

**Central Point  
City Hall  
541-664-3321**

**City Council**

**Mayor**  
Hank Williams

**Ward I**  
Bruce Dinger

**Ward II**  
Michael Quilty

**Ward III**  
Brandon Thueson

**Ward IV**  
Allen Broderick

**At Large**  
Rick Samuelson  
Vacant

**Administration**  
Chris Clayton, City  
Manager  
Deanna Casey, City  
Recorder

**Community  
Development**  
Tom Humphrey,  
Director

**Finance**  
Bev Adams, Director

**Human Resources**  
Barb Robson, Director

**Parks and Public  
Works**  
Matt Samitore,  
Director  
Jennifer Boardman,  
Manager

**Police**  
Kris Allison Chief

**CITY OF CENTRAL POINT  
City Council Meeting Agenda  
March 12, 2015**

Next Res. 1419  
Next Ord. 2004

- I. **REGULAR MEETING CALLED TO ORDER – 7:00 P.M.**
- II. **PLEDGE OF ALLEGIANCE**
- III. **ROLL CALL**
- IV. **PUBLIC APPEARANCES – *Comments will be limited to 3 minutes per individual or 5 minutes if representing a group or organization.***
- V. **SPECIAL PRESENTATION**
  - Fire District No. 3 Quarterly Report
- VI. **CONSENT AGENDA**

Page 1 - 8 A. Approval of February 26, 2015 Council Minutes  
9 - 10 B. Approval of Arbor Week Proclamation  
11 C. Approval to cancel the March 26, 2015 and April 23,  
2015 City Council meetings
- VII. **ITEMS REMOVED FROM CONSENT AGENDA**
- VIII. **PUBLIC HEARING, ORDINANCES, AND RESOLUTIONS**

12 - 35 A. Second Reading – Ordinance No. \_\_\_\_\_, Repealing  
Chapter 12.40 Telecommunications Infrastructure  
replacing it with Chapter 12.40 Franchises and Utility  
License Fees (Clayton)

37 - 58 B. Resolution No. \_\_\_\_\_, Approving a Conceptual Land Use  
and Transportation Plan for CP-1B, An Urban Area of  
the City of Central Point, Oregon (Humphrey)
- IX. **BUSINESS**

-- -- A. Planning Commission Report (Humphrey)

- 60 - 64      B.      Measure 91 Update (Clayton/Dreyer)
- 66          C.      Council Member Appointment (Mayor Williams)

**X.      MAYOR’S REPORT**

**XI.     CITY MANAGER’S REPORT**

**XII.    COUNCIL REPORTS**

**XIII.   DEPARTMENT REPORTS**

**XIV.   EXECUTIVE SESSION**

The City Council may adjourn to executive session under the provisions of ORS 192.660. Under the provisions of the Oregon Public Meetings Law, the proceedings of an executive session are not for publication or broadcast.

**XV.    ADJOURNMENT**

# Consent Agenda

**CITY OF CENTRAL POINT**  
**City Council Meeting Minutes**  
**February 26, 2015**

**I. REGULAR MEETING CALLED TO ORDER**

Mayor Williams called the meeting to order at 7:00 p.m.

**II. PLEDGE OF ALLEGIANCE**

- III. ROLL CALL:** Mayor: Hank Williams  
Council Members: Allen Broderick, Bruce Dingler, Brandon Thueson, Rick Samuelson, and Mike Quilty were present.

City Manager Chris Clayton; City Attorney Dan O'Connor; Police Chief Kris Allison; Community Development Director Tom Humphrey; Parks and Public Works Director Matt Samitore; and City Recorder Deanna Casey were also present.

**IV. PUBLIC APPEARANCES**

Debra Miles, Oak Street

Mrs. Miles asked the Council to put in place an ordinance that would allow the Central Point Police to site and confiscate illegal fireworks within the City limits. She stated that it has gotten very bad in her neighborhood with aerial fireworks during certain holidays. She is not asking the City to ban fireworks, only asking that the officers enforce the laws for illegal ones. She stated that she has been told in the past that officers cannot site or confiscate illegal fireworks in the city limits. She has researched other cities and found ordinances that we could use to allow our officers to do this when they find the citizens who are setting them off. It will be a bad fire season again this year and aerial fireworks will cause fires in our neighborhoods.

John Lohrfnk, and Lisa Turner, Covington Court

These residents from Covington Court wanted to express to the City Council their appreciation for the Central Point Police Department and all they are doing to help with a nuisance property in their neighborhood. They know that the City is trying to help with this problem house and the questionable people that come and go from the home. They appreciate that officers watch when the school bus drops off their children to make sure they get home safe. They realize there are other crimes in town that may be more important but it is nice to know that the City cares about them enough to show support in helping close down this problem house.

**V. SPECIAL PRESENTATION**

• **RVCOG ANNUAL UPDATE**

Michael Cavallaro from RVCOG presented the Program and Financial update as of January, 2015. RVCOG did a performance review for the first time and

received a good response. He provided program updates for MPO and recognized the longstanding membership of Councilmember Mike Quilty. He updated on the Planning and Community Development Programs and the help the Community Development Director Tom Humphrey provides throughout the valley for all the communities. They have the staff and resources to go after grants for communities who are not able to do it themselves. They have been helping Central Point with their Storm Water Management. Their Senior and Disability Services program is going strong. The State of Oregon has a lot of programs to allow seniors to stay in their homes as long as possible into their elderly years. Central Point does a great job of contributing to this program. Central Point is high on the list for Life Long Housing for our seniors. He highlighted several projects that show Central Point as a forward thinking city. He talked about the Public Managers meetings that Mr. Clayton attends for local City Managers to get together and work on local issues. They are reviewing the Medicaid program in the area and considering taking it over and absorbing the state employees to help maintain the programs.

- **VIETNAM WALL PRESENTATION**

Russ McBride and Kyle Pace presented the plans to bring a replica of the Vietnam Memorial Wall to Jackson County. They would like to put this wall in Don Jones Memorial Park. They have been impressed in the past with the way Central Point treats memorial events and they feel that having the wall in Central Point would be good for Central Point and the West Coast. The wall would be 80% the size of the original wall. It will be 8' tall by 360' long. They would raise the money through fund raisers. The only thing they would ask from Central Point is the donation of the land. They explained some of the aspects of the wall. They have looked at property all over Jackson County and feel that Don Jones Memorial Park is the best fit. The only concern is parking during a memorial event, but they can work out the fundamentals as they proceed with the plans.

Staff explained that there are several issues that still need to be discussed before this is decided. It should go before the Citizens Advisory Commission and the Parks Commission before the Council can make a final decision on it. This is the initial presentation to begin the process.

**Vi. CONSENT AGENDA**

**A. Approval of February 12, 2015 City Council Minutes**

**Mike Quilty moved to approve the Consent Agenda as presented.** Rick Samuelson seconded. Roll call: Hank Williams, yes; Bruce Dingler, yes; Brandon Thueson, yes; Allen Broderick, yes; Rick Samuelson, yes; and Mike Quilty, yes. Motion approved.

**VII. ITEMS REMOVED FROM CONSENT AGENDA - None**

**VIII. BUSINESS**

## **A. Community Survey Presentation**

Environmental Services Coordinator Stephanie Holtey introduced Jim Hebert from Hebert Research, Inc. who presented the results of the phone survey done at the beginning of 2015. The goal of the survey was to determine the overall satisfaction of the city services and quality of life in Central Point. He explained the profiles of the respondents. The survey shows that the small town feel and quiet neighborhoods are very important to them. They feel that business and economic growth is something that the city should concentrate on. The citizens are satisfied overall with the dates and times of the special events. The overall satisfaction score was maintained overall as very high. The citizens value safe neighborhoods and parks; a family oriented community; accountability in leaders; a financially balanced government and local employment opportunities. The importance of downtown improvement increased this year.

He explained the question regarding the Parks Maintenance and Public Safety fee question. A third of the surveyors were asked if they would support a \$3.00 fee; a third were asked if they would support a \$6.00 fee and a third were asked if they would support a \$9.00 fee to support current service levels. Overall the citizens would be willing to pay either of the fees to keep the current levels of services. It is important to the citizens to maintain the safe community feeling.

Trust is important throughout the community. Overall the citizens are happy with the services provided by the city. They get most of their communication from the city through the newsletter. Most respondents would like to see a community pool and a dog park. Mr. Clayton stated that the City has mailed out surveys to all residents and will provide the survey on the website. We have received approximately 150 surveys from the mailing. Staff will return with the results of those two surveys at a later time.

## **B. Local Committee Assignments**

Mayor Williams presented the City Council Representatives to Boards, Commission, Committees, and Foundations list. The Council agreed to the following:

- Central Point Citizens Advisory Committee – Bruce Dingler
- Parks and Recreation Commission – Allen Broderick
- Parks and Recreation Foundation – Allen Broderick
- Multicultural Committee – Allen Broderick
- RVCOG Board of Directors – Rick Samuelson
- Bear Creek Greenway Committee – Brandon Thueson
- Jackson County Expo Board – Mayor Williams
- SOREDI – Allen Broderick
- School District No. 6 Board Meeting – Brandon Thueson
- Medford Water Commission – Mayor Williams
- Regional Problem Solving – Mayor Williams
- Jackson County Fire District No. 3 Board – No Representative

- RVCOG Executive Board – No Representative
- TRADCO – Mike Quilty
- RVMPO – Mike Quilty
- Airport Advisory Committee – Mike Quilty
- Medford – Ashland Air Quality Maintenance Area – Mike Quilty
- Rogue Valley Area Commission on Transportation – Mike Quilty
- RVTD – No Representative

Mr. Clayton stated that he will ask Kay Harrison if she will continue to attend the RVSS meetings on behalf of the City.

## **IX. PUBLIC HEARINGS, ORDINANCES AND RESOLUTIONS**

### **A. Resolution No. 1418, Long Range Financial Plan**

Finance Director Bev Adams explained that this is the final copy of the Long Range Financial Plan. This plan will provide a tool for the city's five major funds: general fund, street fund, building fund, water fund and storm water fund.

On January 27<sup>th</sup> the FCS Group presented the financial plan to the Council and following a discussion the council and staff suggested a few minor changes and gave approval for the plan to be finalized. This will be a working document. It is not set in stone as the numbers will change according to environmental issues and economic growth. As things change within the community we can change the numbers and see what the outlook of the city will be in the future and prepare for those changes.

**Allen Broderick moved to approve Resolution No. 1418, A Resolution to Adopt a Long Term Financial Plan for the City of Central Point.** Mike Quilty seconded. Roll call: Hank Williams, yes; Bruce Dinger, yes; Brandon Thueson, yes; Allen Broderick, yes; Rick Samuelson, yes; and Mike Quilty, yes. Motion approved.

### **B. Public Hearing and First Reading – Ordinance Repealing Chapter 12.40 Telecommunications Infrastructure replacing it with Chapter 12.40 Franchises and Utility Fees**

City Manager Chris Clayton explained that staff would like to implement a general franchise agreement in an attempt to address any 'non-franchised' utility operations within the public right-of-way. The proposed ordinance would not be directed at any specific utility and would include utilities using public right-of-way for their business operations. The proposed ordinance includes provisions that allow for pending legal questions in the area of telecommunications to be accommodated via ordinance amendment or specific franchise agreement language.

The proposed ordinance protects the city from non-franchised utility operations, while encouraging utility providers to negotiate individual franchise agreements. There are two corrections to the proposed ordinance, 12.40.075 (B) the Utility

License Fee should be 7% not 7.5%, and Section 12.40.075 (E) should read Privilege License Fee, not Privilege Taxes.

The City would rather work with any utility through a Franchise Agreement than through this Ordinance. Each utility is unique and could have special circumstances. Currently our highest franchise fee is 6% so setting this rate at 7% should encourage the utilities to come to the city and work out an agreement that would work best for them and the City.

Mr. Clayton explained that this is a public hearing and Rogue Valley Sewer Services was invited to attend. The Council can hold open the public hearing if they wish until the next meeting and not pass the Ordinance to second reading tonight. There was discussion that RVSS has had plenty of opportunity to come speak with the Council regarding a franchise agreement or the general franchise ordinance. They have not contacted the City or the Council with concerns.

Mayor Williams opened the public hearing, no one came forward and the public hearing was closed.

**Allen Broderick moved to second reading an Ordinance Repealing Chapter 12.40 Telecommunications Infrastructure replacing it with Chapter 12.40 Franchises and Utility License Fees.** Brandon Thueson seconded. Roll call: Hank Williams, yes; Bruce Dingler, yes; Brandon Thueson, yes; Allen Broderick, yes; Rick Samuelson, yes; and Mike Quilty, yes. Motion approved.

## **IX. MAYOR'S REPORT**

Mayor Williams reported that he:

- Attended the Car show at the Jackson County Expo.
- Attended the Central Point Chamber Mixer.
- Attended a TRADCO meeting at which they discussed the future of the organization with the Medford Chamber. They want to combine it with the Chamber's Transportation Action Committee.
- Attended the Medford Water Commission.
- Attended the OLCC Listening Session in Ashland for city officials. Most of the concerns that cities and counties have are being discussed at the legislature.
- Attended a presentation by Mark VanHolle with Lighthouse Worldwide Solutions, a small manufacturing facility in Southern Oregon that makes monitory systems for clean rooms. Mr. VanHolle is trying to move their headquarters from Fremont, California to Southern Oregon.
- Met with Gary Bedell regarding the Eagle Point Irrigation District. They have some concerns about offers the Medford Water Commission are making them.
- Attended the Study Session.

## **X. CITY MANAGER'S REPORT**

City Manager Chris Clayton reported that:



- Parks and Public Works has been working with the Cemetery group to remove the dangerous tree along Hamrick Road. They have also uncovered an old well on the property. Staff is going to cover it temporarily until the property owners can be notified to make permanent improvements to ensure that no one falls in. The well looks to be about 30 feet deep.
- Stephanie Holtey has done a great job with the Community Survey. She has worked with Hebert Research and prepared the mailing to the citizens.
- The Police Department has been working hard on the Covington Court Nuisance property. It may take some time, but they are working on that situation.
- There will be a short Executive Session tonight to discuss Real Estate Transactions.

## **XI. COUNCIL REPORTS**

Council Member Allen Broderick reported that:

- He attended the Study Session.
- He attended the Parks Foundation meeting. They are considering allowing park benches with advertising signs on them to help with funds for the parks.
- He feels it is important to plan a study session to discuss parking issues for Don Jones Park if we allow the Vietnam Memorial to go there. There are already parking issues in the summer with the water spray park.

Council Member Bruce Dingler had no report.

Council Member Rick Samuelson reported that:

- He attended the Study Session.
- He attended the RVCOG meeting. Medford is working on an Urban Growth Boundary Expansion but have been told it will be at least a year out. They would like to expand along highway 62.
- Rogue Community may be cutting some classes and charging high school students for classes in the future.

Council Member Brandon Thueson reported that:

- He really appreciates the reports the Mr. Clayton sends out weekly. He was approached by a citizen regarding a tree in Twin Creeks recently and knew what the problem was. He was able to tell the citizen that it was going to be addressed by the city.
- He also attended the Study Session.

Council Member Mike Quilty reported that:

- He attended the MPO meeting and was elected to the Chair position for the 10<sup>th</sup> year.
- The City of Medford's UGB expansion has caused some concern with the MPO. They are concerned this will use up a lot of the transportation planning money.

## **XII. DEPARTMENT REPORTS**

Parks and Public Works Director Matt Samitore reported that they have started work on Freeman Road. There will be some disruption to water customers during the work. They found old water lines crossing new lines that need to be removed.

Police Chief Kris Allison reported that:

- She testified in front of the House of Representatives on Tuesday regarding Police Department Decertification.
- There was a trailer fire in Central Point this week. The gentleman was living in a travel trailer that caught on fire due to a space heater. He is in critical condition.

Community Development Director Tom Humphrey reported that:

- The Central Point Urban Growth Boundary expansion, Area Management Agreement and Interchange Management Plan all went to the Jackson County Planning Commission and were approved.
- The Joint meeting for the Central Point and Jackson County Planning Commissions is postponed until April 2<sup>nd</sup>.

