



City of Independence

Agenda

**Planning Commission Meeting
Monday, January 6, 2025 @ 7:00 PM
Civic Center - Council Chambers**

See Page 2 for Meeting Attendance Information

	Page
1. CALL TO ORDER	
2. ROLL CALL	
3. MINUTES	
3.1. Regular Meeting 12-02-2024	3 - 4
4. VISITORS / PUBLIC COMMENTS	
5. STAFF REPORTS / PRESENTATIONS - OTHER	
6. UNFINISHED BUSINESS	
7. NEW BUSINESS	
7.1. Public Hearing - LA 2025-01- Small Change to Fence Standards Staff Report Attachment A - Draft Change to Fence Standards	5 - 12
7.2. Site Design Review - Approval Extension Request-SDR 2023- Pegg Industries, LLC Staff Report Attachment A - Extension Request Letter	13 - 18
7.3. Discussion - Limited Land Use Decisions - Draft Codes Staff Report Attachment A - Limited Land Use Decisions Attachment B - Subchapter 11, Redline version	19 - 50
8. OTHER DISCUSSION / INFORMATION ITEMS	
9. ADJOURNMENT	

Meeting Attendance Information:

The Planning Commission will hold this meeting in-person in City Hall Council Chambers, via video conference (Zoom) or by phone. Meetings are also live-streamed on the City's YouTube channel at: <https://www.youtube.com/c/CityofIndependenceOR>.

- The public may attend the meeting by coming to City Hall at 555 S. Main St.
- For **Zoom login** visit:
<https://us06web.zoom.us/j/82697217460?pwd=kad9F4W8Pc23A6al7mlXWWVZf7ksPX.1>.
- To participate in the meeting by **phone**, dial **1-253-215-8782** and enter **Webinar ID: 826 9721 7460** and **Passcode 754336**.

Written comments are also welcome and may be delivered to City Hall or emailed to: PlanningComments@ci.independence.or.us, no later than 3:00 pm the day of the meeting.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 72 hours in advance of the meeting to Myra Russell, City Recorder, 503-838-1212/TTY: 800-735-2900.



**City of Independence
Planning Commission
Monday, December 2, 2024**

Meeting Minutes

1. CALL TO ORDER. The meeting was called to order at 7:03 pm by Co-Chair Alex Paraskevas

2. ROLL CALL

Planning Commissioners Present:

Sally Coen (via Zoom)	Becky Jay
José Oliveros	Alex Paraskevas
Evan Sorce	Jordan Carpenter

Commissioners Absent: Corby Chappell (excused)

Others Present: Fred Evander, Planning Manager; Myra Russell, Accountant II; Shannon Corr, Council Liaison

3. MINUTES. The minutes of the November 4, 2024 meeting were submitted in the agenda packet.

ACTION:

Commissioner Sorce moved to approve the minutes as submitted; Commissioner Jay seconded. Motion passed 6-0-0:

AYES: Coen, Jay, Oliveros, Paraskevas, Sorce,
Carpenter

NAYS: None

ABSTENTIONS: None

4. VISITORS / PUBLIC COMMENTS. None

5. STAFF REPORTS / PRESENTATIONS. None

6. UNFINISHED BUSINESS. None

7. NEW BUSINESS

- 7.1. Public Hearing: LA-2024-06, Amends Independence Comprehensive Plan, Development Code, and maps related to the Central Talmadge Plan.

- Hearing script read by Chair Alex Paraskevas. Hearing opened at 7:04 pm.
- Conflicts of Interest/Ex-Parte Contacts/Bias. None declared.
- Staff Report. Evander went over the staff report as presented in the agenda packet.
- Testimony: None.
- Record/Hearing declared closed. 7:19 PM
- Discussion and deliberation. Council consensus to move forward.

ACTION:

Commissioner Carpenter moved to approve the conditional use application, File No. LA-2024-06, adopting findings, conditions and staff recommendations as provided in the Staff Report; Commissioner Coen seconded. Motion passed 6-0-0:

AYES: Coen, Jay, Oliveros, Paraskevas, Sorce, Carpenter

NAYS: None

ABSTENTIONS: None

7.2. Potential Change to Fence Standards - Discussion

Commissioner Source asked when chain link fences were banned and why. Staff Evander thought 2009-2010 with standards changes.

