parte contact.

6. Presenting and Receiving Evidence.

a. The hearings body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;

b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided in Section 17.05.400(D)(3);

c. Members of the hearings body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence under Section 17.05.400(D)(5)(b).

#### F. The Decision Process.

1. Basis for Decision. Approval or denial of a Type II administrative appeal or of a Type III application shall be based on standards and criteria in the development code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the comprehensive plan for the area in which the development would occur and to the development regulations and comprehensive plan for the city as a whole;

2. Findings and Conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;

3. Form of Decision. The ~~planning commission~~ hearings body shall issue a final written order containing the findings and conclusions stated in ~~subsection~~ Section 17.05.400 (E)(2) of this section, which either approves, denies, or approves with specific conditions. The ~~planning commission~~ hearings body may also issue appropriate intermediate rulings when more than one permit or decision is required. ~~If the application is for a quasi-judicial zone change, the planning commission~~ hearings body shall issue a denial as a final written order. However, if the planning commission ~~hearings body decides in favor of the zone change, it shall issue written recommendation to the city council, which shall hold a hearing and~~

~~adopt either an order denying the zone change or an ordinance approving the zone change.~~

4. Decision-Making Time Limits. A final written order for any ~~Type II administrative appeal~~ or Type III action shall be filed with the community development director or designee within ten ~~(10) business~~ days after the close of the deliberation;

5. Notice of Decision. Written notice of a ~~Type II administrative appeal decision or a~~ Type III decision shall be mailed to the applicant and to all participants of record within ten ~~(10) business~~ days after the hearings body decision. Failure of any person to receive mailed notice shall not invalidate the decision; provided, that a good faith attempt was made to mail the notice.

6. Final Decision and Effective Date. The decision of the hearings body on any ~~Type II appeal or any~~ Type III application is final for purposes of appeal on the date it is mailed by the city. The decision is effective on the day after the appeal period expires. If an appeal of a Type III decision is filed, the decision becomes effective on the day after the appeal is decided by the city council. An appeal of a land use decision to the State Land Use Board of Appeals must be filed within twenty-one ~~(21) days of the city council's written decision~~ decision is mailed by the city.

G. Appeal. A Type III decision made by the planning commission may be appealed to the city council as follows:

1. Who May Appeal. The following people have legal standing to appeal a Type III decision:

- a. The applicant or owner of the subject property;
- b. Any person who was entitled to written notice of the Type III decision;
- c. Any other person who participated in the proceeding by submitting written comments.

2. Appeal Filing Procedure.

a. Notice of Appeal. Any person with standing to appeal, as provided in ~~subsection~~ Section 17.05.400(F)(1) of this section, may appeal a Type III decision by filing a notice of appeal according to the following procedures;

b. Time for Filing. A notice of appeal shall be filed with the community development director or designee within ten (10) days of the date the notice of decision was mailed;

c. Content of Notice of Appeal. The notice of appeal shall contain:

i. An identification of the decision being appealed, including the date of the decision;

ii. A statement demonstrating the person filing the notice of appeal has standing to appeal;

iii. A statement explaining the specific issues being raised on appeal;

iv. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period; and

v. The applicable filing fee.

3. Scope of Appeal. The appeal of a Type III decision is limited to the issues and evidence in the record before the ~~planning commission~~ hearing body ~~shall be limited to the application materials, evidence and other documentation, and specific issues raised in the Type II administrative review.~~

4. Appeal Procedures. Type III notice, hearing procedure and decision process shall also be used for all Type III appeals, as provided in Sections ~~subsections~~ 17.05.400(C) through (E) of this section;

5. Final Decision. The decision of the city council regarding an appeal of a Type III decision is the final decision of the city. (Ord. 1874 §1(part), 2006).

H. Extensions. The community development director shall, upon written request by the applicant and payment of the required fee, grant a written one-year extension of the original or last extension approval period; provided:

1. The land development permit authorizes extensions;
2. No changes are made to the original application as approved by the city;
3. There have been no changes in the zoning, land division code, or applicable comprehensive plan provisions on which the approval was based. In the case where the plan conflicts with a code or comprehensive plan change, the extension shall be either:
  - a. Denied; or
  - b. At the discretion of the community development director the request for extension maybe re-reviewed as a modification per Section 17.09.400;
4. The extension request is filed on or before the expiration of the original or latest extension approval per Section 17.05.400(F)(6);
5. If the time limit expired and no extension request has been filed, the application shall be void.

**17.05.500 Type IV procedure (legislative).**.....

A. Pre-Application Conference. A pre-application conference is required for all Type IV applications initiated by a party other than the city of Central Point. The requirements and procedures for a pre-application conference are described in ~~Section~~ 17.05.600(C).