### **XIII. EXECUTIVE SESSION – 192.660(2)(e) Real Property Transactions**

**Rick Samuelson moved to adjourn to Executive Session under ORS 192.660(2)(e) Real Property Transactions.** Brandon Thueson seconded. All said aye and the meeting was adjourned to executive session at 9:30 p.m.

Returned to regular session at 9:38 p.m. No further action was taken.

### **XIV. ADJOURNMENT**

**Mike Quilty moved to adjourn,** Rick Samuelson seconded, all said “aye” and the Council Meeting was adjourned at 9:40 p.m.

The foregoing minutes of the February 26, 2015, Council meeting were approved by the City Council at its meeting of March 12, 2015.

Dated:

\_\_\_\_\_  
Mayor Hank Williams

ATTEST:

\_\_\_\_\_  
City Recorder



---

**STAFF REPORT**

**To:** Central Point City Council  
**From:** Jennifer Boardman, Manager, Parks and Recreation Department  
**Subject:** Arbor Week Proclamation  
**Date:** March 12, 2015

---

**Purpose:** The purpose of this staff report is to show the importance of promoting tree awareness and for the proclamation of Arbor Week in Central Point.

**Background:** The Arbor Week proclamation is important to the City of Central Point in a number of aspects chiefly in securing the re-certification of the Tree City USA designation for 2016.

To qualify as a Tree City USA community, a town or city must meet the required standards established by The Arbor Day Foundation and the National Association of State Foresters.

The standards help to ensure that every qualifying community no matter the size has a viable tree management plan which includes the celebration of Arbor Day/Week.

In addition to accomplishing one the Tree City USA goals, establishing an Arbor Week celebration will help to raise awareness of the importance of trees in Central Point, expand the tree canopy by planting additional trees, and enhance the parks and open spaces where the trees are planted.

**Recommendation:** That the Council approve the Arbor Week proclamation and join Central Point Parks, Recreation Department in celebration of Arbor Week 2015 April 5-11.

# Arbor Week Proclamation

*Whereas,* In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

*Whereas,* the holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

*Whereas,* Arbor Week is now observed throughout the nation and the world, and

*Whereas,* trees can reduce the erosion of our precious topsoil by wind and water, lower our heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife, and

*Whereas,* trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

*Whereas,* trees increase property values, enhance the economic vitality of business areas, and beautify our community, and

*Whereas,* trees, wherever they are planted, are a sources of joy and spiritual renewal,

NOW, THEREFORE, I Hank Williams, Mayor of the City of Central Point, Oregon do hereby proclaim **April 5 – 11, 2015 as,**

## Arbor Week

and I urge all citizens to celebrate Arbor Week and to support efforts to protect our trees and woodlands and

*Further,* I urge all citizens to plant and care for trees to gladden the heart and promote the well-being of this and future generations.

Dated this \_\_\_\_\_ Day of March, 2015.

\_\_\_\_\_  
Mayor Hank Williams



**ADMINISTRATION DEPARTMENT**

140 South 3<sup>rd</sup> Street · Central Point, OR 97502 · (541) 664-3321 · www.centralpointoregon.gov

**STAFF REPORT**

March 12, 2015

**AGENDA ITEM: Cancellation of March 26, and April 23, 2015 Council Meeting**

**STAFF SOURCE:**

Deanna Casey, City Recorder

**BACKGROUND/SYNOPSIS:**

Due to a lack of business items for March and three Budget Committee meetings in April staff is recommending cancelling the second Council meetings for both March and April. The City Council meeting schedule will be:

**March**

March 12 – Regular Council Meeting  
March 16 – Council Study Session  
March 26 – Development Commission Meeting

**April**

April 9 – Regular Council Meeting  
April 13 – Budget Meeting #1  
April 20 – Budget Meeting #2  
April 27 -- Budget Meeting #3

**FISCAL IMPACT:**

There is no financial impact to the City.

**ATTACHMENTS:**

No Attachments.

**RECOMMENDATION:**

Approve cancellation of March 26<sup>th</sup> and April 23<sup>rd</sup> City Council Meetings.

**PUBLIC HEARING REQUIRED:**

No Public Hearing is required.

**SUGGESTED MOTION:**

Approve the Consent Agenda as presented.

# **Ordinance**

## **General Utility License Fee**



## ADMINISTRATION DEPARTMENT

140 South 3<sup>rd</sup> Street · Central Point, OR 97502 · (541) 664-7602 · www.centralpointoregon.gov

### STAFF REPORT

March 12, 2015

**AGENDA ITEM: The first reading of a General Utility License Fee ordinance – Central Point Municipal Code Chapter 12.40 – Franchises and Utility Fees. If adopted, the proposed ordinance would concurrently repeal current CPMC chapter 12.40.**

#### STAFF SOURCE:

---

Sydnee Dreyer, City Attorney  
Chris Clayton, City Manager

#### BACKGROUND/SYNOPSIS:

---

While Central Point has a number of franchised utilities operating within public right-of-way, we are attempting to address any ‘non-franchised’ utility operations via a general utility license fee ordinance. The proposed ordinance would not be directed at any specific utility and would envelop utilities using public right-of-way for their business operations. The proposed ordinance includes provisions that allow for pending legal questions in the area of telecommunications to be accommodated via ordinance amendment or specific franchise agreement language.

At the February 12<sup>th</sup> City Council Meeting a discussion was held on the proposed General Utility License Fee ordinance. Tonight’s proposed ordinance is a reflection of the revisions suggest by both council and staff on February 12<sup>th</sup>. More specifically, the proposed ordinance protects the city from non-franchised utility operations, while encouraging utility providers to negotiate individual franchise agreements.

At the February 26<sup>th</sup> City Council Meeting there was a correction made to section 12.40.075(B) changing the utility license fee from 7.5% to 7% and to (E) changing Privilege Taxes to Privilege License Fee. Those changes have been made to the attached Ordinance.

#### ATTACHMENTS:

---

1. General Utility License Fee Ordinance (CPMC 12.40)

#### RECOMMENDATION:

---

1. Approval Ordinance Chapter 12.40 General Utility License Fee ordinance – Central Point Municipal Code Chapter 12.40 – Franchises and Utility Fees.

#### PUBLIC HEARING REQUIRED:

---

A public hearing was held on February 26, 2015. No public hearing is required for this meeting.

#### SUGGESTED MOTION:

---

I move to approve Ordinance No. \_\_\_\_\_ an Ordinance Repealing Chapter 12.40 Telecommunications Infrastructure replacing it with Chapter 12.40 Franchises and Utility License Fee

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE REPEALING CHAPTER 12.40 TELECOMMUNICATIONS  
INFRASTRUCTURE REPLACING IT WITH CHAPTER 12.40 FRANCHISES AND  
UTILITY LICENSE FEES**

Recitals:

- A. Chapter 12.40 governs the standards for the use, construction and safety of Telecommunications Carriers in the rights-of-way; and
- B. Chapter 12.40 provides for the right of the city to collect a franchise fee for use of the rights of way by Telecommunications Carriers; and
- C. The City of Central Point desires to set forth uniform standards for the use, construction and safety in the right of way for any utility provider, cable company and/or telecommunications carrier located within the city’s right-of-way; and
- D. To ensure that the city can effectively manage its rights of way and aid the enforcement of its safety and construction standards within the rights of way, the city desires to establish registration requirements for all utilities, cable companies and telecommunication carriers providing facilities or services within the City; and
- E. The City desires to establish reasonable and compensation for the use of the right of way regardless of whether such entity has entered into a franchise agreement with the City.

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

**SECTION 1.** Chapter 12.40 Telecommunications Infrastructure of the Central Point Municipal Code is repealed in its entirety and replaced with a new section Chapter 12.40 Franchises and Utility License Fees of the Central Point Municipal Code to read as follows:

**Chapter 12.40  
FRANCHISES AND UTILITY LICENSE FEES**

---

Sections:

- [12.40.010](#) Purpose and intent.
- [12.40.020](#) Definitions.
- [12.40.030](#) Registration.
- [12.40.040](#) Construction standards.
- [12.40.050](#) Location of Facilities.
- [12.40.060](#) Franchise Agreements.
- [12.40.070](#) General franchise terms.
- [12.40.075](#) Utility License Fee.
- [12.40.080](#) General provisions.

Ordinance No. \_\_\_\_\_ (031215)



**12.40.010 Purpose and intent.**

---

**A. Purpose.** The purpose and intent of this chapter is to:

1. Secure fair and reasonable compensation to the city and its residents for permitting private use of the public right-of-way;
2. Assure that all Telecommunications Carriers, Cable Operators and Utility Providers providing facilities and/or services within the city, or passing through the city, register and comply with the ordinances, rules and regulations of the city;
3. Assure that the city's current and ongoing costs of granting and regulating private access to and the use of the public rights-of-way are fully compensated by the persons seeking such access and causing such costs;
4. Assure that the city can continue to fairly and responsibly protect the public health, safety and welfare of its citizens;
5. Enable the city to discharge its public trust consistent with the rapidly evolving federal and state regulatory policies, industry competition and technological development.
6. Comply with the provisions of federal and state law as they apply to local governments, Telecommunications Carriers, Cable Operators and Utility Providers, and the services those carriers offer.
7. Encourage the provision of advanced and competitive telecommunications services on the widest possible basis to businesses, institutions and residents of the city;
8. Permit and manage reasonable access to the public rights-of-way of the city and conserve the limited physical capacity of those public rights-of-way held in trust by the city;

**B. Jurisdiction and Management of the Public Rights-of-Way.**

1. The city has jurisdiction and exercises regulatory management over all public rights-of-way within the city under authority of the city charter and state law.
2. Public rights-of-way include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, city easements and all other public ways or areas, including the subsurface under and air space over these areas.
3. The city has jurisdiction and exercises regulatory management over each public right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way and whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.
4. No person may occupy or encroach on a public right-of-way without the permission of the city. The city grants permission to use rights-of-way by franchises and permits and through the provisions of this ordinance.

5. The exercise of jurisdiction and regulatory management over each public right-of-way by the city is not official acceptance of the right-of-way, and does not obligate the city to maintain or repair any part of the right-of-way.

6. The city retains the right and privilege to cut or move any Telecommunications, Cable or Utility facilities located within the public rights-of-way of the city, as the city may determine to be necessary, appropriate or useful in response to a public health or safety emergency.

C. Regulatory Fees and Compensation not a Tax.

1. The fees and costs provided for in this chapter, and any compensation charged and paid for use of the public rights-of-way provided for in this chapter, are separate from, and in addition to, any and all federal, state, local, and city charges as may be levied, imposed, or due from a Telecommunications Carrier, Cable Operator or Utility Provider, its customers or subscribers, or on account of the lease, sale, delivery, or transmission of telecommunications services.

2. The city has determined that any fee provided for by this chapter is not subject to the property tax limitations of Article XI, Sections 11 and 11b of the Oregon Constitution. These fees are not a tax imposed on property or property owners, and these fees are not new.

3. The fees and costs provided for in this chapter are subject to applicable federal and state laws.

**12.40.020 Definitions.**

For the purpose of this chapter the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The words “shall” and “will” are mandatory and “may” is permissive. Words not defined herein shall be given the meaning set forth in the Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996. If not defined there, the words shall be given their common and ordinary meaning.

Aboveground Facilities. See “Overhead facilities.”

“Affiliated interest” shall have the same meaning as ORS [759.010](#).

“Cable Act” means the Cable Communications Policy Act of 1984, 47 U.S.C. subsection 521, et seq., as now and hereafter amended.

“Cable Operator” means any person or group of persons who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

“Cable Service” is to be defined consistent with federal laws and means the one-way transmission to subscribers of video programming, or other programming service; and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

“City” means the city of Central Point, an Oregon municipal corporation, and individuals authorized to act on the city’s behalf.

“City Council” means the elected governing body of the city of Central Point, Oregon.

“City property” means and includes all real property owned by the city, other than public rights-of-way and utility easements as those are defined herein, and all property held in a proprietary capacity by the city, which are not subject to right-of-way franchising as provided in this chapter.

“Conduit” means any structure, or portion thereof, containing one or more ducts, conduits, manholes, handholds, bolts, or other facilities used for any telegraph, telephone, cable television, electrical, or communications conductors, or cable right-of-way, owned or controlled, in whole or in part, by one or more public utilities.

“Construction” means any activity in the public rights-of-way resulting in physical change thereto, including excavation or placement of structures, but excluding routine maintenance or repair of existing facilities.

“Control” or “controlling interest” means actual working control in whatever manner exercised.

“Days” means calendar days unless otherwise specified.

“Duct” means a single enclosed raceway for conductors or cable.

“Emergency” has the meaning provided for in ORS [401.025](#).

“Federal Communication Commission” or “FCC” means the federal administrative agency, or its lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

“Franchise” means an agreement between the city and a grantee which grants a privilege to use public right-of-way and utility easements within the city for a dedicated purpose and for specific compensation.

“Grantee” means the person to which a franchise is granted by the city.

“Oregon Public Utilities Commission” or “OPUC” means the statutorily created state agency in the state of Oregon responsible for licensing, regulation and administration of certain telecommunications carriers as set forth in Oregon Law, or its lawful successor.

“Overhead or aboveground facilities” means utility poles, utility facilities and telecommunication facilities above the surface of the ground, including the underground supports and foundations for such facilities.

“Person” means an individual, corporation, company, association, joint stock company or association, firm, partnership, or limited liability company.

“Private telecommunications network” means a system, including the construction, maintenance or operation of the system, for the provision of a service or any portion of a service which is owned or operated exclusively by a person for their use and not for resale, directly or indirectly. “Private telecommunications network” includes services provided by the state of Oregon pursuant to ORS [190.240](#) and [283.140](#).

“Public rights-of-way” include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements, and all other public ways or areas, including the subsurface under and air space over these areas. This definition applies only to the extent of the city’s right, title, interest or authority to grant a franchise to occupy and use such areas for Telecommunications, Cable and/or Utility facilities. “Public rights-of-way” shall also include utility easements as defined below.

“Reseller” means any person that provides Telecommunications Service using a Telecommunications Facility for which service a separate charge is made by such Reseller, where such Reseller does not own, control, or manage the Telecommunications Facility used to provide the service.

“State” means the state of Oregon.

“Telecommunication” means the transmission between and among points specified by the user, of information of the user’s choosing.

“Telecommunications Act” means the Communications Policy Act of 1934, as amended by subsequent enactments including the Telecommunications Act of 1996 (47 U.S.C. subsection 151 et seq.) and as hereafter amended.

“Telecommunications Carrier” means any provider of telecommunications services and includes every person that directly or indirectly owns, controls, operates or manages telecommunications facilities within the city.

“Telecommunications Facilities” means the fixed, mobile, or transportable structures, property or equipment, including electrical wiring, cabling, and transmission pathways, other than customer premises equipment, used by a Telecommunications Carrier to provide Telecommunications Services.

“Telecommunications service” means transmission for rent, sale, or lease or in exchange for other value received, information in electromagnetic frequency, electronic or optical form, including but not limited to voice, video or data, whether or not the transmission medium is owned by the provider itself, and whether or not the transmission medium is wireline or wireless. Telecommunications service includes all forms of telephone services and voice,

data and video transport, but does not include: 1) cable service; 2) OVS service; 3) private communications system services; 4) over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto; and 5) direct-to-home satellite service within the meaning of the Telecommunications Act of 1996.

Telecommunication System. See “Telecommunications Facilities.”

“Telecommunication Utility” has the same meaning as ORS [759.005\(1\)](#).

“Underground facilities” means utility, cable and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for “overhead facilities.”

“Usable space” means all of the space on a pole, except the portion below ground level, the twenty feet of safety clearance above ground level, and the safety clearance space between communications and power circuits. There is a rebuttable presumption that six feet of a pole is buried below ground level.

“Utility Provider” means any public, private, cooperative or special district or other entity formed for the purpose of providing electric, gas, steam heat, water, wastewater treatment and disposal service.

“Utility Easement” means any easement granted to or owned by the city and acquired, established, dedicated or devoted for public utility purposes.