Commissioner Coen liked simplicity and flexibility, does not want to include "other options"

Chair Paraskevas agreed and asked audience for input.

Commission consensus regarding potential changes to code; Evander will bring back code change at a future meeting.

8. OTHER DISCUSSION / INFORMATION ITEMS

8.1. 2024 Accomplishments and Looking Forward to 2025.

Evander listed the accomplishments for the past year:

- Downtown Parking Project,
- Central Talmadge Plan with field trip,
- Housing Production Strategy,
- Code changes related to HB3395,
- New Mural Standards,
- Land use approval process streamlined,
- Public Hearing for Habitat for Humanity

Evander listed projects for 2025:

- Renewal of land use approvals-extensions
- Grant for infill development code
- Adopt code change for limited land use decisions-Jan
- Amend flood plain development standards
- Land use applications

8.2. Video: How to Fix Traffic Forever was shown to commissioners.

9. ADJOURNMENT. Commissioner Carpenter moved to adjourn; Commissioner Sorce seconded. Motion passed 6-0-0:

AYES: Coen, Jay, Oliveros, Paraskevas, Sorce, Carpenter

NAYS: None

ABSTENTIONS: None

Meeting adjourned 8:05 p.m.

Minutes submitted by:
Myra Russell, City Recorder



PUBLIC HEARING SMALL CHANGE TO FENCE STANDARDS (FILE NO. LA | 2025-01) STAFF REPORT

MEETING DATE:	January 6, 2025
RECOMMENDATION:	RECOMMEND APPROVAL
FILE NUMBER:	LA 2025-01
RE:	Public Hearing – Small Change to Fence Standards to Allow Chain Link in Limited Instances
CRITERIA:	Oregon State Planning Goals Independence Comprehensive Plan Independence Development Code (IDC) -Subchapter 10: General Provisions -Subchapter 11: Administrative Provisions
CONTENTS:	I. Summary II. What is the Problem? III. Proposed Change IV. Public Process V. Staff Recommendation VI. Staff Findings – Oregon State Planning Goals VII. Staff Findings – Independence Comprehensive Plan VIII. Staff Findings – Independence Development Code
ATTACHMENTS:	A. Proposed Code Changes (2 Pages)

I. SUMMARY

At the Planning Commission meeting on January 6, 2025, the Commission will hold a public hearing to consider a small change to the Independence fencing standards to allow chain link on some residential lots.

II. WHAT IS THE PROBLEM?

The Independence Development Code does not currently allow chain link fences on any residential lot.

During the Independence Planning Commission meeting on November 4, 2024, a resident asked the Commission to allow chain link fences in some areas of the city. Following the request, the Planning Commission directed staff to prepare a variety of options to permit the fence type in limited circumstances. The attached draft represents one of the options offered.

III. PROPOSED CHANGE

The proposed change would allow chain link fences on lots where 50 percent or more of the properties on the same block or cul-de-sac have chain link, so long as the chain link is located in a similar part of the lot as the other properties. No new chain link fences, however, would be allowed in the Independence Historic District.

IV. PUBLIC PROCESS

To inform area landowners about the proposed code change, staff posted a notice of the proposal on the Oregon Department of Land Conservation "PAPA" website on November 25, 2024, and published a Notice of the Public Hearings in the Polk County Itemizer-Observer on December 25. Details about the change were additionally posted on the city website. As of the date of the writing of this staff report, no comments were received through these outreach methods.

V. STAFF RECOMMENDATION

Given the attached findings, staff recommends that the Planning Commission move to forward a recommendation of approval for the code changes to the Independence City Council.

A suggested motion to approve the proposal as presented is:

"I move to forward a recommendation of approval on the revised fencing standards, LA 2025-01, to the Independence City Council."

VI. STAFF FINDINGS - OREGON STATE PLANNING GOALS

Updates to the Independence Development Code are required to meet the Oregon State Planning Goals. Among these goals include provisions related to Citizen Involvement (Goal 1), Land Use Planning (Goal 2), and Urbanization (Goal 14), which together are implemented through measures such as the Independence Comprehensive Plan and Development Code. Combined these goals seek to “accommodate urban population and urban employment inside urban growth boundaries” and “ensure efficient use of land” (see Goal 14), while assuring that citizens are involved in the planning process, and considerations related to future land use needs are addressed. The proposed code has been drafted with these intents in mind.