B. Timing of Requests. Acceptance timing varies for Type IV applications (see Table 17.05.1 for applicable section reference). ~~The city accepts plan map amendment and annexation applications twice yearly, on January 30th and June 30<sup>th</sup>; provided, that the city council may initiate its own such proposals at any time.~~

C. Application Requirements.

1. Application Forms. Type IV applications shall be made on forms provided by the community development director or designee.

2. Submittal Information. The application shall contain:

- a. The information requested on the application form;
- b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
- c. The required fee; and
- d. One copy of a letter or narrative statement (findings and conclusions) that explains how the application satisfies each and all of the relevant approval criteria and standards applicable to the specific Type IV application.

D. Notice of Hearing.

1. Required Hearings. A minimum of two hearings, one before the planning commission and one before the city council, are required for all Type IV applications, ~~except annexations and Measure 37 claims where only a hearing by the city council is required.~~

2. Notification Requirements. Notice of public hearings ~~for the request~~ shall be given by the community development director or designee in the following manner:

a. At least ~~twenty ten~~ (10) days, but not more than forty (40) days, before the date of the first hearing ~~on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance that proposes to rezone property,~~ a notice, ~~shall be prepared in conformance with ORS 227.175~~ shall be ~~and~~ mailed to:

- i. ~~Each owner whose property would be rezoned in order to implement the ordinance (including owners of property subject to a comprehensive plan amendment) shall be notified if a zone change would be required to implement the proposed comprehensive plan amendment;~~

~~iii.~~ Any affected governmental agency;

~~iiij.~~ Any person who requests notice in writing;

~~iv.~~ For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175;

~~v.~~ Owners of airports shall be notified of a proposed zone change in accordance with ORS 227.175.

b. At least ten (10) days before the ~~first scheduled planning commission~~ public hearing date, and fourteen (14) days before the city council hearing date, public notice shall be published in a newspaper of general circulation in the city.

c. The community development director or designee shall:

i. For each mailing of notice, file an affidavit of mailing in the record as provided by ~~Sections subsection 17.05.500(D)(2)(a) of this section;~~ and

ii. For each published notice, file in the record the affidavit of publication in a newspaper that is required in ~~Sections subsection 17.05.500(D)(2)(b) of this section.~~

d. The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and development code amendments ~~within the time period prescribed by DLCD at least 45 days before the first public hearing at which public testimony or new evidence will be received.~~ The notice to DLCD shall include a DLCD Certificate of Mailing.

~~e. Notifications for annexation shall follow the provisions of this chapter.~~

3. Content of Notices. The mailed and published notices shall include the following information:

- a. The number and title of the file containing the application, and the address and telephone number of the community development director or designee's office where additional information about the application can be obtained;
- b. The proposed site location, if applicable;
- c. A description of the proposal in enough detail for people to determine what change is proposed, and the place where all relevant materials and information may be obtained or reviewed;
- d. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the council and available at City Hall (see ~~subsection E of this section~~ Section 17.05.500(E)); and

~~e. Each mailed notice required by subsection D of this section shall contain the following statement: "Notice to mortgagee, lien holder, vendor, or seller: The Central Point Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."~~

~~4. Failure To Receive Notice. The failure of any person to receive notice shall not invalidate the action, providing:~~

~~a. Personal notice is deemed given where the notice is deposited with the United States Postal Service;~~

~~b. Published notice is deemed given on the date it is published.~~

#### E. Hearing Process and Procedure. Conduct of Public Hearing

1. Unless otherwise provided in the rules of procedure adopted by the city council:

a. The presiding officer of the planning commission and of the city council shall have the authority to:

i. Regulate the course, sequence, and decorum of the hearing;

- ii. Direct procedural requirements or similar matters;
- iii. Impose reasonable time limits for oral presentations; and
- iv. Waive the provisions of this chapter so long as they do no prejudice the substantial rights of any party.

b. No person shall address the commission or the council without:

- i. Receiving recognition from the presiding officer; and
- ii. Stating his or her full name and address.

c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.

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

a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a preliminary decision, such as a recommendation to the city council or the final decision of the city;

b. The community development director or designee's report and other applicable staff reports shall be presented;

c. The public shall be invited to testify;

d. The public hearing may be continued to allow additional testimony or it may be closed; and

e. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.

F. Continuation of the Public Hearing. The planning commission or the city council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.