“Utility Facilities” means the plant, equipment and property, including but not limited to the poles, pipes, mains, conduits, ducts, cable, wires, plant and equipment located under, on, or above the surface of the ground within the public right-of-way of the city and used or to be used for the purpose of providing utility or telecommunications services. (Ord. 1820 §1(4), 2001).

#### **12.40.030 Registration.**

---

A. Purpose. The purpose of registration is:

1. To assure that all Telecommunications Carriers, Cable Operators and Utility Providers who have facilities and/or provide services within the city comply with the ordinances, rules and regulations of the city;
2. To provide the city with accurate and current information concerning the Telecommunications Carriers, Cable Operators and/or Utility Providers who offer to provide services within the city, or that own or operate such facilities within the city;
3. To assist the city in the enforcement of this chapter and the collection of any city franchise fees or charges that may be due the city.

B. Registration Required. Except as provided in subsection D of this section, all Telecommunications Carriers, Cable Operators and/or Utility Providers having

Ordinance No. \_\_\_\_\_ (031215)

Telecommunications Facilities, Cable Facilities, and/or Utility Facilities within the corporate limits of the city, and/or Resellers and other such entities that offer or provide such services to customer premises within the city, shall register. The appropriate application and license from: (a) the Oregon Public Utility Commission (PUC); or (b) the Federal Communications Commission (FCC), where applicable, qualify as necessary registration information. Applicants have the option of providing the following information:

1. The identity and legal status of the registrant, including the name, address, and telephone number of the duly authorized officer, agent, or employee responsible for the accuracy of the registration information;
2. The name, address, and telephone number for the duly authorized officer, agent or employee to be contacted in the case of emergency;
3. A description of the registrant's existing or proposed facilities within the city, a description of the facilities that the registrant intends to construct, and a description of the service that the registrant intends to offer or provide to persons, firms, businesses, or institutions within the city;
4. Information sufficient to determine whether the transmission, origination or receipt of the services provided, or to be provided by the registrant constitutes an occupation or privilege subject to any business license requirements. A copy of the business license or the license number must be provided.

C. Registration Fee. Each application for registration shall be accompanied by a nonrefundable registration fee in an amount to be determined by resolution of the city council. Such fee is designed to defray the costs of City administration of this section.

D. Exceptions to Registration. The following Telecommunications Carriers, Cable Operators and/or Utility Providers are exempted from registration:

1. Telecommunication Carriers, including internet service providers, Cable Operators and/or Utility Providers that are owned and operated exclusively for its own use by the state or a political subdivision of this state;
2. A private telecommunications network. Provided that such network does not occupy any public rights-of-way of the city. (Ord. 1820 §1(5)--(8), 2001).

**12.40.040 Construction standards.**

---

A. General. No person shall commence or continue with the construction, installation or operation of Telecommunication Facilities, Cable Facilities and/or Utility Facilities within a public right-of-way except as provided in subsections D through O of this section and Section [12.40.050](#), and with all applicable codes, rules, and regulations.

B. Construction Codes. Telecommunication Facilities, Cable Facilities and/or Utility Facilities shall be constructed, installed, operated and maintained in accordance with all

applicable federal, state and local codes, rules and regulations including the National Electrical Code and the National Electrical Safety Code.

C. Construction Permits. No person shall construct or install any Telecommunication Facilities, Cable Facilities and/or Utility Facilities within the city without first obtaining a construction permit, and paying the construction permit fee established in subsection G of this section. No permit shall be issued for the construction or installation of Telecommunication Facilities, Cable Facilities and/or Utility Facilities:

1. Unless the Telecommunications Carrier, Cable Operator or Utility Provider has first filed a registration statement with the city pursuant to Section [12.40.030](#); and if applicable;
2. Unless the Telecommunications Carrier, Cable Operator or Utility Provider has satisfied the requirements of the Central Point Municipal Code.

D. Permit Applications. Applications for permits to construct Telecommunication Facilities, Cable Facilities and/or Utility Facilities shall be submitted upon forms to be provided by the city and shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:

1. That the facilities will be constructed in accordance with all applicable codes, rules and regulations;
2. That the facilities will be constructed in accordance with the franchise agreement, if any;
3. The location and route of all facilities to be installed aboveground or on existing utility poles;
4. The location and route of all new facilities on or in the public rights-of-way to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are within the public rights-of-way. Existing facilities shall be differentiated on the plans from new construction;
5. The location of all of applicant's existing underground utilities, conduits, ducts, pipes, mains and installations which are within the public rights-of-way along the underground route proposed by the applicant. A cross-section shall be provided showing new or existing facilities in relation to the street, curb, sidewalk or right-of-way;
6. The construction methods to be employed for protection of existing structures, fixtures and facilities within or adjacent to the public rights-of-way, and description of any proposal to temporarily or permanently remove or relocate.

E. Applicant's Verification. All permit applications shall be accompanied by the verification of a registered professional engineer, or other qualified and duly authorized representative of the applicant, that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations.

Ordinance No. \_\_\_\_\_ (031215)

F. Construction Schedule. All permit applications shall be accompanied by a written construction schedule, which shall include a deadline for completion of construction. The construction schedule is subject to approval by the planning, building and public works departments.

G. Construction Permit Fee. Unless otherwise provided in a franchise agreement, prior to issuance of a construction permit, the applicant shall pay a permit fee in an amount to be determined by resolution of the city council. Such fees shall be designed to defray the costs of city administration of the requirements of this chapter.

H. Issuance of Permit. If satisfied that the applications, plans and documents submitted comply with all requirements of this chapter and the franchise agreement, the planning, building and public works departments shall issue a permit authorizing construction of the facilities, subject to such further conditions, restrictions or regulations affecting the time, place and manner of performing the work as they deem necessary or appropriate.

I. Notice of Construction. Except in the case of an emergency, the permittee shall notify the public works department not less than two working days in advance of any excavation or construction in the public rights-of-way. Utility locates by the Oregon Utility Notification Center shall be completed prior to notification of the public works department.

J. Compliance with Permit. All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The planning, building and public works departments and their representatives shall be provided access to the work site and such further information as they may require to ensure compliance with such requirements.

K. Noncomplying Work. Subject to the notice requirements in subsection D of Section [12.40.050](#), all work which does not comply with the permit, the approved or corrected plans and specifications for the work, or the requirements of this chapter, shall be removed at the sole expense of the permittee. The city is authorized to stop work in order to assure compliance with the provisions of this chapter.

L. Completion of Construction. The permittee shall promptly complete all construction activities so as to minimize disruption of the city's rights-of-way and other public and private property. All construction work within city rights-of-way, including restoration, must be completed within one hundred twenty (120) days of the date of issuance of the construction permit unless an extension or an alternate schedule has been approved by the appropriate city official as contemplated by subsection F of this section.

M. As-Built Drawings. If requested by the city, the permittee shall furnish the city with two complete sets of plans drawn to scale and certified to the city as accurately depicting the location of all Telecommunication Facilities, Cable Facilities and/or Utility Facilities pursuant to the permit. These plans shall be submitted to the public works director or designee within sixty days after completion of construction, in a format mutually acceptable to the permittee and the city.

N. Restoration of Public Rights-of-Way and City Property.

Ordinance No. \_\_\_\_\_ (031215)



1. When a permittee, or any person acting on its behalf, does any work in or affecting any public rights-of-way or city property, it shall, at its own expense, promptly remove any obstructions therefrom and restore such ways or property to good order and condition unless otherwise directed by the city and as determined by the public works director.

2. If weather or other conditions do not permit the complete restoration required by this subsection N, the permittee shall temporarily restore the affected rights-of-way or property. Such temporary restoration shall be at the permittee's sole expense and the permittee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration. Any corresponding modification to the construction schedule may be subject to approval by the city.

3. If the permittee fails to restore rights-of-way or property in good condition, the city shall give the permittee written notice and provide permittee a reasonable period of time not exceeding thirty (30) days to restore the rights-of-way or property. If, after said notice, the permittee fails to restore the rights-of-way or property to as good a condition as existed before the work was undertaken, the city shall cause such restoration to be made at the expense of the permittee.

4. A permittee or other acting in its behalf shall use suitable barricades, flags, flagging attendants, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such rights-of-way or property.

O. Performance and Completion Bond. Unless otherwise provided in a franchise agreement, a performance bond or other form of surety acceptable to the city equal to at least one hundred (100%) percent of the estimated cost of constructing permittee's Telecommunication Facilities, Cable Facilities and/or Utility Facilities within the public rights-of-way of the city shall be provided before construction is commenced.

1. The surety shall remain in force until sixty (60) days after substantial completion of the work, as determined in writing by the city, including restoration of public rights-of-way and other property affected by the construction.

2. The surety shall guarantee, to the satisfaction of the city:

a. Timely completion of construction;

b. Construction is in compliance with applicable plans, permits, technical codes and standards;

c. Proper location of the facilities as specified by the city;

d. Restoration of the public rights-of-way and other property affected by the construction; and

- e. Timely payment and satisfaction of all claims, demands or liens for labor, material, or services provided in connection with the work.

**12.40.050 Location of Facilities.**

---

A. Location of Facilities. Placement of Telecommunication Facilities, Cable and Utility Facilities within the city shall be subject to zoning code, Title [17](#). All facilities located within the public right-of-way shall be constructed, installed and located in accordance with the following terms and conditions, unless otherwise specified in a franchise agreement:

1. Whenever all new or existing Telecommunication Facilities, Cable Facilities and/or Utility Facilities are located or relocated underground within a public right-of-way of the city, a grantee with permission to occupy the same public right-of-way must also locate its facilities underground.
2. Whenever all new or existing Telecommunication Facilities, Cable Facilities and/or Utility Facilities are located or relocated underground within a public right-of-way of the city, a grantee that currently occupies the same public right-of-way shall relocate its facilities underground concurrently with the other affected utilities to minimize disruption of the public right-of-way, absent extraordinary circumstances or undue hardship as determined by the city and consistent with applicable state and federal law.

B. Interference with the Public Rights-of-Way. No grantee may locate or maintain its Telecommunication Facilities, Cable Facilities and/or Utility Facilities so as to unreasonably interfere with the use of the public rights-of-way by the city, by the general public or by other persons authorized to use or be present in or upon the public rights-of-way. All use of public rights-of-way shall be consistent with city codes, ordinances and regulations.

C. Relocation or Removal of Facilities. Except in the case of an emergency, within ninety (90) days following the written notice by the city, a grantee shall, at no expense to city, temporarily or permanently remove, relocate, change or alter the position of any Telecommunication Facilities, Cable Facilities and/or Utility Facilities within the public rights-of-way whenever the city shall have determined that such removal, relocation, change or alteration is reasonably necessary for:

1. The construction, repair, maintenance or installation of any city or other public improvement in or upon the public rights-of-way;
2. The operations of the city or other governmental entity in or upon the public rights-of-way;
3. The public interest.

D. Removal of Unauthorized Facilities. Within thirty (30) days following written notice from the city, any Telecommunications Carrier, Cable Operator, Utility Provider or other person that owns, controls or maintains any unauthorized Telecommunications, Cable or Utility system, facility or related appurtenances within the public rights-of-way of the city shall, at its own expense, remove such facilities and/or appurtenances from the public rights-of-way

of the city. A Telecommunications, Cable or Utility system or facility is unauthorized and subject to removal in the following circumstances:

1. One year after the expiration or termination of the grantee's franchise;
2. Upon abandonment of a facility within the public rights-of-way of the city. A facility will be considered abandoned when it is deactivated, out of service, or not used for its intended and authorized purpose for a period of ninety days or longer. A facility will not be considered abandoned if it is temporarily out of service during performance of repairs or if the facility is being replaced;
3. If the system or facility was constructed or installed without the appropriate prior authority at the time of installation;
4. If the system or facility was constructed or installed at a location not permitted by the grantee's franchise or other legally sufficient permit.

E. Coordination of Construction Activities. All grantees are required to make a good faith effort to cooperate with the city.

1. By January 1st of each year, grantees shall provide the city with a schedule of their proposed construction activities in, around or that may affect the public rights-of-way.
2. If requested by the city, each grantee shall meet with the city annually or as determined by the city, to schedule and coordinate construction in the public rights-of-way. At that time, the city will provide available information on plans for local, state, and/or federal construction projects.
3. All construction locations, activities and schedules shall be coordinated, as ordered by the public works director or designee, to minimize public inconvenience, disruption or damages. (Ord. 1823 §1, 2001; Ord. 1820 §1(24)--(28), 2001).

#### **12.40.060 Franchise Agreements.**

---

A. Franchise. As of the effective date of this ordinance, in lieu of payment of the Utility License Fee, a Telecommunications Carrier, Cable Operator or Utility Provider who desires to occupy public rights-of-way of the city may negotiate to enter into a franchise agreement with the city, subject to the provisions herein.

B. Application. Any person that desires a franchise must register as a Telecommunications Carrier, Cable Operator or Utility Provider as provided in 12.40.030 herein, and shall file an application with the Central Point planning department which includes the following information:

1. The identity of the applicant;
2. A description of the services that are to be offered or provided by the applicant over its facilities;

3. Engineering plans, specifications, and a network map in a form customarily used by the applicant of the facilities located or to be located within the public rights-of-way in the city, including the location and route requested for applicant's proposed Telecommunication Facilities, Cable Facilities and/or Utility Facilities;

4. The area or areas of the city the applicant desires to serve and a preliminary construction schedule for build-out to the entire franchised area;

5. Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities and to offer or provide the services proposed;

6. An accurate map showing the location of any existing Telecommunication Facilities, Cable Facilities and/or Utility Facilities in the city that applicant intends to use or lease.

C. Application and Review Fee.

1. Subject to applicable state law, applicant shall reimburse the city for such reasonable costs as the city incurs in entering into the franchise agreement.

2. An application and review fee of one thousand dollars shall be deposited with the city as part of the application filed pursuant to subsection B of this section. Expenses exceeding the deposit will be billed to the applicant or the unused portion of the deposit will be returned to the applicant following the determination granting or denying the franchise. Additional building, public works and planning department fees may be required by the Central Point Municipal Code.

D. Determination by the City. The city shall issue a written determination granting or denying the application in whole or part. If the application is denied, the written determination shall include the reasons for denial.

E. Rights Granted. No franchise granted pursuant to this chapter shall convey any right, title or interest in the public rights-of-way, but shall be deemed a grant to use and occupy the public rights-of-way for the limited purposes and term, and upon the conditions stated in the franchise agreement.

F. Term of Grant. Unless otherwise specified in a franchise agreement, a franchise granted hereunder shall be in effect for a term of five years.

G. Franchise Territory. Unless otherwise specified in a franchise agreement, a franchise granted hereunder shall be limited to a specific geographic area of the city to be served by the franchise grantee, and the public rights-of-way necessary to serve such areas, and may include the entire city.

H. Franchise Fee. Each franchise granted by the city is subject to the city's right, which is expressly reserved, to fix a fair and reasonable compensation to be paid for the privileges granted; provided, nothing in this chapter shall prohibit the city and a grantee from agreeing to the compensation to be paid. The compensation shall be subject to the specific payment

terms and conditions contained in the franchise agreement and applicable state and federal laws.

I. Amendment of Grant. Conditions for amending a franchise:

1. A new application and grant shall be required of any Telecommunications Carrier, Cable Operator or Utility Provider that desires to extend or locate its Telecommunication Facilities, Cable Facilities and/or Utility Facilities in public rights-of-way of the city which are not included in a franchise previously granted under this chapter, or to provide a service not previously included in a franchise previously granted under this chapter.
2. If ordered by the city to locate or relocate its Telecommunication Facilities, Cable Facilities and/or Utility Facilities in public rights-of-way not included in a previously granted franchise, the city shall grant an amendment without further application.
3. A new application and grant shall be required of any Telecommunications Carrier, Cable Operator or Utility Provider that desires to provide a service which was not included in a franchise previously granted under this chapter.

J. Renewal Applications. A grantee that desires to renew its franchise under this chapter shall, not less than one hundred eighty (180) days before expiration of the current agreement, file an application with the city for renewal of its franchise which shall include the following information:

1. The information required pursuant to subsection B of this section;
2. Any information required pursuant to the franchise agreement between the city and the grantee.