The proposed code changes would allow chain link fences in limited areas of the City of Independence which are characterized (at least in part) by the fence type. The proposed changes would allow chain link when an existing block or cul-de-sac has at least 50 percent of residential lots with chain link, and the proposed chain link is located in a similar portion of the lot as the other homes’ fencing.

VII. STAFF FINDINGS – INDEPENDENCE COMPREHENSIVE PLAN

Proposed changes to the Independence Development Code are required to conform with the goals and policies of the Independence Comprehensive Plan. Key goals and policies of the Comprehensive Plan are noted below:

Land Use

GOAL: To encourage efficient land use, maintain land use designations appropriate to the character of Independence and meet future land use needs.

Staff Response: Within the City of Independence, land use designations and standards are intended to be consistent with the character of the community and to meet future land use needs. The proposed fence standards are intended to address these purposes. The proposed draft would continue to limit the use of chain link fencing in Independence, while recognizing that some portions of the community are characterized by the fence type. The proposed approach would allow individuals in certain areas, characterized by the fence type to utilize chain link, so long as it is placed on the same portion of the lot as the similar nearby fencing.

The approach would maintain land use designations appropriate to the character of Independence while allowing more flexible fencing standards for certain residents. This goal would be achieved.

Citizen Participation

GOAL: To provide opportunities for citizen involvement and to encourage participation by area residents.

Staff Response: The proposed revisions to the fence standards would balance two somewhat conflicting desires, both of which are valued by residents of the City of Independence:

- The desire to maintain the aesthetics and strong sense of place in the community.

- The desire to have regulations that are not overly burdensome and are well suited to the various contexts in the community.

The code would balance these desires by continuing to limit the use of chain link, while offering opportunities to install the fence type when a neighborhood has 50 percent or more of its homes already using chain link.

To solicit feedback about the proposed changes, staff provided notice:

- On the State Department of Land Conservation and Development "PAPA" website.
- On the City of Independence Planning Department website.
- In the Polk County Itemizer-Observer.

Additionally, the Independence Planning Commission discussed the proposal at a work session on November 4 and December 2 (both of which were posted on YouTube).

Given these items, a variety of opportunities has been provided for individuals to learn about the change and be involved in the process. This goal has been achieved.

VII. STAFF FINDINGS – INDEPENDENCE DEVELOPMENT CODE

Beyond the goals and policies of the Independence Comprehensive Plan, the proposed changes are required to conform with the standards of the Independence Development Code.

Subchapter 10: General Provisions

...

10.040 Amendment of Development Code

Any amendment of the text of this development code shall be accomplished by ordinance of the City Council. Proposals for such amendments shall be submitted to the Planning Commission for public hearing. The Planning Commission shall submit to the City Council its written recommendation regarding the proposed amendment. Such recommendation shall be submitted to the City Council within 30 days of the Planning Commission's action on the proposed amendment. Notice shall also be provided to state land use agencies in accordance with statutory requirements. This is a Type IV action – See 11.002 (D).

Staff Response: The Independence Planning Commission will consider the proposed changes during a Public Hearing on January 6, 2025. Following the hearing, the Commission will forward a recommendation to the City Council or make further changes to the draft.

If the Commission elects to forward the changes to the City Council, the Independence City Council will consider the draft at their meeting on February 11. During that meeting, the Council will be given a draft of an ordinance to potentially adopt the changes. Given this process, this standard will be achieved.

...

Subchapter 11: Administrative Provisions

11.002 Application Types and Review Procedures

All development permits and land use actions are processed under the City's administrative procedures. There are four types of actions, each with its own procedures.

...

D. Type IV Action

A Type IV action is a legislative review in which the City considers and enacts or amends laws and policies. Private parties may request a Type IV action; however, it must be initiated by the Planning Commission, or City Council. The City Council makes the final, local decision. Sections 11.025 and 11.030 list the notice and hearing requirements.

1. Amendments and Revisions of the Comprehensive Plan
2. City Plan Document Adoption, e.g. Water System Plan
3. Zoning Code Amendments

Staff Response: Staff has reviewed the amendment as a Type IV – Legislative Review, which was originally initiated by staff and the Independence Planning Commission, based on a request from a local resident. This standard has been met.