G. Decision-Making Criteria Decision Process. The recommendations by the citizen advisory committee, the planning commission and the decision by the city council shall be based on the applicable criteria as referenced in Table 17.05.1, following factors:

- ~~1. Whether the request is consistent with the applicable statewide planning goals;~~
- ~~2. Whether the request is consistent with the comprehensive plan; and~~
- ~~3. If the proposed legislative change is particular to a particular site, the property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.~~

H. Approval Process and Authority.

1. The citizen advisory committee and planning commission shall:

~~The planning commission shall:~~

a. ~~The citizens advisory committee, after~~ After notice and discussion at a public hearing~~meeting~~, vote on and prepare a recommendation to the city council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and

b. The planning commission, after notice and a public hearing, vote on and prepare a recommendation to the city council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and

b. Within ~~fourteen~~ ten (10) ~~business~~ days of adopting a recommendation, the presiding officer shall sign the written recommendation, and it shall be filed with the community development director or designee.

2. Any member of the citizen advisory committee or planning commission who votes in opposition to the ~~planning commission's~~ majority recommendation may file a written statement of opposition with the community development director or designee before the council public hearing on the proposal. The community development director or designee shall send a copy to each council member and place a copy in the record;

3. If the citizen advisory committee or planning commission does not adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal within sixty (60) days of its first public hearing on the proposed change, the community development director or designee shall:

a. Prepare a report to the city council on the proposal, including noting the citizens advisory committee's or planning commission's actions on the matter, if any; and

b. Provide notice and put the matter on the city council's agenda for the city council to hold a public hearing and make a decision. No further action shall be taken by the citizen advisory committee or planning commission.

4. The city council shall:

a. Consider the recommendation of the citizen advisory committee and planning commission; however, the city council is not bound by the committee's or the commission's recommendation;

b. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the planning commission for rehearing and reconsideration on all or part of the application; and

c. If the application ~~for legislative change~~ is approved, the council shall act by ordinance, which shall be signed by the mayor after the council's adoption of the ordinance.

I. Vote Required for a Legislative Change.

1. A vote by a majority of the qualified voting members of the citizens advisory committee present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.

2. A vote by a majority of the qualified voting members of the planning commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.

23. A vote by a majority of the qualified members of the city council present is required to decide any motion made on the proposal.

J. Notice of Decision. Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five (5) ~~business~~ days after the city council decision is filed with the community development director or designee. ~~The city shall also provide notice to all persons as required by other applicable laws.~~

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

L. Record of the Public Hearing.

1. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record;

2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;

3. The official record shall include:

a. All materials considered and not rejected by the hearings body;

- b. All materials submitted by the community development director or designee to the hearings body regarding the application;
- c. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;
- d. The final decision;
- e. All correspondence; and
- f. A copy of the notices that were given as required by this chapter. (Ord. 1874 §1(part), 2006).

**17.05.600 General procedural provisions—~~One hundred twenty day rule—Time computation—Pre-application conferences—Acceptance and review—Planning official's duties—Amended applications—Resubmittal.~~**

A. One-Hundred-Twenty-Day (120) Rule. In accordance with ORS 227.178 the ~~The~~ city shall take final action on all limited land use decisions as identified in Table 17.05.1, including resolution of all appeals ~~Type I, II, and III permit applications that are subject to this chapter, including resolution of all appeals,~~ within one hundred twenty (120) days from the date the application is deemed as complete, unless the applicant requests an extension in writing. The; however, ~~the~~ total of all extensions may not exceed two hundred forty-five (245) days. Any exceptions to this rule shall conform to the provisions of ORS 227.178. ~~(The one hundred twenty day rule does not apply to Type IV legislative decisions—plan and code amendments—under ORS 227.178.)~~

B. Time Computation. In computing any period of time prescribed or allowed by this chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday or legal holiday, including Sunday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.

C. Pre-Application Conferences.

1. Participants. When a pre-application conference is required, the applicant shall meet with the community development director or his/her designee(s) and such other parties as the community development director deems appropriate;

2. Information Provided. At such conference, the community development director or designee shall:

- a. Cite the comprehensive plan policies and map designations that appear to be applicable to the proposal;
- b. Cite the ordinance provisions, including substantive and procedural requirements that appear to be applicable to the proposal;
- c. Provide available technical data and assistance that will aid the applicant;
- d. Identify other governmental policies and regulations that relate to the application; and
- e. Reasonably identify other opportunities or constraints concerning the application.

3. Disclaimer. Failure of the community development director or designee to provide any of the information required ~~in Section~~ ~~by this subsection C of this section~~ 17.05.600(C) shall not constitute a waiver of any of the standards, criteria or requirements for the application;

4. Changes in the Law. Due to possible changes in federal, state, regional, and local law, the applicant is responsible for ensuring that the application complies with all applicable laws.