K. Renewal Determinations. Within ninety (90) days after receiving a complete application under subsection J of this section, the city shall issue a written determination granting or denying the renewal application in whole or in part, applying the following standards. If the renewal application is denied, the written determination shall include the reasons for nonrenewal.

1. The financial and technical ability of the applicant;
2. The legal ability of the applicant;
3. The continuing capacity of the public rights-of-way to accommodate the applicant's existing and proposed facilities;
4. The applicant's compliance with the requirements of this chapter and the franchise agreement;
5. Applicable federal, state and local laws, rules and policies;

6. Such other factors as may demonstrate that the continued grant to use the public rights-of-way will serve the community interest;

L. Obligation to Cure as a Condition of Renewal. No franchise shall be renewed until any ongoing violations or defaults in the grantee's performance of the agreement, or of the requirements of this chapter, have been cured, or a plan detailing the corrective action to be taken by the grantee has been approved by the city.

M. Assignments or Transfers of System or Franchise. Ownership or control of a majority interest in a Telecommunication Carrier, Cable Operator or Utility Provider subject to a franchise may not, directly or indirectly, be transferred, assigned or disposed of by sale, lease, merger, consolidation or other act of the grantee, by operation of law or otherwise, without the proper consent of the city, which consent shall not be unreasonably withheld or delayed, and then only on such reasonable conditions as may be prescribed in such consent.

1. Grantee and the proposed assignee or transferee of the franchise or system shall agree, in writing, to assume and abide by all of the provisions of the franchise.

2. No transfer shall be approved unless the assignee or transferee has the legal, technical, financial and other requisite qualifications to own, hold and operate the Telecommunications System, Cable System or Utility System pursuant to this chapter.

3. Unless otherwise provided in a franchise agreement, the grantee shall reimburse the city for all direct and indirect fees, costs and expenses reasonably incurred by the city in considering a request to transfer or assign a franchise.

4. Any transfer or assignment of a Telecommunications, Cable or Utility franchise, system or integral part of a system without prior approval of the city under this section or pursuant to a franchise agreement shall be void and is cause for revocation of the franchise.

N. Revocation or Termination of Franchise. A franchise to use or occupy public rights-of-way of the city may be revoked for the following reasons:

1. Construction or operation in the city or in the public rights-of-way of the city without a construction permit;

2. Construction or operation at an unauthorized location;

3. Failure to comply with subsection M of this section with respect to sale, transfer or assignment of a system or franchise;

4. Misrepresentation by or on behalf of a grantee in any application to the city;

5. Abandonment of Telecommunication Facilities, Cable Facilities and/or Utility Facilities in the public rights-of-way;

6. Failure to relocate or remove facilities as required in this chapter;

7. Failure to pay taxes, compensation, fees or costs when and as due the city under this chapter;
8. Insolvency or bankruptcy of the grantee;
9. Violation of material provisions of this chapter;
10. Violation of the material terms of a franchise agreement.

O. Notice and Duty to Cure. In the event that the city believes that grounds exist for revocation of a franchise, the city shall give the grantee written notice of the apparent violation or noncompliance, providing a short and concise statement of the nature and general facts of the violation or noncompliance, and providing the grantee a reasonable period of time, not exceeding thirty (30) days, to furnish evidence that:

1. Corrective action has been taken, or good faith and active efforts to expeditiously remedy the violation or noncompliance are taking place; and/or
2. Requesting a hearing before the city council to rebut the alleged violation or noncompliance; and/or present evidence that it would be in the public interest to impose some penalty or sanction less than revocation.

P. Public Hearing. Upon receipt of the franchisee's response, or in the event no response is received within thirty (30) days of the date of receipt of the notice, the city manager shall refer the apparent violation or noncompliance to the city council. In the event a request for hearing is made by the franchisee, the city manager shall fix a time and place for hearing the matter, and shall give the appellant fifteen days written notice of the time and place of the hearing before the city council.

1. The parties shall be entitled to appear personally and by counsel and to present such facts, evidence and arguments as may tend to support the respective positions on appeal.
2. The city council shall afford the parties an opportunity to be heard at an appeal hearing after reasonable notice. The city council shall take such action upon the appeal it sees fit. The city council shall at a minimum:
  - a. At the commencement of the hearing, explain the relevant issues involved in the hearing, applicable procedures and the burden of proof.
  - b. At the commencement of the hearing place on the record the substance of any written or oral ex parte communications concerning any relevant and material fact in issue at the hearing which was made outside the official proceedings during the pendency of the proceeding. The parties shall be notified of the substance of the communication and the right to rebut the communication. Notwithstanding the above, the parties are prohibited from engaging in ex parte communications with the members of the city council.

- c. Testimony shall be taken upon oath or affirmation of the witnesses.
- d. The city council shall ensure that the record developed at the hearing shows a full and fair inquiry into the relevant and material facts for consideration for the issues properly before the hearings officer.
- e. Written testimony may be submitted under penalty of false swearing for entry into the record. All written evidence shall be filed with the City recorder no less than (5) five working days before the date of the hearing.
- f. The city council shall hear and consider any records and evidence presented bearing upon the alleged violation or nonconformance.

3. Informal disposition may be made of any case by stipulation, agreed settlement, consent order or default.

Q. Standards for Revocation or Lesser Sanctions. If persuaded that the grantee has violated or failed to comply with the material provisions of this chapter, or of a franchise agreement, the city council shall determine whether to revoke the franchise, or to establish some lesser sanction and cure, considering the nature, circumstances, extent, and gravity of the violation as reflected by one or more of the following factors. Whether:

- 1. The misconduct was egregious;
- 2. Substantial harm resulted;
- 3. The violation was intentional;
- 4. There is a history of prior violations of the same or other requirements;
- 5. There is a history of overall compliance;
- 6. The violation was voluntarily disclosed, admitted or cured.
- 7. The findings of the city council shall be final and conclusive, and shall be served upon the grantee in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

R. Other City Costs. All grantees shall, within thirty (30) days after written demand therefor, reimburse the city for all reasonable direct and indirect costs and expenses incurred by the city in connection with any modification, amendment, renewal or transfer of the franchise or any franchise agreement consistent with applicable state and federal laws. (Ord. 1969 §1(part), 2013; Ord. 1820 §1(29)--(46), 2001).

**12.40.070 General franchise terms.**



A. Facilities. Upon request, each grantee shall provide the city with an accurate map or maps certifying the location of all facilities within the public rights-of-way. Each grantee will provide updated maps annually.

B. Damage to Grantee's Facilities. Unless directly and proximately caused by willful, intentional or malicious acts by the city, the city shall not be liable for any damage to or loss of any Telecommunications, Cable or Utility facility within the public rights-of-way as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling or work of any kind in the public rights-of-way by or on behalf of the city, or for any consequential losses resulting directly or indirectly therefrom.

C. Duty to Provide Information. Within ten (10) business days of a written request from the city, each grantee shall furnish the city with the following:

1. Information sufficient to demonstrate that grantee has complied with all requirements of this chapter;
2. All books, records, maps, and other documents, maintained by the grantee with respect to its facilities within the public rights-of-way shall be made available for inspection by the city at reasonable times and intervals.

D. Service to the City. If the city contracts for the use of Telecommunication, Cable or Utility facilities, services, installation, or maintenance from the grantee, the grantee shall charge the city the grantee's most favorable rate offered at the time of the request charged to similar users within Oregon for similar volume of service, subject to any of grantee's tariffs or price lists on file with the OPUC. With the city's permission, the grantee may deduct the applicable charges from fee payments. Other terms and conditions of such services may be specified in a separate agreement between the city and grantee.

E. Compensation for City Property. If any right is granted, by lease, franchise, or other manner, to use and occupy city property for the installation of Telecommunication Facilities, Cable Facilities and/or Utility Facilities, the compensation to be paid for such right and use shall be fixed by the city.

F. Multiple Facility Franchises. A facility used for multiple purposes requires separate franchises. By way of illustration and not limitation, a Cable Operator of a Cable System to provide Cable Services must obtain a separate franchise to provide Telecommunication Services over the same facilities.

G. Resellers. Resellers must register with the city pursuant to section 12.40.030 herein. So long as Resellers register pursuant to section 12.40.030 herein and pay the Utility License Fee provided in section 12.40.075 below, a Reseller may use another entity's facilities to engage in telecommunications activities in the right-of-way without obtaining a franchise, providing the Reseller does not, either itself or through an affiliate, own or lease, control or manage the facilities in the right-of-way and is not involved in the construction or repair of facilities in the right-of-way. For purposes of calculating the registration and privilege tax to be paid by the Reseller, the amount of compensation paid by the Reseller to the owner of manager of the facilities in the right-of-way for the services it resells shall be deducted from

the Reseller's gross revenues before applying the percentage rates described in sections 12.40.075.

H. Leased Capacity. A grantee shall have the right, without prior city approval, to offer or provide capacity or bandwidth to its customer; provided that the grantee shall notify the city that such lease or agreement has been granted to a customer of lessee.

I. Grantee Insurance. Unless otherwise provided in a franchise agreement, each grantee shall, as a condition of the grant, secure and maintain the following liability insurance policies insuring the grantee and the city, and its elected and appointed officers, officials, agents and employees as coinsured:

1. Comprehensive general liability insurance with limits not less than:
  - a. Three million dollars for bodily injury to death to each person,
  - b. Three million dollars for property damage resulting from any one accident, and
  - c. Three million dollars for all other types of liability;
2. Automobile liability for owned, non-owned and hired vehicles with a limit of one million dollars for each person and three million dollars for each accident;
3. Worker's compensation within statutory limits and employer's liability insurance with limits not less than one million dollars;
4. Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits not less than three million dollars;
5. The liability insurance policies required by this section shall be maintained by the grantee throughout the term of the franchise, and such other period of time during which the grantee is operating without a franchise hereunder, or is engaged in the removal of Telecommunication Facilities, Cable Facilities and/or Utility Facilities. Each such insurance policy shall contain the following endorsement:

“It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until 90 days after receipt by the City, by registered mail, of a written notice addressed to the City Manager of such intent to cancel or not to renew.”
6. Within sixty (60) days after receipt by the city of such notice and in no event later than thirty (30) days prior to such cancellation, the grantee shall obtain and furnish to the city evidence that the grantee meets the requirements of this section.
7. As an alternative to the insurance requirements contained herein, a grantee may provide evidence of self-insurance subject to review and acceptance by the city.

J. General Indemnification. Each franchise agreement shall include, to the extent permitted by law, grantee's express undertaking to defend, indemnify and hold the city and its officers, employees, agents and representatives harmless from and against any and all damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the grantee or its affiliates, officers, employees, agents, contractors or subcontractors in the construction, operation, maintenance, repair or removal of its Telecommunication Facilities, Cable Facilities and/or Utility Facilities, and in providing or offering Telecommunications, Cable or Utility Services over the facilities or network, whether such acts or omissions are authorized, allowed or prohibited by this chapter, or by a franchise agreement made or entered pursuant to this chapter.

K. Performance Surety. Before a franchise granted pursuant to this chapter is effective, and as necessary thereafter, the grantee shall provide a performance bond, in form and substance acceptable to the city, as security for the full and complete performance of a franchise granted under this chapter, including any costs, expenses, damages or loss the city pays or incurs because of any failure attributable to the grantee to comply with the codes, ordinances, rules, regulations or permits of the city. This obligation is in addition to the performance surety required by subsection O of Section [12.40.040](#) for construction of facilities. (Ord. 1820 §1(47)--(56), 2001).

**12.40.075 Utility License Fee Required.**

A. The terms of the Utility License Fee shall not apply to any holder of a current, valid, franchise granted or issued by the city council.

B. Any Telecommunications Carrier, Cable Operator or Utility Provider using or occupying public rights-of-way within the city without a franchise for a period of thirty (30) days or longer shall pay for the use and occupancy of such public rights of way. The fee imposed under this subsection shall be in the amount of seven and one-half percent (7.0%) of the Telecommunications Carrier, Cable Operator or Utility Provider's Gross Revenues as defined herein, for each consecutive three (3) month period. The Utility License Fee shall be computed as of 30-days after the commencement of business or 30-days after the expiration of any franchise or other authority under which the Telecommunications Carrier, Utility Provider or Cable Operator operated. The license fee shall be due and payable so long as the Telecommunications Carrier, Cable Operator or Utility Provider operates within the city limits and uses or occupies the public rights-of-way.

C. In the event a franchise is granted to any Telecommunications Carrier, Cable Operator or Utility Provider subject to the Utility License Fee under this chapter, and the franchise becomes effective, then the fee shall cease to apply from the effective date of the franchise. The franchise holder shall pay the proportionate earned amount of the Utility License Fee for the current quarterly period. The license fee shall in such cases become immediately due and payable, and if not paid, collectible as provided in subsection G herein.

D. Each Telecommunications Carrier, Cable Operator or Utility Provider subject to the Utility License Fee as provided in this section shall file with the Director of the Finance Department a report of the revenues earned within the corporate limits of the city for each consecutive 3-month period in the form and manner specified by the Finance Department (“Quarterly Report”).

1. The first quarterly report shall be filed on or before the first payment date of the license fee. Subsequent reports shall be filed on or before February 15, May 15, August 15 and November 15 of each year.

2. If a franchise is granted to an entity otherwise subject to the license fee, the Telecommunications Carrier, Cable Operator or Utility Provider shall file a report with the Director within 10-days after the franchise becomes effective showing the Gross Revenues earned for the proportionate period of the quarter prior to the franchise being granted.

E. Telecommunication Carriers, Cable Operators and Utility Providers shall submit quarterly payments of Utility License Fee under this subsection on or before February 15, May 15, August 15 and November 15 of each year which shall be accompanied by the Quarterly Report for that payment period as provided in subsection E above.

F. If the Telecommunication Carrier, Cable Operator or Utility Provider fails to pay the Utility License Fee under this section, the City Attorney may institute an action in the Circuit Court of the State of Oregon for Jackson County to recover the amount of the utility license fee due the city, together with applicable penalties and accrued interest.

1. Interest will be assessed on any unpaid utility license fee at the rate of 0.833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the fee to the 15<sup>th</sup> day of the month following the date of payment.

2. For the purpose of calculating interest under this subsection G, the amount of the utility license fee due shall be reduced the amount of any Utility License Fee payments received by the Director on or before the due dates established herein.

3. Interest amounts properly assessed in accordance with this section may not be waived or reduced by the Director.

G. Any person subject to this Chapter or any officer or agent of any association or corporation subject to the provisions of this Chapter who, for a period of 30-days after the statement is required to be filed with the Director, fails, neglects, or refuses to file with the Director the Quarterly Report of such person, association or corporation shall be subject to the penalties, including any criminal penalties, provided for in Section

H. Any person subject to the provisions of this 12.40.75 shall provide the city evidence of the insurance on the amounts specified in 12.40.070 and is subject to the indemnification requirements of 12.40.070 herein.

**12.40.080 General provisions.**

---

A. Governing Law. Any franchise granted under this chapter is subject to the provisions of the Constitution and laws of the United States, and the state of Oregon and the ordinances and charter of the city.

B. Written Agreement. No franchise shall be granted hereunder unless the agreement is in writing.

C. Nonexclusive Grant. No franchise granted under this chapter shall confer any exclusive right, privilege, license or franchise to occupy or use the public rights-of-way of the city for delivery of telecommunications services or any other purpose.

D. Severability and Preemption. If any article, section, subsection, sentence, clause, phrase, term, provision, condition, covenant or portion of this chapter is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, or superseded by state or federal legislation, rules, regulation or decision, the remainder of the chapter shall not be affected thereby but shall be deemed as a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof, and each remaining section, subsection, sentence, clause, phrase, provision, condition, covenant and portion of this chapter shall be valid and enforceable to the fullest extent permitted by law. In the event that federal or state laws, rules or regulations preempt a provision or limit the enforceability of a provision of this chapter, then the provision shall be read to be preempted only to the extent required by the law. In the event such federal or state law, rule, or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall be thereupon return to full force and effect, and shall thereafter be binding, without the requirement of further action on the part of the city.

E. Penalties. Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any provisions of this chapter shall be fined not less than one hundred dollars nor more than one thousand dollars for each offense. A separate and distinct offense shall be deemed committed each day on which a violation occurs.

F. Other Remedies. Nothing in this chapter shall be construed as limiting any judicial remedies that the city may have, at law or in equity, for enforcement of this chapter.

G. Captions. The captions to sections throughout this chapter are intended solely to facilitate reading and reference to the sections and provisions contained herein. Such captions shall not affect the meaning or interpretation of this chapter.

H. Compliance with Laws. Any grantee under this chapter shall comply with all federal and state laws and regulations, including regulations of any administrative agency thereof, as well as all ordinances, resolutions, rules and regulations of the city heretofore or hereafter adopted or established during the entire term of any franchise granted under this chapter, which are relevant and relate to the construction, maintenance and operation of a telecommunication system.

I. Consent. Whenever the consent of either the city or of the grantee is specifically required by this chapter or in a franchise granted, such consent will not be unreasonably withheld.

J. Application to Existing Ordinance and Agreements. To the extent that this chapter is not in conflict with and can be implemented with existing ordinance and franchise agreements, this chapter shall apply to all existing ordinance and franchise agreements for use of the public right-of-way for telecommunications.

K. Confidentiality. The city agrees to use its best efforts to preserve the confidentiality of information as requested by a grantee, to the extent permitted by the Oregon Public Records Law. (Ord. 1820 §1(57)--(67), 2001).

**SECTION 3.** Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word Ordinance may be changed to “code”, “article”, “section”, “chapter”, or other word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions need not be codified and the City Recorder is authorized to correct any cross references and any typographical errors.

**SECTION 4.** Effective Date. The Central Point City Charter states that an ordinance enacted by the council shall take effect on the thirtieth day after its enactment. The effective date of this ordinance will be the thirtieth day after the second reading.

Passed by the Council and signed by me in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Mayor Hank Williams

ATTEST:

\_\_\_\_\_  
City Recorder

Ordinance No. \_\_\_\_\_ (031215)

# **Resolution**

## **Conceptual Land Use for CP-1B**



**STAFF REPORT**

**STAFF REPORT**

March 12, 2015

**AGENDA ITEM: File No. 14009**

Consideration of a Conceptual Land Use and Transportation Plan for Urban Reserve Area CP-1B; **Applicant:** City of Central Point.

**STAFF SOURCE:**

Tom Humphrey AICP, Community Development Director

**BACKGROUND:**

The City’s Regional Plan Element includes a provision that prior to expansion of the urban growth boundary into an urban reserve area it is necessary to adopt conceptual land use and transportation plans for the affected urban reserve. A second urban growth boundary application has been submitted to Jackson County on behalf of CardMoore Trucking that includes 50 acres of CP-1B. City staff has prepared a Conceptual Land Use and Transportation Plan to comply with the performance measures and the conditions of the Greater Bear Creek Valley Regional Plan.

Staff presented various drafts of the CP-1B conceptual plan to Citizen’s Advisory Committee (CAC) and the Planning Commission. Staff has also distributed this document for public review and comment. The CAC considered this plan at their January meeting and recommended in favor of it. Some revisions have been made to the Concept Plan in anticipation of this final Planning Commission review and these are reflected in red text. Property owners have been notified and commented during public hearings.

**ISSUES:**

The concept plan is a general land use guide prepared in accordance with, and intended to facilitate implementation of the Central Point Regional Plan Element. It does not address compliance with the Oregon Statewide Land Use Planning Goals, applicability of land use planning law, or comprehensive plan compliance.

The Concept Plan has been prepared in accordance with the County’s Greater Bear Creek Valley Regional Plan including all applicable performance indicators set forth in these documents. An assessment of performance indicators as they apply to CP-1B are included in the attached plan (refer to Attachment A, pages 14-19).

**EXHIBITS/ATTACHMENTS:**

- Attachment “A” – Tolo Area Concept Plan, A Conceptual Land Use and Transportation Plan for CP-1B
- Attachment “B” – Resolution No. \_\_\_ A Resolution Approving A Conceptual Land Use And Transportation Plan For CP-1B, An Urban Area Of The City Of Central Point, Oregon

**ACTION:**

Open Public Hearing and invite those present to comment on the City’s Concept Plan. Recommend 1) Approve the Conceptual Plan; 2) Approve with revisions based upon public input or 3) Deny the Conceptual Plan.

**RECOMMENDATION:**

Approve Resolution No. \_\_\_ approving the CP-1B Concept Plan.



Wednesday, February 25, 2015 Draft

# **TOLO AREA CONCEPT PLAN**

---

***A CONCEPTUAL LAND USE AND  
TRANSPORTATION PLAN FOR***

***CP-1B***

***AN URBAN RESERVE AREA OF THE CITY OF  
CENTRAL POINT***

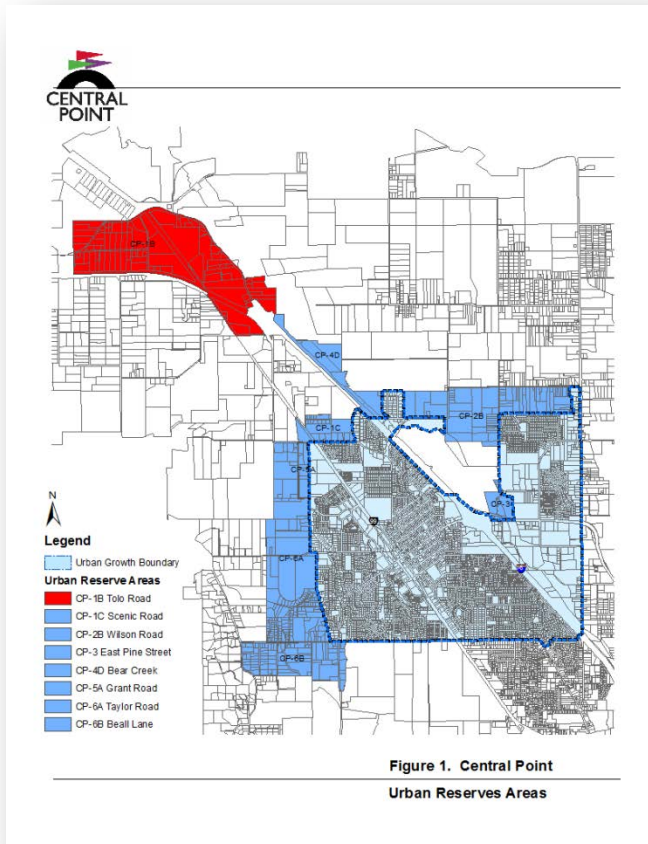
City of Central Point

Adopted by City Council Resolution No. \_\_\_\_\_, March 12, 2015

Page 1 of 20

## PART 1. INTRODUCTION

As part of the Regional Plan Element<sup>1</sup> it is required that the City prepare and adopt for each of its eight (8) Urban Reserve Areas (URAs) a Conceptual Land Use Plan<sup>2</sup> and a Conceptual Transportation Plan<sup>3</sup> prior to or in conjunction with an Urban Growth Boundary (UGB) amendment within a given URA. This document addresses both conceptual plans, which are collectively referred to as the *CP-1B Concept Plan* (*Concept Plan*). Figure 1 illustrates CP-1B's relationship to the City and the other URAs.



As used in this report the term 'concept plan' refers to a document setting forth a written and illustrated set of general actions designed to achieve a desired goal that will be further refined over time as the planning process moves from the general (concept plan) to the specific (site development). In the case of CP-1B the goal to be achieved is a first generation refinement of how the land use distributions and applicable performance indicators of the Greater Bear Creek Valley Regional Plan (GBCVRP) will be applied to CP-1B.

The concept plan is a general land use guide prepared in accordance with, and intended to facilitate implementation of the Regional Plan Element. It does not address compliance with the Oregon Statewide Land Use Planning Goals, applicability of land use planning law, or comprehensive plan compliance. These items will be appropriately addressed at some other

<sup>1</sup> City of Central Point Ordinance 1964

<sup>2</sup> City of Central Point Comprehensive Plan, Regional Plan Element, Section 4.1 Performance Indicators, subsection 4.1.7

<sup>3</sup> City of Central Point Comprehensive Plan, Regional Plan Element, Section 4.1 Performance Indicators, subsection 4.1.8

time as the area’s planning proceeds through UGB amendment, annexation, zoning, site plan approval, and ultimately development, with each step being guided by the *Concept Plan*.

The *Concept Plan* illustrates the City’s basic development program for CP-1B; which is presented in Part 2 of this document. The remainder of the document (Part 3) is dedicated to providing background information used in preparation of the *Concept Plan*, including findings of compliance with the land use distribution and applicable Performance Indicators in the City’s Regional Plan Element.

In summary the *Concept Plan* has been prepared in accordance with the Regional Plan Element and Greater Bear Creek Valley Regional Plan including all applicable performance indicators set forth in these documents. The development concept for CP-1B compliments and supports local and regional objectives relative to land use distribution and needed transportation corridors identified in the *Greater Bear Creek Valley Regional Plan*.

## **PART 2. THE CONCEPT PLAN**

The long-term objective for CP-1B is that it will develop as a regionally significant employment hub that is populated with transportation-oriented uses and complementary businesses given the URA’s proximity to an interchange, access to rail and location on a state freight route. The area is currently home to aircraft manufacturer Erickson Air Crane and Cardmoore Trucking. It is viewed as a future Central Point employment area as it develops and becomes a part of the City. The Concept Plan is comprised of two elements:

### **a. The Conceptual Land Use Plan (‘Land Use Plan’)**

The primary objective of the Land Use Plan is to refine the land use categories and spatial distribution of those categories throughout CP-1B. This is necessary because the Regional Plan Element only addresses land use in terms of general land use types, i.e. residential, employment, etc., and percentage distribution of the land use.

The Regional Plan Element distributes land uses within CP-1B into one basic land use classification; employment (100%). Employment land includes three categories: retail, industrial, and public. The Land Use Plan for CP-1B refines these allocations by aligning them with the appropriate Comprehensive Plan Land Use and Zoning designations in the City’s Comprehensive Plan. Those designations are illustrated in Figure 2, and tabulated in Table 1 as follows:

- i. **Industrial.** The Comprehensive Plan’s industrial designation is intended to ‘establish a strong and diversified sector’ and to ‘maximize new development opportunities’. **Land Use** is broken down into two categories with the possibility of a third.
  - **Light Industrial;**
  - **General Industrial;**
  - **Business Park** (Business Offices and Service Commercial) which is compatible with and closely related in nature of business to uses permitted in the City’s M-1 and M-2 zoning but may be developed independent of those zones.
  
- ii. **Commercial.** The Comprehensive Plan’s commercial designation is intended to meet the needs of the **immediate** market area **and not the traveling public**. In this case, retail uses are **internal and to intended to serve the Tolo Employment area exclusively** and reduce out of area vehicle trips.
  
- iii. **Public.** Parks and Open Space designation is consistent with the Regional Plan Element and allows for the continued use and improvement of the Bear Creek Greenway system, natural drainage and agricultural buffers. It also provides opportunities for passive recreational/open space use.

**Table 1 Proposed Land Use Zoning by Acreage**

Township/Range/Section	Acreage	Future Zoning	Future Comp Plan	Current Ownership
362W20-29	97.23	B-P	Business Park	
362W20-29	11.40	C-I	Commercial	
362W20-29	184.97	M-1	Light Industrial	
362W20-29	202.64	M-2	Heavy Industrial	
362W20-29	44.92	Park	Public/Open Space	
<b>TOTAL ACRES</b>	<b>541.16</b>			

**b. The Conceptual Transportation Plan (“Transportation Plan”)**

The regionally significant transportation **documents** affecting CP-1B are Interstate 5 (I-5), Blackwell Road/OR **140 and the Bear Creek Greenway Management Plan**. The *Concept Plan* identifies **all of these plans** (Figure 2, CP-1B Concept Plan) and includes policies that encourage the thoughtful development of the interchange and surrounding properties.

### c. Implementation Guidelines

The following guidelines are intended to serve as future action items:

**Policy CP-1B.1 Land Use:** At time of inclusion in the City's urban growth boundary (UGB) the property will be shown on the City's General Land Use Plan Map as illustrated in the CP-1B Concept Plan, Figure 2 **except where the concept plan depicts a designation that does not currently exist in the City's Comprehensive Plan. In such cases, the City may apply a designation it deems appropriate under its current map designations.**

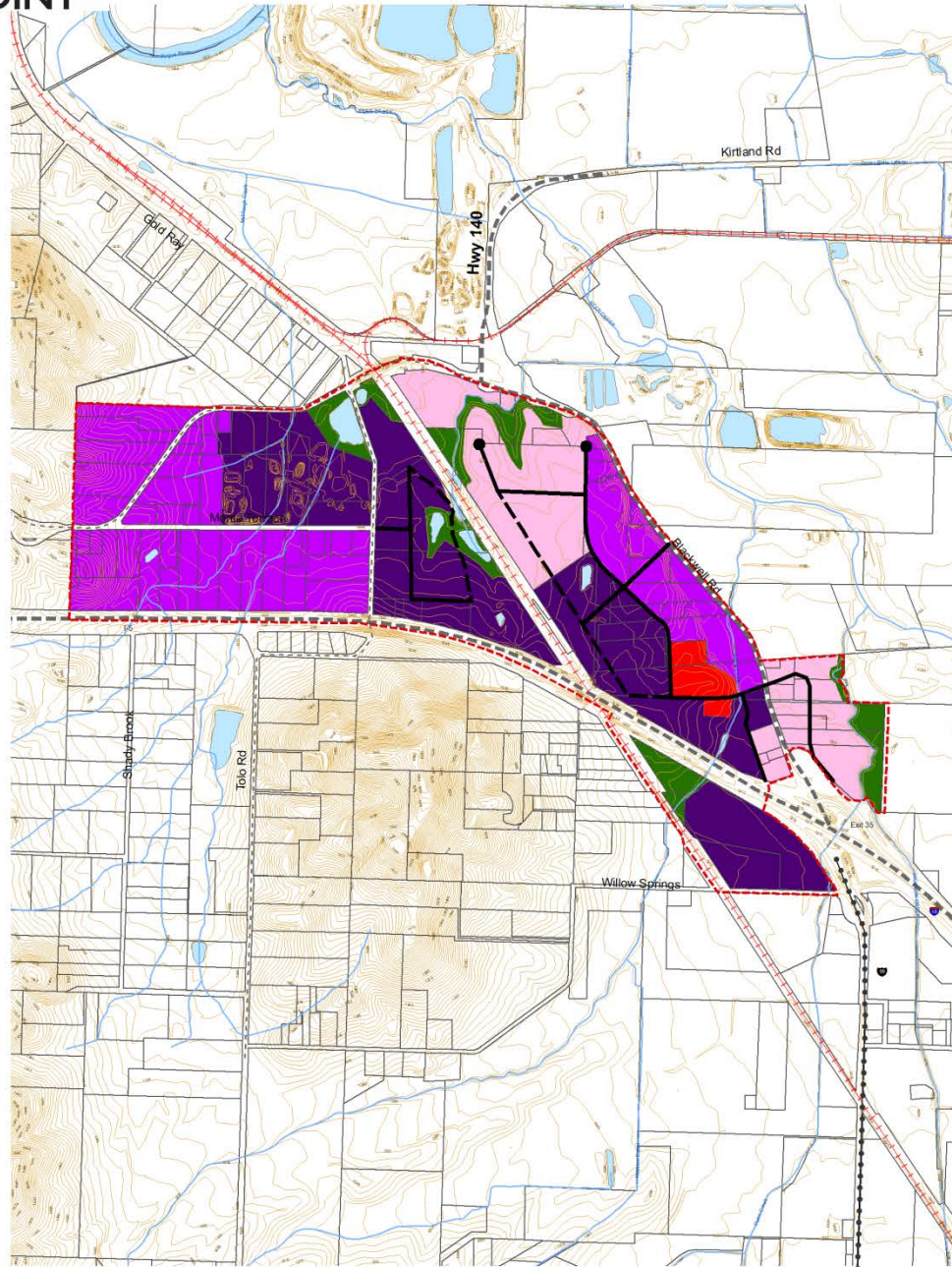
**Policy CP-1B.2 Transportation:** At time of inclusion in the City's urban growth boundary (UGB) the local street network plan, road alignments and transportation improvements identified in various state plans will be included in the City's Transportation System's Plan (TSP) as illustrated in the CP-1B Concept Plan, Figure 2 **and where feasible.** The City has already adopted IAMP 35 by resolution.