#### D. Acceptance and Review of Applications.

1. Initiation of Applications.

- a. Applications for approval under this chapter may be initiated by:
  - i. Order of city council;

- ii. Resolution of the planning commission;
- iii. The community development director or designee;
- iv. A record owner of property (person(s) whose name is on the most recently recorded deed), or contract purchaser with written permission from the record owner.

b. Any person authorized to submit an application for approval may be represented by an agent authorized in writing to make the application on their behalf.

2. Consolidation of Proceedings. When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same one or more parcels of land, the proceedings may, at the option of the applicant, be consolidated for review and decision.

a. If more than one approval authority would be required to decide on the applications if submitted separately, then the decision shall be made by the respective approval authority having original jurisdiction over each type procedure ~~one of the applications in the following order of preference: The council, the commission, or the community development director or designee.~~

b. When proceedings are consolidated:

- i. The notice shall identify each application to be ~~decided~~ consolidated;
- ii. The decision on a plan map amendment shall precede the decision on a proposed land use district change and other decisions on a proposed development. Similarly, the decision on a zone map amendment shall precede the decision on a proposed development and other actions; and
- iii. Separate findings shall be made ~~on~~ for each consolidated application.

3. Check for Acceptance and Completeness. In reviewing an application for completeness, the following procedure shall be used:

a. Acceptance. When an application is received by the city, the community development director or designee shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant:

i. The required form;

ii. The required fee;

iii. The signature of the applicant on the required form and signed written authorization of the property owner of record if the applicant is not the owner.

b. Completeness.

i. Review and Notification. After the application is accepted, the community development director or designee shall review the application for completeness. If the application is incomplete, the community development director or designee shall notify the applicant in writing of exactly what information is missing within thirty (30) days of receipt of the application and allow the applicant one hundred eighty (180) days to submit the missing information.

ii. Application deemed complete for review. In accordance with the application submittal requirements of this chapter, the application shall be deemed complete upon the receipt by the community development director or designee of all required information. The applicant shall have the option of withdrawing the application, or refusing to submit further information and requesting that the application be processed notwithstanding any identified incompleteness. For the refusal to be valid, the refusal shall be made in writing and received by the community development director or designee.

iii. If the applicant does not submit all of the missing information or provide written notice that no further information will be provided

(whether some of the additional information has been provided or not) within one hundred eighty (180) days of the date the initial submittal was accepted per 17.05.600(3)(a), the application is void.

iv. *Standards and Criteria That Apply to the Application.* Approval or denial of the application shall be based upon the standards and criteria that were applicable at the time it was first accepted, unless the application is for a change to the comprehensive plan or land use regulations.

v. *Coordinated Review.* The city shall also submit the application for review and comment to the city engineer, road authority, and other applicable county, state, and federal review agencies.

4. *Changes or Additions to the Application* ~~During the Review Period~~. Once an application is deemed complete per 17.05.600(3)(b):

a. All documents and other evidence relied upon by the applicant shall be submitted to the community development director or designee at least seven days before the notice of action or hearing is mailed. Documents or other evidence submitted after that date shall be received by the community development director or designee, and transmitted to the hearings body, but may be too late to include with the staff report and evaluation;

b. When documents or other evidence are submitted by the applicant during the review period but after the notice of action or hearing is mailed, the assigned review person or body shall determine whether or not the new documents or other evidence submitted by the applicant significantly change the application;

c. If the assigned reviewer determines that the new documents or other evidence significantly change the application, the reviewer shall include a written determination to the approving authority that a significant change in the application has occurred as part of the decision. In the alternate, the reviewer may inform the applicant either in writing, or orally at a public hearing, that such changes may constitute a significant change, and allow the

applicant to withdraw the new materials submitted, in order to avoid a determination of significant change;

d. If the applicant's new materials are determined to constitute a significant change in an application that was previously deemed complete, the city shall take one of the following actions, at the choice of the applicant:

i. Suspend the existing application and allow the applicant to submit a revised application with the proposed significant changes. Before the existing application can be suspended, the applicant must consent in writing to waive the one-hundred-twenty (120)-day rule (~~subsection 17.05.600(A)A of this section~~) on the existing application. If the applicant does not consent, the city shall not select this option;

ii. Declare the application, based on the significant change, a new application and reprocess accordingly.

e. If a new application is submitted by the applicant, that applicant shall pay the applicable application fee and shall be subject to a separate check for acceptance and completeness and will be subject to the standards and criteria in effect at the time the new application is accepted.