**Policy CP-1B.3 Urban Growth Boundary Management Agreement (UGBMA):** At time of adoption of a revised UGBMA, CP-1B and CP-1C will take precedence over the Area of Mutual Planning Concern (AMPC) *a geographical area lying beyond the adopted urban growth boundary in which the City and County have an interest in terms of the area's types and levels of development, land uses environment, agriculture, and other unique characteristics.* However, the City and County will continue to coordinate land use activity within AMPCs.

**Policy CP-1B.4: Committed Residential Density:** At time of UGB Expansion into CP-1B, the county zoned residential land will cease to exist and residential land uses will become legally non-conforming. The Conceptual Plan for CP-1B does not include any land designated for residential uses.

**Policy CP-1B.5 Forest/Gibbon Acres Unincorporated Containment Boundary:** The City and Jackson County will have adopted an agreement (Area of Mutual Planning Concern) for the management of Forest/Gibbon Acres.

**Policy CP-1B.6 Agricultural Mitigation/Buffering:** At time of UGB Expansion into CP-1B, the City and County will coordinate with RRVID to identify, evaluate and prepare potential mitigation. The City will implement agricultural buffers in accordance with adopted ordinances at the time of annexation.



**Figure 2. Concept Plan**

**Legend**

**AREA\_**  
CP-1B

- National Highway System
- District Hwy
- - - Collector
- - - Class 2 Railroad
- ~ ~ ~ Streams
- County 5' Contours
- Water Areas

- PROPOSED ROAD
- - - PROPOSED LOOP ROAD

- LAND USE DESIGNATION**
- GREEN OPEN SPACE
  - PINK BUSINESS PARK
  - RED COMMERCIAL
  - PURPLE LIGHT INDUSTRIAL
  - DARK PURPLE GENERAL INDUSTRIAL

**Tolo Area (CP-1B)**



**Figure 3. Aerial Map**

Legend



CP-1B

**Tolo Area (CP-1B)  
Concept Plan**

Date: 10/13/2014

### **PART 3. SUPPORT FINDINGS**

The findings present in this section provide both background information and address the Regional Plan Element's Performance Indicators.

#### **a. Current Land Use Characteristics**

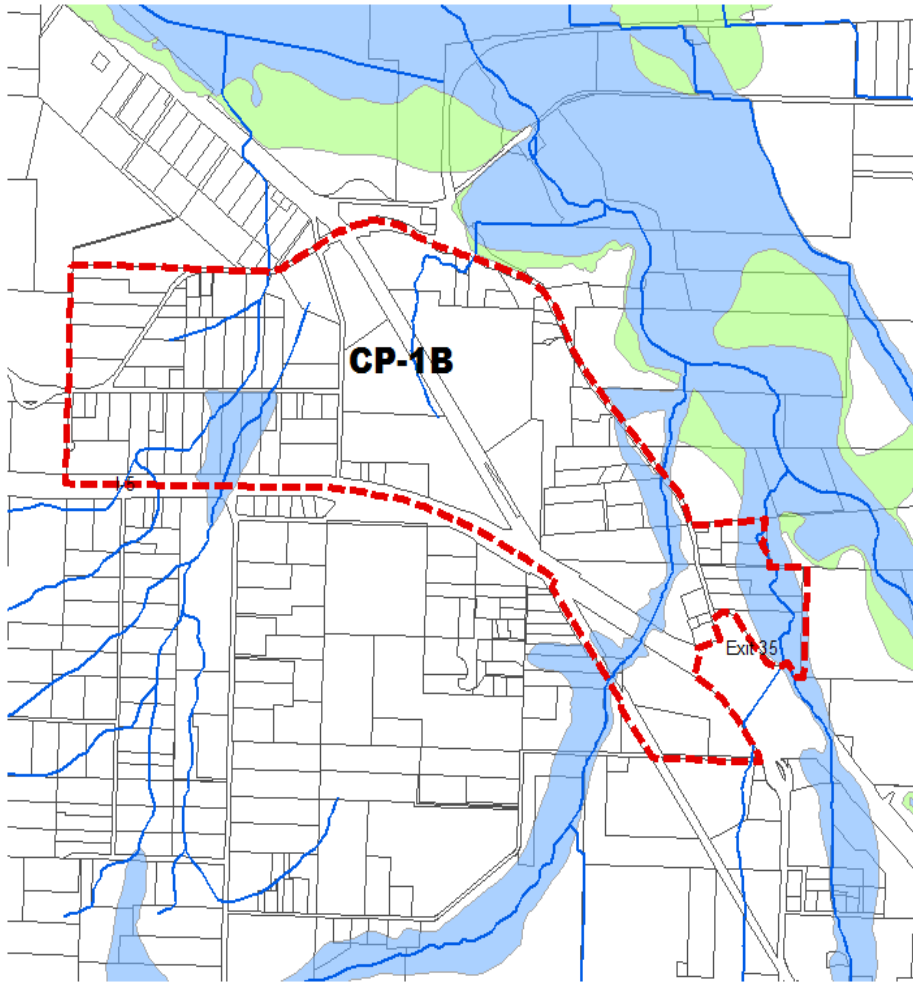
This section describes the general character of CP-1B in its current condition.

**Natural Landscape:** CP-1B is traversed by multiple creeks and waterways east and west of the railroad grade which bisects the URA from the northwest to the southeast. Various ponds and wetlands have formed along the creeks and some are independent from them. Topographically, the land in CP-1B rises 20 to 30 feet from Blackwell Road which forms the eastern boundary of most of the URA. This results in something of a *shelf* that is level with the railroad grade. A lot of developable land is accessible to the railroad on the east and west sides of it.

In spite of the numerous creeks, ponds and wetlands present in the URA, there are relatively few tax lots that are subject to the flood hazards as shown in Figure 4. Those areas that are subject to flood zones will be required to perform mitigation. Aggregate mining sites are mostly located outside the boundaries of the URA.

**Cultural Landscape:** CP-1B is principally oriented to the intersection of a railroad and an interstate highway. Mines, quarries and mills characterized the town of Tolo (northwest CP-1B) in the 1860's and it was envisioned to be one of the biggest cities of Southern Oregon. It was platted in 1888, but was virtually abandoned by the year 1918. In 1986, the Jackson County Commission returned the plat to public ownership. The mill sites along the railroad have been reused for long term storage and truck terminals. Aggregate quarries continue to be operated outside the boundaries of CP-1B. Limited farming is done east of Blackwell Road and other land has been subdivided into rural residential lots west of Tolo Road. It is envisioned that this area could redevelop into a multi-modal transport hub where cargo owners agree to move the goods by at least two modes of transport under a single contract. Other employment is also planned in the future under the jurisdiction of the City of Central Point.





**Figure 4. Flood Hazards**

**Legend**



**Flood Zones 2011**

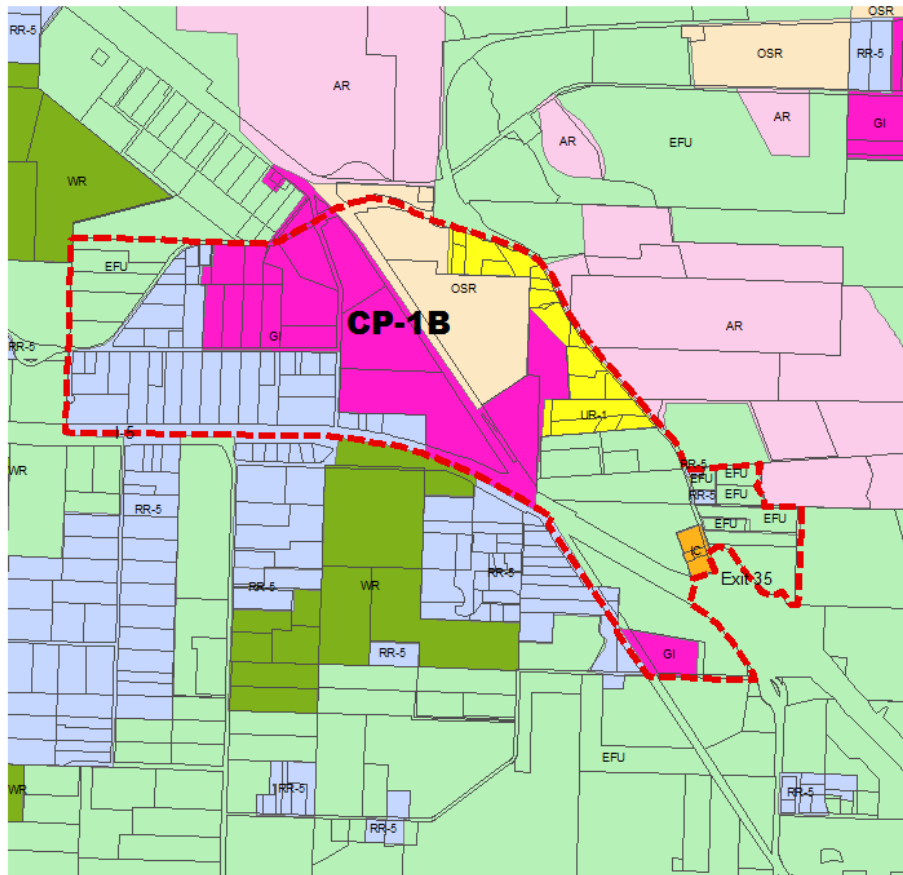


**Tolo Area (CP-1B)  
Concept Plan**











Date: 10/13/2014

**b. Current Land Use Designations & Zoning**

Jackson County zoning acknowledges the unique geographic features of CP-1B by designating land for both General Industrial and Interchange Commercial uses. The area’s proximity to the interstate and the railroad justified these land use designations originally and they are expanded in the Greater Bear Creek Valley Regional Plan under the general category of Employment land. The remainder of the land uses in the County’s plan are as shown in Figure 5.



**Figure 5. Zoning**

<p><b>Legend</b></p>  <p>CP-1B</p> <p>Date: 10/13/2014</p>	<p><b>Legend</b></p> <p><b>Jackson Co Zoning</b></p> <p><b>ZONE</b></p> <ul style="list-style-type: none"> <li> AR</li> <li> Exclusive Farm Use (EFU)</li> <li> General Industrial (GI)</li> <li> Interchange Commercial (IC)</li> </ul>	<ul style="list-style-type: none"> <li> OSR</li> <li> Rural Residential 2.5 (RR-2.5)</li> <li> Rural Residential 5 (RR-5)</li> <li> Urban Residential I (UR-1)</li> <li> WR</li> </ul>	<p><b>Tolo Area (CP-1B)</b></p> <p><b>Concept Plan</b></p>
---	--	---	--

A comparison of the existing and proposed land uses are reflected in Table 2.

<b>Table 2 Current and Proposed Zoning</b>				
<b>Assessors No.</b>	<b>Acreage</b>	<b>County Zoning</b>	<b>City Zoning</b>	<b>City Comp Plan</b>
	97.2	RR-5	<b>B-P</b>	Business Park
	17.9	RR-5	OS	Public
	11.4	UR-1	<b>C-1</b>	Commercial
	36.4	UR-1/IC	OS	Public
	64.1	<b>OSR</b>	M-1	Light Industrial
	158.1	<b>EFU</b>	M-1/M-2	Light/Heavy Industrial
	156.2	<b>GI</b>	M-2	Heavy Industrial
<b>TOTAL ACRES</b>	<b>541.2</b>			

The proposed city zoning will be exclusively employment based in keeping with the Regional Plan.

**c. Existing Infrastructure**

***Water***

Currently, public water service is not available to CP-1B, and will have to be extended from the vicinity of Erickson Air-Crane property.

***Sanitary Sewer***

CP-1B is in the RVSS service area and there are trunk lines east of the URA and along Blackwell Road (Figure 6). More lines will have to be extended to the area.

***Storm Drainage***

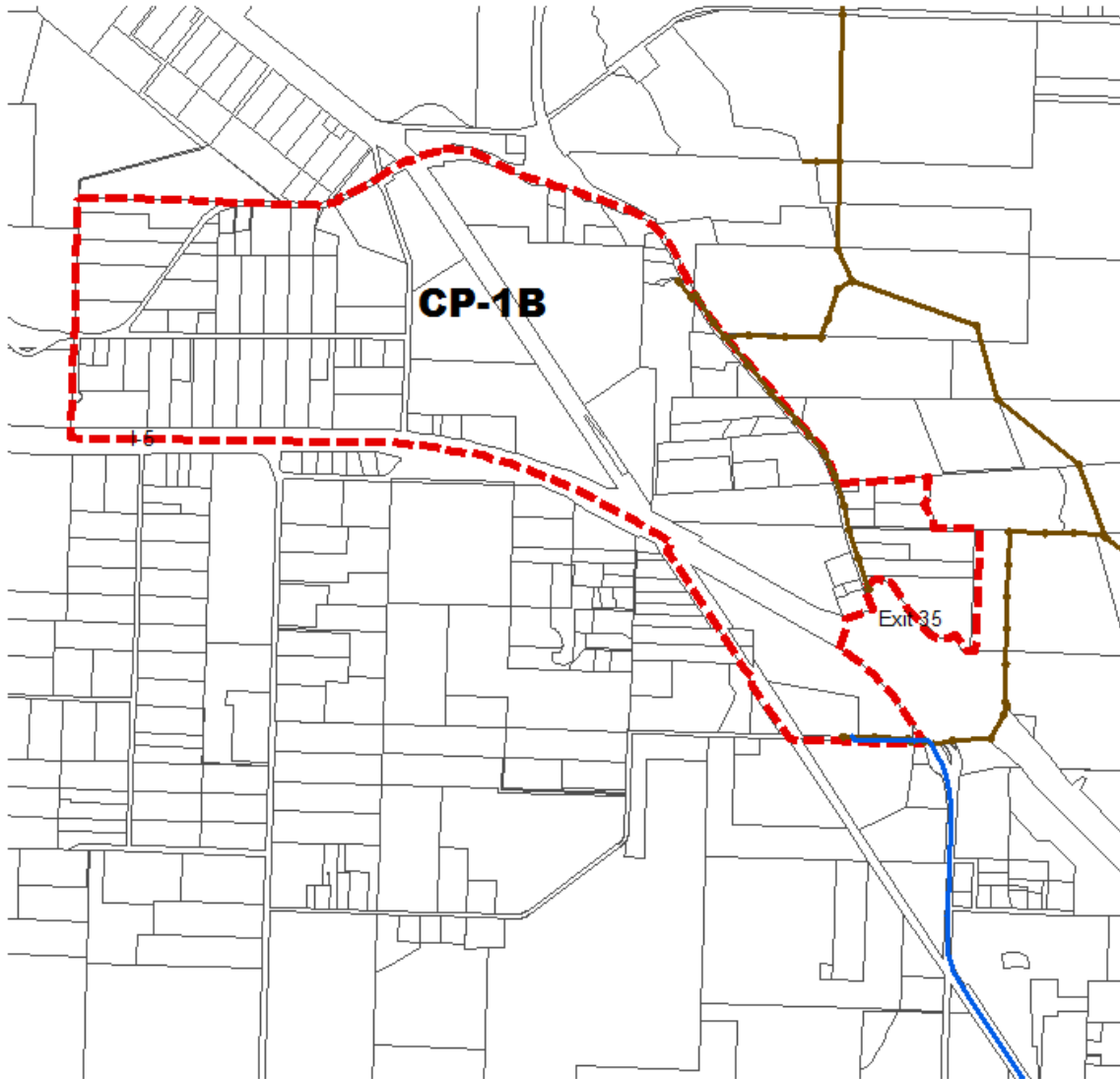
CP-1B does not have an improved storm drainage system and relies upon natural drainage and drainage from road improvements to channel water to Bear Creek.