E. Community Development Director's Duties. The community development director or designee shall:

1. Prepare application forms based on the criteria and standards in applicable state law, the city's comprehensive plan, and implementing ordinance provisions;
2. Accept all development applications that comply with this section;
3. Prepare a staff report that summarizes the application(s) and applicable decision criteria, and provides findings of conformance and/or nonconformance with the criteria. The staff report may also provide a recommended decision of: approval; denial; or approval with specific conditions that ensure conformance with the approval criteria;
4. Prepare a notice of the proposal decision:

a. In the case of an application subject to a Type I or II review process, the community development director or designee shall make the staff report and all case-file materials available at the time that the notice of the decision is issued;

b. In the case of an application subject to a public hearing (Type III or IV process), the community development director or designee shall make the staff report available to the public at least seven (7) days prior to the scheduled hearing date, and make the case-file materials available when notice of the hearing is mailed, as provided by ~~Sections 17.05.300(C)~~ (Type II), 17.05.400(C) (Type III), or 17.05.500(D) (Type IV);

5. Administer the application and hearings process;

6. File notice of the final decision in the city's records and mail a copy of the notice of the final decision to the applicant, all persons who provided comments or testimony, persons who requested copies of the notice, and any other persons entitled to notice by law;

7. Maintain and preserve the file for each application for the time period required by law. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given; the affidavits of notice, the application and all supporting information, the staff report, the final decision (including the findings, conclusions and conditions, if any), all correspondence, minutes of any meeting at which the application was considered, and any other exhibit, information or documentation which was considered by the decision-maker(s) on the application; and

8. Administer the appeals and review process.

#### F. Amended Decision Process.

1. The purpose of an amended decision process is to allow the community development director or designee to correct typographical errors, rectify inadvertent omissions and/or make other minor changes that do not materially alter the decision.

2. The community development director or designee may issue an amended decision after the notice of final decision has been issued but before the appeal period has expired. If such a decision is amended, the decision shall be issued within fourteen (14) business days after the original decision would have become final, but in no event beyond the one-hundred-twenty-day (120) period required by state law. A new ten-day (10) appeal period shall begin on the day the amended decision is issued.

3. Notice of an amended decision shall be given using the same mailing and distribution list as for the original decision notice.

4. Modifications to approved plans or conditions of approval requested by the applicant shall follow the procedures in ~~Chapter 17.09~~. All other changes to decisions that are not modifications under ~~Chapter 17.09~~ shall follow the appeal process.

G. Resubmittal of Application Following Denial. An application or proposal that has been denied, or that was denied and on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission or the courts, may not be resubmitted as the same or a substantially similar proposal for the same land for a period of at least twelve months from the date the final city action is made denying the same, unless there is substantial change in the facts or a change in city policy that would change the outcome, as determined by the community development director or designee.

H. City Council Review. The city council shall have the authority to call up any Type II or Type III application for review. The decision to call up an application may occur at any time after the application is filed until the decision is otherwise final. When the city council calls up an application, the council shall, in its order of call up, determine the procedure to be followed, including the extent of preliminary processing and the rights of the parties. At a minimum, the council shall follow the procedures in Section 17.05.400(F), regarding appeals from Type III decisions. (Ord. 1874 §1(part), 2006).

17.05.700 ~~Special procedures~~ Expedited Land Divisions.

~~A. Expedited Land Divisions.~~ An expedited land division (ELD) shall be defined and may be used as provided under ORS 197.360 through 197.380.

1. Selection. An applicant who wishes to use an ELD procedure for a partition, subdivision or planned development instead of the regular procedure type assigned to it, must request the use of the ELD in writing at the time the application is filed, or forfeit his/her right to use it;

2. Review Procedure. All applications for expedited land divisions shall comply with ORS 197.360 through 197.380 and the Central Point comprehensive plan; ORS 197.360 through ORS 197.380 details the criteria, application and notice requirements, and action and appeal procedures for expedited land divisions.

3. Appeal Procedure. An appeal of an ELD shall follow the procedures in ORS 197.375. (Ord. 1874 §1(part), 2006).

#### 17.05-800 Reserved

#### 17.05.900 Traffic impact analysis.

The purpose of this section of the code is to assist in determining which road authorities participate in land use decisions, and to implement Section 660-012-0045(2)(e) of the State Transportation Planning Rule that requires the city to adopt a process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities.

This chapter establishes the standards for when a development proposal must be reviewed for potential traffic impacts; when a traffic impact analysis must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; what must be in a traffic impact analysis; and who is qualified to prepare the study.