***Street System***

CP-1B is accessed via I-5 Exit 33, Blackwell Road, Dean Creek Road, Tolo Road, and Marita Terrace. IAMP 35 and the OR 140 Corridor Plan dictate the nature of improvements over the next 20 year period. These documents call for an internal circulation plan which the concept plan proposes in Figure 2. The Bear Creek Greenway will be extended through URA CP-4D into and around CP-1B by taking advantage of open space and floodways in Jackson County.

***Irrigation District***

CP-1B is located within the Rogue River Valley Irrigation District (RRVID). Irrigation water is transferred via natural means. There are no dedicated irrigation canals (Figure 7).



**Figure 6. Utilities**

**Legend**



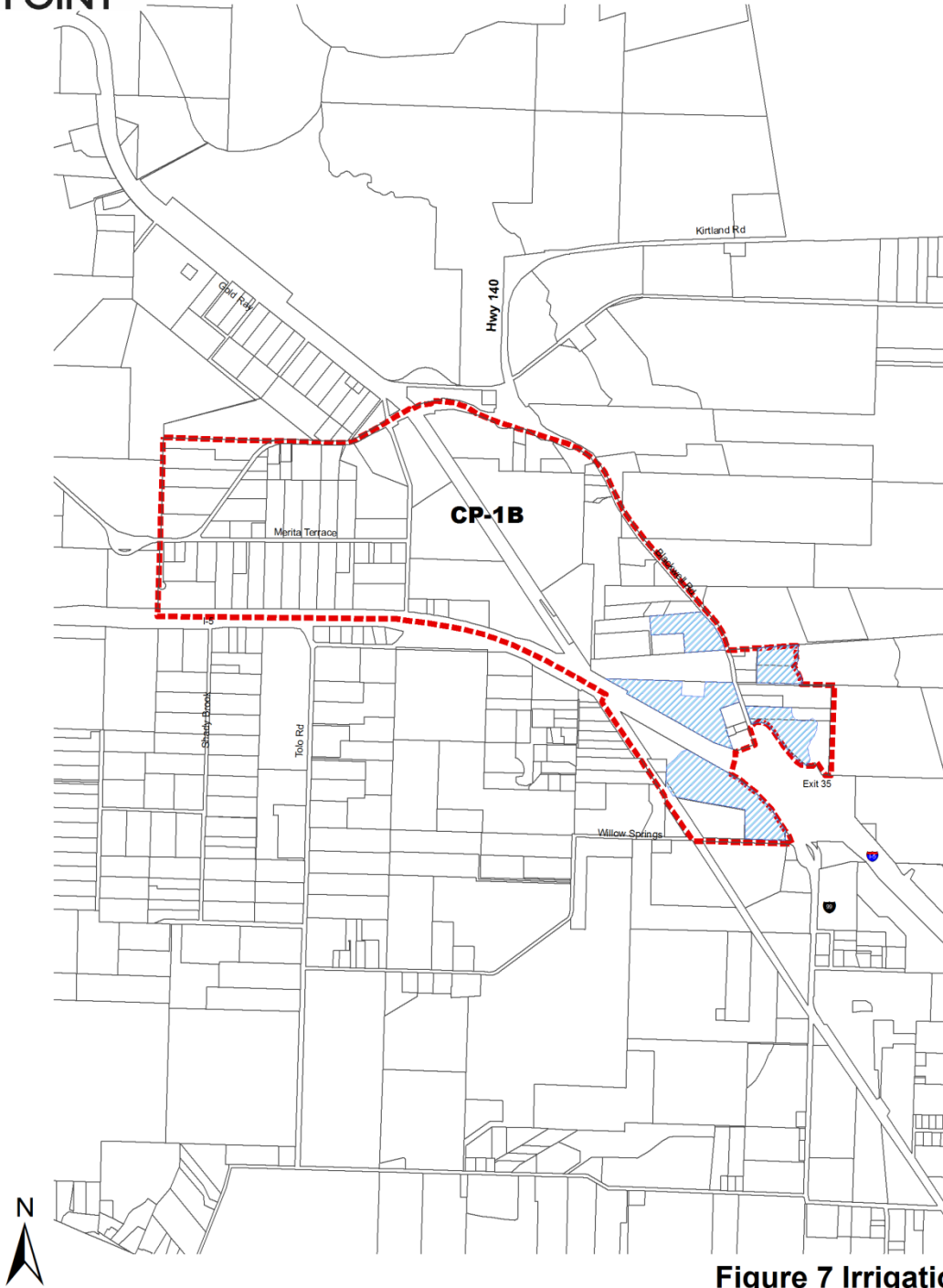
CP-1B

— Central Point Waterlines

— RVSS Sewer Lines

**Tolo Area (CP-1B)  
Concept Plan**

Date: 10/13/2014




**Figure 7 Irrigation**

Legend

AREA\_

 CP-1B

 Irrigated Land - RRVID

**Tolo Area (CP-1B)  
Concept Plan**

**d. Performance Indicators**

Implementation of the Regional Plan Element is guided by a series of twenty-two (22) primary and twenty-one (21) secondary performance indicators<sup>4</sup>, not all of which are applicable to all urban reserve areas. Table 3 identifies the primary Performance Indicators applicable to the CP-1B Concept Plan.

<b>Table 3 Performance Indicators Specific to Conceptual Plans</b>			
<b>No.</b>	<b>Description</b>	<b>Applicability</b>	
		<b>Yes</b>	<b>No</b>
<b>4.1.1</b>	County Adoption		X
<b>4.1.2</b>	City Adoption	X	
<b>4.1.3</b>	Urban Reserve Management Agreement	X	
<b>4.1.4</b>	Urban Growth Boundary Management Agreement	X	
<b>4.1.5</b>	Committed Residential Density		X
<b>4.1.5.1</b>	Minimum Residential Density Standards		X
<b>4.1.6</b>	Mixed-Use/Pedestrian Friendly Areas	X	
<b>4.1.7</b>	Conceptual Transportation Plan	X	
<b>4.1.7.1</b>	Transportation Infrastructure	X	
<b>4.1.8</b>	Conceptual Land Use Plan	X	
<b>4.1.8.1</b>	Target Residential Density		X
<b>4.1.8.2</b>	Land Use Distribution	X	
<b>4.1.8.3</b>	Transportation Infrastructure	X	
<b>4.1.8.4</b>	Mixed Use/ Pedestrian Friendly Areas	X	
<b>4.1.9</b>	Conditions Specific to Certain URAs	X	
<b>4.1.9.1</b>	CP-1B, IAMP Requirement	X	
<b>4.1.9.2</b>	CP-4D, Open Space Restriction		X
<b>4.1.9.3</b>	CP-4D, Roadways Restriction		X
<b>4.1.9.4</b>	CP-6B, Institutional Use Restriction		X
<b>4.1.9.5</b>	Central Point URA, Gibbon/Forest Acres	X	
<b>4.1.10</b>	Agricultural Buffering	X	
<b>4.1.11</b>	Regional Land Preservation Strategies		X
<b>4.1.12</b>	Housing Strategies		X
<b>4.1.13</b>	Urban Growth Boundary Amendment	X	
<b>4.1.13.1</b>	UGB Expansions Outside of URAs		X
<b>4.1.14</b>	Land Division Restrictions		X
<b>4.1.14.1</b>	Minimum Lot Size		X
<b>4.1.14.2</b>	Cluster Development		X
<b>4.1.14.3</b>	Land Division & Future Platting		X
<b>4.1.14.4</b>	Land Divisions & Transportation Plan	X	
<b>4.1.14.5</b>	Land Division Deed Restrictions		X
<b>4.1.15</b>	Rural Residential Rule		X
<b>4.1.16</b>	Population Allocation		X
<b>4.1.17</b>	Greater Coordination with RVMPO	X	

<sup>4</sup> City of Central Point Comprehensive Plan, Regional Plan Element, Section 4.1 Performance Indicators

4.1.17.1	Preparation of Conceptual Transportation Plan	X	
4.1.17.2	Protection of Planned Transportation Infrastructure	X	
4.1.17.3	Regionally Significant Transportation Strategies	X	
4.1.17.4	Supplemental Transportation Funding	X	
4.1.18	Future Coordination with RVCOG	X	
4.1.19	Expo		X
4.1.20	Agricultural Task Force	X	
4.1.21	Park Land		X
4.1.22	Buildable Lands Definition		X

**e. Applicable Performance Indicators**

The following addresses each applicable performance indicator per Table 3:

**4.1.2. City Adoption.** The City has incorporated the Greater Bear Creek Valley Regional Plan (GBCVRP) into the Central Point Comprehensive Plan as the Regional Plan Element.

**Finding:** The GBCVRP has been taken into account in the preparation of this Conceptual Plan.

**Conclusion 4.1.2:** Complies.

**4.1.3. Urban Reserve Management Agreement.** An URMA was adopted by the City when it adopted its Regional Plan Element.

**Finding:** The URMA has been taken into account in the preparation of this Conceptual Plan.

**Conclusion 4.1.3:** Complies.

**4.1.4. Urban Growth Boundary Management Agreement.** The UGBMA between Central Point and Jackson County has recently been revised to institutionalize and direct the management of Forest/Gibbon Acres as an Area of Mutual Planning Concern. Other changes in the agreement add an *intent and purpose* statement, align procedural language with the County Comprehensive Plan and obligate the City and County to involve affected Irrigation Districts in the land use planning process.

**Finding:** The UGBMA has been taken into account in the preparation of this Conceptual Plan.

**Conclusion 4.1.4:** Complies.

**4.1.6. Mixed Use/Pedestrian Friendly Areas.** For land within a URA, each city shall achieve the 2020 Benchmark targets for employment (Alternative Measure No. 6) as established in the most recently adopted RTP.

**Finding:** The Regional Transportation Plan (RTP) Appendix B, Page 10 lists a 44% mixed-use employment target for new development by 2020. New land use categories in the Conceptual Plan can be adapted to create walkable/mixed use neighborhoods in CP-1B.

**Conclusion 4.1.6:** Complies.

**4.1.7. Conceptual Transportation Plans.** Conceptual Transportation Plans shall be prepared early enough in the planning and development cycle that the identified regionally significant transportation corridors within each of the URAs can be protected as cost-effectively as possible by available strategies and funding. A Conceptual Transportation Plan for a URA or appropriate portion of a URA shall be prepared by the City in collaboration with the Rogue Valley Metropolitan Planning Organization, applicable irrigation districts, Jackson County, and other affected agencies, and shall be adopted by Jackson County and the respective city prior to or in conjunction with a UGB amendment within that URA.

**4.1.7.1. Transportation Infrastructure.** The Conceptual Transportation Plan shall identify a general network of regionally significant arterials under local jurisdiction, transit corridors, bike and pedestrian paths, and associated projects to provide mobility throughout the Region (including intra-city and inter-city, if applicable).

**Finding:** The regionally significant transportation corridor within CP-1B is the OR 140 Corridor which extends from I-5 Exit 35 to Brownsboro-Eagle Point Road. Additionally, the Interchange Area Management Plan for Exit 35 (IAMP-35) identifies public improvements and projects that have been taken into consideration as part of the CP-1B Conceptual Plan. The Bear Creek Greenway system, which is predominantly pedestrian and bicycle oriented affects part but not all of CP-1B. The Concept Plan acknowledges the proximity of the Bear Creek Greenway system. The plan generally represents an enhanced local street network and access management improvements that are proposed in the OR 140 Corridor Plan and in IAMP-35.

**Conclusion 4.1.7.1:** Complies.

**4.1.8. Conceptual Land Use Plans:** A proposal for a UGB Amendment into a designated URA shall include a Conceptual Land Use Plan prepared by the City in collaboration with the Rogue Valley Metropolitan Planning Organization, applicable irrigation districts, Jackson County, and other affected agencies for the area proposed to be added to the UGB as follows:



**4.1.8.2. Land Use Distribution.** The Conceptual Land Use Plan shall indicate how the proposal is consistent with the general distribution of land uses in the Regional Plan, especially where a specific set of land uses were part of the rationale for designating land which was determined by the Resource Lands Review Committee to be commercial agricultural land as part of a URA, which applies to the following URAs: CP-1B, CP-1C, CP-4D, CP-6A, CP-2B, MD-4, MD-6, MD-7mid, MD-7n, PH-2, TA-2, TA-4.

**Finding:** As illustrated in Table 4 the proposed land use distributions in the CP-1B Concept Plan are consistent with those presented in the Regional Plan Element.

**Conclusion 4.1.8.2:** Complies.

<b>TABLE 4. CP-1B URBAN RESERVE LAND-USE TYPE COMPARISON*</b>						
	<b>Residential</b>	<b>Aggregate</b>	<b>Resource</b>	<b>Open Space/Parks</b>	<b>Employment</b>	<b>Total</b>
<b>Regional Plan Element</b>	0% (0 Ac)	0% (0 Ac)	0% (0 Ac)	0% (0 Ac)	100% (541 Ac)	100% (541 Ac)
<b>CP-1B Concept Plan</b>	0% (0 Ac)	0% (0 Ac)	0% (0 Ac)	0% (0 Ac)	100% (541 Ac)	100% (541 Ac)

\* All acreage figures rounded to nearest whole number.

**4.1.8.3. Transportation Infrastructure.** The Conceptual Land Use Plan shall include the transportation infrastructure required in Section 4.1.7 above.

**Finding:** The required transportation infrastructure per 4.1.7 is included in the CP-1B Concept Plan (see Finding 4.1.7).

**Conclusion 4.1.8.3:** Complies.

**4.1.8.4. Mixed Use/Pedestrian Friendly Areas.** For land within a URA, each city shall achieve the 2020 Benchmark targets for employment (Alternative Measure No. 6) as established in the most recently adopted RTP.

**Finding:** The Regional Transportation Plan (RTP) Appendix B, Page 10 lists a 44% mixed-use employment target for new development by 2020. New land use categories in the Conceptual Plan can be adapted to create walkable/mixed use neighborhoods in CP-1B.

**Conclusion 4.1.8.4:** Complies.

**4.1.9. Conditions.** The following conditions apply to specific Urban Reserve Areas:

**4.1.9.1. CP-1B.** Prior to the expansion of the UGB into CP-1B, ODOT, Jackson County and Central Point shall adopt and Interchange Area Management Plan (IAMP) for the Seven Oaks Interchange Area.

**Finding:** As noted in Section 4.1.7.1, the *CP-1B Concept Plan* is consistent with the Regional Plan Element's Conceptual Transportation Plan, in that IAMP-35 management strategies have been acknowledged and incorporated. The State, County and City have each formally adopted IAMP-35.

**Conclusion 4.1.9.1:** Complies.

**4.1.9.5 Central Point URA, Gibbon/Forest Acres.** Prior to the expansion of the Central Point Urban Growth Boundary into any Urban Reserve Area, the City and Jackson County shall adopt an agreement (Area of Mutual Planning Concern) for the management of Gibbons/Forest Acres Unincorporated Containment Boundary.

**Finding:** The City has coordinated with Jackson County and entered into an Area of Mutual Planning Concern Agreement prior to a UGB expansion into CP-1B.

**Conclusion 4.1.9.5:** Complies

**4.1.10. Agricultural Buffering.** Participating jurisdictions designating Urban Reserve Areas shall adopt the Regional Agricultural Buffering program in Volume 2, Appendix III into their Comprehensive Plans as part of the adoption of the Regional Plan. The agricultural buffering standards in Volume 2, Appendix III shall be adopted into their land development codes prior to a UGB amendment.

**Finding:** CP-1B abuts EFU zoned lands along various sides of its borders (see Figure 5). There are some instances where buffering will be facilitated by natural stream channels and public rights-of-way. Some buffering has been shown in the Concept Plan (see Figure 2). In all cases, during the design/development phase, the City will implement its Agricultural Buffering Ordinance to mitigate potential land use conflicts.