A. When a Traffic Impact Analysis is Required. The city shall require a traffic impact analysis (TIA) as part of an application for development, a change in use, or a change in access in the following situations:

1. If the application includes residential development, a TIA shall be required when the ~~land~~ development application involves one or more of the following actions:

a. A change in zoning or a plan amendment;

b. An increase in site traffic volume generation by two hundred fifty (250) average daily trips or more;

c. An increase in peak hour volume of a particular movement to and from the State highway by twenty (20) percent or more; or

d. An increase in use of adjacent streets by vehicles exceeding the twenty thousand (20,000) pounds gross vehicle weights by ten (10) vehicles or more per day;

2. If the application does not include residential development, a TIA shall be required when a land use application involves one or more of the following actions:

a. A change in zoning or a plan amendment designation;

b. Any proposed development or land use action that a road authority, including the city, Jackson County or ODOT, states may have operational or safety concerns along its facility(ies);

c. An increase in site traffic volume generation by two hundred fifty average (250) daily trips (ADT) or more;

d. An increase in peak hour volume of a particular movement to and from the State highway by twenty (20) percent or more;

e. An increase in use of adjacent streets by vehicles exceeding twenty thousand (20,000) pounds gross vehicle weight by ten (10) vehicles or more per day;

f. The location of the access driveway does not meet minimum sight distance requirements, as determined by the city engineer, or is located where vehicles entering or leaving the property are restricted, or such vehicles queue or hesitate on the state highway, creating a safety hazard in the discretion of the community development director; or

g. A change in internal traffic patterns that, in the discretion of the community development director, may cause safety problems, such as back-up onto a street or greater potential for traffic accidents.

B. Traffic Impact Analysis Preparation. A traffic impact analysis shall be prepared by a traffic engineer or civil engineer licensed to practice in the state of Oregon with special training and experience in traffic engineering. The TIA shall be prepared in accordance with the public works department's document entitled "Traffic Impact Analysis." If the road authority is the Oregon Department of Transportation

(ODOT), consult ODOT's regional development review planner and OAR 734-051-180. (Ord. 1874 §1(part), 2006).

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**Chapter 17.08**

**DEFINITIONS**

**“Development”** means making a material change in the use or physical appearance of a structure or land, dividing land into two or more parcels, including partitions and subdivisions as provided in ORS 92.010 to 92.285, and creating or terminating a right of access. ~~the physical development of land, including but not limited to partitions, subdivisions, building construction, and infrastructure.~~

**Chapter 17.10**  
**ZONING MAP AND ZONING CODE TEXT AMENDMENTS**

Sections:

17.10.100 Amendments—Purpose.

17.10.200 Legislative-Initiation of Amendments~~amendments.~~

17.10.300—Major and Minor Amendments~~Quasi-judicial amendments.~~

17.10.400—17.10.400 Approval Criteria ~~Conditions of approval on quasi-judicial amendments.~~

17.10.500 Record of amendments~~Conditions of Approval.~~

17.10.600 Record of Amendments~~Transportation planning rule compliance.~~

17.10.100 ~~Amendments—~~Purpose.

The purpose of this chapter is to provide standards and procedures for ~~legislative major and quasi-judicial~~ minor amendments to this Code ~~and/or~~ the Central Point city zoning map (zoning map), herein : ~~These will be referred to as “map and/or text amendments.” Amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law.~~ (Ord. 1874 §3(part), 2006).

17.10.200 Initiation of Amendments.

A proposed amendment to the Code or zoning map may be initiated by either:

A. A resolution by the planning commission to the city council;

B. A resolution of intent by the city council; or for zoning map amendments

C. An application by one or more property owners (zoning map amendments only), or their agents, of property affected by the proposed amendment. The amendment shall be accompanied by a legal description of the property or properties affected; proposed findings of facts supporting the proposed amendment, justifying the same and addressing the substantive standards for such an amendment as required by this chapter and by the Land Conservation and Development Commission of the state.

17.05.300 Major and Minor Amendments

There are two types of map and text amendments:

A. ~~Legislative~~ Major amendments.

~~Legislative~~ Major amendments are legislative policy decisions ~~made by city council~~ that establish by law general policies and regulations for

future land use decisions, such as revisions to the zoning and land division ordinance that have widespread and significant impact beyond the immediate area. They Major amendments are reviewed using the Type IV procedure in Section 17.05.500 and shall conform to the statewide planning goals, the Central Point comprehensive plan, the Central Point zoning ordinance and the transportation planning rule provisions in Section 17.10.600, as applicable. (Ord. 1874 §3(part), 2006).

B. 17.10.300 Quasi-judicial Minor amendments.

A. Applicability of Quasi-Judicial Amendments. Quasi-judicial Minor amendments are those that involve the application of adopted policy to a specific development application ~~or code revision~~, and not the adoption of new policy (i.e., ~~through legislative decisions~~ Major Amendments). Quasi-judicial Minor zoning map amendments shall follow the Type III procedure, as ~~governed set forth in by~~ Section 17.05.400, ~~using standards of approval in subsection B of this section~~. The approval authority shall be as follows: the City Council after review and recommendation by the Planning Commission.

- ~~1. The planning commission shall review and recommend land use district map changes that do not involve comprehensive plan map amendments;~~
- ~~2. The planning commission shall make a recommendation to the city council on an application for a comprehensive plan map amendment. The city council shall decide such applications; and~~
- ~~3. The planning commission shall make a recommendation to the city council on a land use district change application that also involves a comprehensive plan map amendment application. The city council shall decide both applications.~~

~~B~~ 17.10.400: Approval Criteria for Quasi-Judicial Amendments. A recommendation or a decision to approve, approve with conditions or to deny an application for a ~~quasi-judicial text or map~~ amendment shall be based on written findings and conclusions that address all of the following criteria:

1. Approval of the request is consistent with the applicable statewide planning goals (Major amendments only);
2. Approval of the request is consistent with the Central Point comprehensive plan (Major and Minor amendments);
3. If a zoning map amendment findings demonstrating that adequate public services and transportation networks to serve the property are either available, or identified for construction in

~~the City's public facilities master plans; and as evidenced in the City's Public Facilities Plan (Major and Minor amendments); The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided in the planning period; and~~

~~4. The change is in the public interest with regard to neighborhood or community conditions, or corrects a mistake or inconsistency in the comprehensive plan or land use district map regarding the property which is the subject of the application; and~~

~~4. If an annexation findings demonstrating that adequate public services and transportation networks to serve the property are either available, or identified for construction in the City's public facilities master plans; and (Major and Minor amendments);~~

~~54. The amendment conforms to the transportation planning rule provisions under Section 17.10.600 complies with OAR 660-012-0060 of the Transportation Planning Rule. (Ord. 1874 §3(part), 2006).~~

~~17.10.400-500~~ Conditions of approval for quasi-judicial amendments.

A. Major amendments decisions may only be approved or denied.

B. A quasi-judicial Minor amendments decision may be for denial, approval, or approval with conditions. Conditions shall be based on applicable regulations and factual evidence in the record. A legislative amendment may only be approved or denied. (Ord. 1874 §3(part), 2006).

~~17.10.500-600~~ Record of amendments.

The city recorder shall maintain a record of amendments to the text of this code and the zoning map in a format convenient for public use. (Ord. 1874 §3(part), 2006).

Chapter 17.96  
AMENDMENT TO COMPREHENSIVE LAND USE PLANCOMPREHENSIVE PLAN AND  
URBAN GROWTH BOUNDARY AMENDMENTS

Sections:

~~17.96.010~~—~~17.96.100~~ ~~Procedure~~Amendments – Purpose

~~17.96.200~~ ~~Initiation of Amendments~~

~~17.96.020~~—~~17.96.300~~ ~~Initiation of amendments~~Major Revisions and Minor Changes.

~~17.96.030~~—Major revisions and minor changes—Time for hearing:~~17.96.400~~ Submittal Timing of  
Proposals

~~17.96.040~~—Schedule of public hearings.

~~17.96.050~~—~~17.96.500~~ ~~Substantive standards~~Approval Criteria.

~~17.96.060~~—~~17.96.600~~ ~~Action by city council~~Record of Amendments

~~17.96.010-100~~ Amendments - Purpose~~Procedure~~.

The purpose of this chapter is to provide procedures for amendments to the city's comprehensive plan, including amendments to the urban growth boundary, that may be necessary from time to time as the public necessity and convenience and general welfare requires. Amendments may be made to the comprehensive plan by following the procedural requirements set forth in 17.05.500 and this chapter.

~~The comprehensive land-use plan of the city may be amended by changing the text, the boundaries of districts therein, or by changing the urban growth boundary, subject to approval by the Land Conservation and Development Commission of the state, whenever the public necessity and convenience and general welfare requires such amendment, by following the procedure of this chapter. (Ord. 1436 §2(part), 1981).~~

~~17.96.020-200~~ Initiation of amendments.

A proposed amendment~~Amendment to the comprehensive plan or urban growth boundary~~ may be initiated by either:

A. A resolution~~Resolution of intention by~~ of the planning commission to the city council;

B. A resolution~~Resolution of intention~~ by the city council; or

C. An application~~Application~~ by one or more property owners, or their agents, of property affected by the proposed amendment. ~~The amendment shall be accompanied by a legal description of the property or properties affected and all properties within a radius of three hundred feet of the exterior boundaries~~

~~thereof, proposed findings of facts supporting the proposed amendment, justifying the same and addressing the substantive standards for such an amendment as required by this chapter and by the Land Conservation and Development Commission of the state. (Ord. 1436 §2(part), 1981).~~