**Conclusion 4.1.10:** Complies.

**4.1.13. Urban Growth Boundary Amendment.** Pursuant to ORS 197.298 and Oregon Administrative Rule 660-021-0060, URAs designated in the Regional Plan are the first priority lands used for a UGB amendment by participating cities.

**Finding:** The Regional Plan Element includes a provision that requires adoption of a concept plan prior to urban growth boundary expansion into an urban reserve area. The area coming into the UGB is part of the urban reserve for which this Conceptual Plan has been prepared and therefore complies with the Regional Plan and the priority system of the ORS and OAR.

**Conclusion 4.1.13:** Complies.

**4.1.14. Land Division Restrictions.** In addition to the provisions of Oregon Administrative Rule 660-021-0040, the following apply to lots or parcels which are located within a URA until they are annexed into a city:

4.1.14.4. Land divisions within a URA shall not be in conflict with the transportation infrastructure identified in an adopted Conceptual Transportation Plan.

**Finding:** The CP-1B Concept Plan was prepared in collaboration with Jackson County and the RVMPO. Policies in the City-County UGBMA ensure continued notification and coordination of infrastructure with proposed land divisions.

**Conclusion 4.1.14.4:** Complies.

**4.1.17. Greater Coordination with the RVMPO.** The participating jurisdictions shall collaborate with the Rogue Valley Metropolitan Organization (RVMPO) to:

4.1.17.1. Prepare the Conceptual Transportation Plans identified in Section 4.1.7.

4.1.17.2. Designate and protect the transportation infrastructure required in the Conceptual Transportation Plans identified in Section 4.1.7 to ensure adequate transportation connectivity, multimodal use, and minimize right of way costs.

4.1.17.3. Plan and coordinate the regionally significant transportation strategies critical to the success of the adopted Regional Plan including the development of mechanisms to preserve rights-of-way for the transportation infrastructure identified in the Conceptual Transportation Plans; and

4.1.17.4. Establish a means of providing supplemental transportation funding to mitigate impacts arising from future growth.

**Finding:** The RVMPO Technical Advisory Committee (TAC) determined that Conceptual Plan CP-1B complies with the Regional Plan Part 3- Goals, Policies and Potential Actions. The TAC voted unanimously to endorse CP-1B and to support its implementation.

**Conclusion 4.1.17:** Complies.

**4.1.18. Future Coordination with the RVCOG.** The participating jurisdictions shall collaborate with the Rogue Valley Council of Governments on future regional planning that assists the participating jurisdictions in complying with the Regional Plan performance indicators. This includes cooperation in a region-wide conceptual planning process if funding is secured.

**Finding:** The CP-1B Concept Plan was prepared in collaboration with the RVCOG.

**Conclusion 4.1.18:** Complies.

**4.1.20. Agricultural Task Force.** The Agricultural Task Force shall develop a program to assess the impacts on the agricultural economy of Jackson County arising from the loss of agricultural land and/or the ability to irrigate agricultural land, which may result from Urban Growth Boundary Amendments. The Agricultural Task Force shall also identify, develop and recommend potential mitigation measures, including financial strategies to offset those impacts. Appropriate mitigation measures shall be applied to Urban Growth Boundary Amendment proposals.

**Finding:** The efforts of the County's Agricultural Task Force were considered in the preparation of this plan. The CP-1B Concept Plan is consistent with the Regional Plan Element, is consistent with the City-County UGBMA (which directs consultation with affected irrigation districts during UGB planning) and is also consistent with new policies found in Jackson County's Agricultural Lands Element resulting from ATF recommendations.

**Conclusion 4.1.20:** Complies.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION APPROVING A CONCEPTUAL LAND USE AND  
TRANSPORTATION PLAN FOR CP-1B, AN URBAN AREA OF THE CITY OF  
CENTRAL POINT, OREGON**

**WHEREAS**, on August 9, 2012 by Ordinance No. 1964 the City Council adopted the City of Central Point Regional Plan Element; and

**WHEREAS**, the Conceptual Land Use and Transportation Plan for CP-1B has been prepared in accordance with the Regional Plan Element and Greater Bear Creek Valley Regional Plan including all applicable performance indicators set forth in these documents; and

**WHEREAS**, as a condition of the Regional Plan Element of the City of Central Point it is required that a Conceptual Plan for an Urban Reserve Area (URA) be adopted by the City prior to the expansion of the City's urban growth boundary (UGB) into the applicable URA; and

**WHEREAS**, the City has a pending application with the County to expand its UGB into CP-1B;

**NOW, THEREFORE, THE CITY OF CENTRAL POINT RESOLVES AS FOLLOWS**, that the City Council approves and adopts the Conceptual Land Use and Transportation Plan for CP-1B, An Urban Reserve Area of the City of Central Point.

**BE IT FURTHER RESOLVED** that the City Council directs the City Manager and the Community Development Department to use the CP-1B Conceptual Plan when considering UGB Amendments affecting this Urban Reserve Area.

PASSED by the City Council and signed by me in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Mayor Hank Williams

ATTEST:

\_\_\_\_\_  
City Recorder

# **Business**

## **Measure 91 Update**



**ADMINISTRATION DEPARTMENT**

140 South 3<sup>rd</sup> Street · Central Point, OR 97502 · (541) 664-7602 · www.centralpointoregon.gov

**STAFF REPORT**

March 12<sup>th</sup>, 2015

**AGENDA ITEM: Briefing and discussion on issues related to the approval of Oregon Ballot Measure 91.**

**STAFF SOURCE:**

---

Sydnee Dreyer, City Attorney  
Chris Clayton, City Manager

**BACKGROUND/SYNOPSIS:**

---

Although the City of Central Point has been proactive in addressing issues related to the dispensing of medical marijuana, the current lack of clarification being provided by the Oregon Legislature raises additional policy questions for all local jurisdictions. The attached memorandum is intend to inform the council about these additional questions/issues and initiate a public discussion about future policy direction.

Though the legislature is currently reviewing potential legislation for local control and regulation of marijuana, effective July 1, 2015 personal growth and use will be permitted within the state of Oregon. Licensing of production, processing, wholesale and retail sales of marijuana becomes legal January 1, 2016. Additionally, as the Council is aware, the medical marijuana dispensaries will be permitted within the City effective May 1, 2015, when your current moratorium expires.

As indicated in an earlier memo to you, under Measure 91, cities have authority to adopt reasonable time, place and manner regulations for retail sales; bring nuisance actions against businesses; and require compliance with other regulations of general applicability such as land use provisions. Cities also have a local opt out provision under the initiative process. However, it is much less clear whether cities have much local authority to regulate homegrown marijuana and homegrown marijuana products.

**ATTACHMENTS:**

---

1. Measure 91 briefing memorandum.

**RECOMMENDATION:**

---

1. Council discussion on future policy direction related to Measure 91 implementation.

**PUBLIC HEARING REQUIRED:**

---

No – Public Comment can be accepted on this discussion item, but no public hearing is required.

**SUGGESTED MOTION:**

---

I move to direct staff as follows.....



**MEMORANDUM**

**TO:** Central Point City Council  
c/o Chris Clayton

**FROM:** Sydnee Dreyer

**RE:** M. 91 – Local Control Options

**DATE:** March 5, 2015

Though the legislature is currently reviewing potential legislation for local control and regulation of marijuana, effective July 1, 2015 personal growth and use will be permitted within the state of Oregon. Licensing of production, processing, wholesale and retail sales of marijuana becomes legal January 1, 2016. Additionally, as the Council is aware, the medical marijuana dispensaries will be permitted within the City effective May 1, 2015, when your current moratorium expires.

As indicated in an earlier memo to you, under Measure 91, cities have authority to adopt reasonable time place and manner regulations for retail sales; bring nuisance actions against businesses; and require compliance with other regulations of general applicability such as land use provisions. Cities also have a local opt out provision under the initiative process. However, it is much less clear whether cities have much local authority to regulate homegrown marijuana and homegrown marijuana products. For purposes of this memo, all references to marijuana (unless specifically indicated otherwise) includes the plant, leaves, edibles, extracts or any other marijuana product.

The measure directs the Oregon Liquor Control Commission (OLCC) to regulate all other production, processing and sales of marijuana.

**Use of Marijuana:**

With regard to public use of marijuana, it is illegal for any person to engage in the use of marijuana in a public place. A public place is defined as: “ a place to which the general public has access and includes, but is not limited to, hallways, lobbies, and other parts of apartment houses and hotels not constituting rooms or apartment designed for actual residence, and highways, streets, schools, places of amusement, parks playgrounds and premises used in connection with public passenger transportation.” However, a person may possess up to one ounce of useable marijuana while in a public place. The definition of a public place is quite



broad, and should be sufficient to prohibit use of marijuana in any place open to the public, regardless of whether the facility is publicly or privately owned.

**Homegrown Marijuana in Public View Prohibited:**

Measure 91 restricts homegrown marijuana from public view and provides that no person may produce, process, keep or store homegrown marijuana if the homegrown marijuana (including the products thereof) can be readily seen by normal unaided vision from a public place. While a person may possess or process homegrown marijuana and marijuana products, Measure 91 prohibits the production, processing or storage of homemade marijuana extracts.

As to whether the city has authority to further regulate homegrown marijuana, it appears the city likely could adopt reasonable time, place and manner restrictions on homegrown marijuana. Measure 91 provides:

“Sections 3 to 70 of this Act, designed to operate uniformly throughout the state, shall be paramount and superior to and shall fully replace and supersede any and all municipal charter enactments or local ordinances inconsistent with it. Such charters and ordinances are hereby repealed.”

It further provides:

“(1) Cities and counties may adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that sell marijuana to consumers if the city or county makes specific findings that the establishment would cause adverse effects to occur.

(2) The authority granted to cities and counties by this section is in addition to, and not in lieu of, the authority granted to a city or county under its charter and the statutes and Constitution of this state.”

Pursuant to the foregoing, it appears that the intent is to preempt any regulations that are inconsistent with Measure 91. However, similar with the city’s findings with regard to dispensaries, reasonable time, place and manner restrictions on homegrown marijuana would typically be found to be within the city’s home rule authority so long as such regulations are not found to be inconsistent with Measure 91.

Some city attorneys, such as for the city of Gresham, have taken the position that while Measure 91 preempts local regulation, federal law prohibits marijuana and therefore federal law “trumps” Measure 91’s preemption and cities can do what they want because federal law prohibits marijuana. While this may be correct, there is no doubt such an approach is aggressive and would make it far more likely the city would be involved with costly challenges.

## **The City has the Right to Adopt Reasonable Time, Place, & Manner Restrictions on Homegrown Marijuana:**

Some potentially reasonable time, place, and manner restrictions (hereinafter “TPM Restrictions”) to consider are as follows:

- 1) Setbacks. For example restrictions against the growth, processing or storage of marijuana within a specified number of feet from a property line. Such a restriction would merit consideration from the Planning Commission as to what a reasonable setback would be and what unintended consequences could arise from such a setback.
- 2) Fencing. A requirement that any property which grows, stores or maintains marijuana be enclosed by opaque fencing and/or enclosed within a locked gate or storage area.
- 3) Location. The City could consider a prohibition against outdoor grows and require that any growth be done indoors, and requisite requirements for venting so that odors do not vent directly onto a neighbor’s property or public property.
- 4) Clarify Household & Housing Unit. Measure 91 leaves open the possibility that under some circumstances where rooms are separately rented on a single parcel each person may maintain the full amount of homegrown marijuana. The language is somewhat unclear. This could potentially allow a substantial amount of marijuana on a single tax lot or parcel. Thus the City might adopt some regulations to limit the amount of marijuana grown outdoors in such situations and/or by providing further definition of a household or housing unit based upon the types of housing in the city.
- 5) Personal Residence. Requirements that someone reside in the home. In Colorado individuals have been buying up property in a block and growing on each lot without anyone residing on the property.
- 6) Another issue for consideration is whether TPM Restrictions for home-grows should apply both to personal medical and personal recreational grows. Though the legislature had taken the position that such grow sites cannot be regulated at the local level, a recent case in the Josephine County Circuit court held that regulation of dispensaries is not preempted. This will require further legal analysis, but to the extent a determination is made that home-grows are a nuisance, regulation of all such personal grows would merit further consideration.

It is also important that the city review its current nuisance ordinance to determine whether it is sufficient to help enforce the nuisance effects of grow sites. In the event TPM Restrictions are adopted, such ordinance should contain a provision clarifying that permitted grow sites are still subject to the city’s nuisance ordinance.

Another issue to consider if the city decides to move forward with TPM Restrictions on personal grow sites is whether such restrictions are enforceable. Many TPM Restrictions may be difficult to enforce.

### **Licensed Facilities:**

“Licensed facilities” refers to wholesale, processing, production and retail sales. These uses do not become legal until January 4, 2016 and the OLCC is currently drafting rules to aid with such licensed uses.

Measure 91 specifically permits reasonable TPM restrictions on retail establishments (but does not provide such authority for the remaining 3 licensed uses). Unlike dispensaries, Measure 91 contains no restrictions regarding the location or zoning of such recreational establishments. However, the OLCC is currently undergoing rulemaking and may very well add zoning restrictions. Additionally the OLCC has indicated it will impose restrictions within 1000 feet of a school and is also recommending against co-location of recreational and dispensary facilities unless and until medical marijuana is regulated in the same way as recreational.

As to whether wholesale, processing and production may be regulated, I refer the Council to the discussion above in which it is likely that a reasonable TPM Restriction would be upheld, but ordinances that prohibit, or are inconsistent with Measure 91 would likely be susceptible to challenge, except under the local option discussed below.

### **Local Option**

As discussed in an earlier memo, through the local initiative process, licensees can be prohibited from operating within the City. However, it appears any such election must be held in November 2016, becoming effective January 2017, but licensees become legal January 2016. Furthermore, the opt-out does not apply to personal production or possession of homegrown marijuana. Nor may the opt-out be initiated by the referendum process; this is action the citizens must initiate.

### **What next?**

The Council must decide whether to wait for the legislature to regulate homegrown marijuana (if at all) or to impose TPM restrictions now, before such use becomes legal.

With regard to wholesale, processing, production and retail sales of marijuana, those uses do not become legal until January 2016. Measure 91 specifically allows cities to adopt reasonable TPM Restrictions on retail establishments, and the OLCC is working on draft rules for licensed premises. Thus the Council must decide whether to wait to determine whether the OLCC and/or the legislature provide additional laws or rules, or to begin studying means to regulate such licensed uses now.

**Business**

**Council Member  
Appointment**



**ADMINISTRATION DEPARTMENT**

140 South 3<sup>rd</sup> Street · Central Point, OR 97502 · (541) 664-3321 · www.centralpointoregon.gov

**STAFF REPORT**

March 12, 2015

**AGENDA ITEM: Appointment to City Council At-Large Vacancy**

**STAFF SOURCE:**

Deanna Casey, City Recorder

**BACKGROUND/SYNOPSIS:**

The City Advertised for the vacancy left by the resignation of David Douglas in January of this year. We accepted applications through February 28, 2015. Applications were received from:

Christina Garrett  
Kelly Geiger  
Randy Sparacino

Walter Moczygemba  
John Whiting  
Richard Wedsted

Michael Oliver  
Taneea Browning

Mayor Williams and Council President Dingler reviewed the applications and interviewed the top three applicants. The 2010 City Charter outlines the filling of Council vacancies.

Section 32. Filling Vacancies. A mayor or councilor vacancy will be filled by appointment by a majority of the remaining council members. The appointee's term of office shall run from appointment until expiration of the term of office of the last person elected to that office. If a disability prevents a council member from attending council meetings or a member is absence from the city for an extended period of time, a majority of the council may appoint a councilor pro tem.

**FISCAL IMPACT:**

There is no financial impact to the City.

**ATTACHMENTS:**

No Attachments. Applications can be viewed upon request.

**RECOMMENDATION:**

Mayor Williams will present his recommendation during the Council meeting on March 12, 2015.

**PUBLIC HEARING REQUIRED:**

No Public Hearing is required for a Council Appointment.

**SUGGESTED MOTION:**

I move to appoint \_\_\_\_\_, to fill the vacant the At-Large City Council Position and to take office on \_\_\_\_\_, 2015.