~~17.96.030-300 Major revisions and minor changes—Time for hearing.~~

~~In accordance with state wide planning goal two, proposed~~Proposed amendments to the comprehensive plan, including urban growth boundary amendments, shall be categorized as either major revisions or minor ~~changes~~ amendments as defined in 17.05.100.4 ~~under the goal two definitions of said terms.~~

~~Proposals for major revisions shall be processed as a Type IV procedure per 17.05.500, as provided for in this chapter, not more than every January of even numbered years, and, proposals~~ Proposals for minor changes shall ~~likewise~~ be processed as a Type III procedure per 17.05.400. ~~not more frequently than each January. Notwithstanding the schedule set forth in this section, applications for plan amendments may be processed concurrently with applications for annexation under Chapter 1.20. (Ord. 1615 §60, 1989; Ord. 1436 §2(part), 1981).~~

~~17.96.040-400 Schedule of public hearings~~Submittal Timing of Proposals. Applications for an amendment to the comprehensive plan, or urban growth boundary, may be submitted at any time. Once accepted proposals shall be scheduled by the city council by resolution of intent. The applications and review thereof shall conform to the provisions of 17.05 of this code and all applicable laws of the state.

~~All proposals for amendment to the comprehensive plan, including major revisions and minor changes, shall be scheduled for public hearing before the citizens advisory committee, the city's planning commission and the city council, on dates to be scheduled by the city council by resolution, which dates may be set by the resolution of intent. The applications and review thereof shall conform to the provisions of Chapter 17.05 of this code and all applicable laws of the state. (Ord. 1533A(part), 1984; Ord. 1436 §2(part), 1981).~~

~~17.96.050-500 Substantive standards~~Approval Criteria.

A recommendation or a decision to approve or to deny an application for an amendment to the comprehensive plan, or urban growth boundary shall be based on written findings and conclusions that address the following criteria:

- A. Approval of the request is consistent with the applicable statewide planning goals;
- B. Approval of the request is consistent with the Central Point comprehensive plan;

C. For urban growth boundary amendments findings demonstrate that adequate public services and transportation networks to serve the property are either available, or identified for construction in the City's public facilities master plans as evidenced in the City's Public Facilities Plan (Major and Minor amendments); and

D. The amendment complies with OAR 660-012-0060 of the Transportation Planning Rule.

~~The citizens' advisory committee, the planning commission and the city council, in reviewing a proposed amendment to the comprehensive plan, shall address the public need and justification for the proposed change, and shall make specific findings, reciting the evidence in support thereof, for each of the state-wide planning goals as the same apply to the proposed change.~~

~~B. The findings adopted by the citizens' advisory committee, following a public hearing on the proposal, shall be forwarded to the city planning commission prior to the public hearing at the planning commission level. The findings adopted by the planning commission following public hearing shall be forwarded to the city council prior to the public hearing at the council level. (Ord. 1436 §2(part), 1981).~~

~~17.96.060 Action by city council.~~

~~A. Following receipt of the findings of the citizens' advisory committee and planning commission on the proposed amendment, receipt of any staff reports, and all evidence received at the public hearing held at the city council level, the city council shall render its decision within sixty days after said hearing, and said decision shall include findings as required in Section 17.96.050. If the council proposes to adopt an amendment that is substantially altered from that recommended by the citizens' advisory committee or the planning commission, the council may refer said proposed amendment back to the citizens' advisory committee or the planning commission for report and recommendation prior to adoption.~~

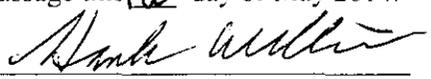
~~B. When adopted, any changes shall be suitably noted in a prominent place in the city's comprehensive plan, filed with the city recorder, and copies thereof shall be made available to the public.~~

~~C. In the event a petition for an amendment to the comprehensive plan is denied by the council, said petition shall not be eligible for resubmission until the next date scheduled for review of proposed amendments to the comprehensive plan. (Ord. 1436 §2(part), 1981).~~

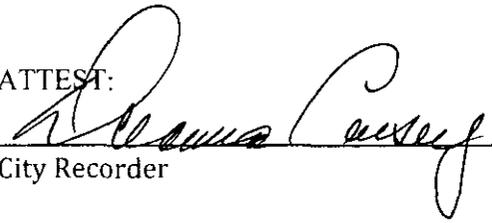
17.96.600 Record of amendments.

The city recorder shall maintain a record of any amendments to the comprehensive plan in a format convenient for public use.

**PASSED** by the Council and signed by me in authentication of its passage this <sup>7<sup>th</sup> June</sup> ~~12~~ day of ~~May~~ 2014.

  
\_\_\_\_\_

Mayor Hank Williams

ATTEST:  
  
\_\_\_\_\_  
City Recorder