11.015 General Provisions

In order to provide for citizen review of the planning process and the orderly keeping of records of actions relating to this Ordinance, the City shall ensure that the following measures are maintained and available for public review.

...

Staff Response: Staff has taken appropriate steps to ensure compliance with the standards in Independence Development Code Section 11.015, including publishing a notice of the changes in the Polk County Itemizer-Observer, writing a staff report for the change, and keeping a file for the proposal. This standard has been achieved.

11.025 Notice of Public Hearings

...

B. Legislative Hearings (Type IV). Notice of Public Hearing by the Planning Commission or City Council relating to any legislative action shall be published in a newspaper of general circulation a minimum of 10 days prior to the date of the hearing. Notice shall be provided to the Department of Land Conservation and Development in conformance with DLCD rules prior to the first evidentiary hearing by the City for any legislative action.

Staff Response: Staff sent notice of the proposal to the Oregon Department of Land Conservation and Development on November 25, 2024, and included information about the changes on the City of Independence Planning Department website. Staff additionally published a notice of the Public Hearings in the Polk County Itemizer-Observer on December 25, 2024. This standard has been met.

DRAFT CHANGE TO FENCE STANDARDS IDC SECTION 74.020

At the Independence Planning Commission meeting of November 4, 2024, a resident asked the Commission to allow chain link fences in more residential areas of the City of Independence. Following that request, the Planning Commission directed staff to prepare a variety of options to permit the fence type. The attached draft is offered to address the request. The change would allow chain link fences on lots where 50 percent or more of the properties on the same block or cul-de-sac have chain link, so long as the chain link is located in a similar part of the lot as the other properties. No new chain link fences would be allowed in the Independence Historic District.

74.020 Specific Standards for Accessory Uses

A. Fences.

1. Standards for Zones

a. Residential Zones.

- i. Height. In the RS, RM and MX zones, fences in the front yard shall not exceed 3 ½ feet in height unless the fence is constructed of a non sight-obscuring material. Side, rear and non-sight-obscuring front yard fences shall not exceed seven (7) in height.

- ii. Materials.

A. Fences shall be made of wood, brick, vinyl or wrought iron.

B. Chain link fences shall be prohibited, unless 50 percent of the residential lots on the same block or cul-de-sac have chain link. In those instances, chain link may be used in a similar location on the lot as the other properties on the block/cul-de-sac (i.e. along a front, side or rear property line, if the existing fences are found in those locations on the other properties). No new chain link shall be allowed in the Independence Historic District.



Fences. [1] Fences should be made of wood brick or wrought iron. [2] Front yard fences should not exceed 3 1/2 so as not to inhibit surveillance.

- b. Commercial and Industrial Zones. Fences enclosing commercial or industrial uses, for which there is no height limitation, must be at least eight (8) feet high if topped with barbed wire or other injurious material.
2. Vision Clearance Standards for All Fences. All fences which are located within vision clearance areas at street and alley intersections shall not exceed 3 ½ feet in height from the adjacent curb elevation and shall be constructed of a material which is non-~~sight~~-obscuring.
 3. Standards for Materials. All fences shall be constructed of such material as to be compatible with the surrounding area. No sheet metal, metal roofing, plywood, broken or splintered material, pallets, barbed wire, pig wire, woven wire or farm fence wire shall be used. Stained or discolored fence material shall be painted. All fencing shall be constructed so that the finished side shall face outward. All fences shall be maintained so as to be in an upright, self-standing condition and repaired with the same or similar materials used in the existing fence.
 4. Required to Meet State and Local Codes. The construction of the fence shall meet all State and local codes. Fees and plans showing the location, materials and design of all fences shall be submitted to the city for a permit prior to construction.



SITE DESIGN REVIEW EXTENSION REQUEST (FILE NO. SDR | 2023-01) STAFF REPORT

MEETING DATE:	January 6, 2025
RECOMMENDATION:	APPROVE
FILE NUMBER:	SDR 2023-01
OWNER:	Pegg Industries, LLC (Wyatt Pegg)
APPLICANT:	Laura Laroque of Udell Engineering and Land Surveying
REQUEST:	EXTENSION OF APPROVAL TO CONSTRUCT NEW INDUSTRIAL BUILDING AND ASSOCIATED SITE IMPROVEMENTS OFF STRYKER ROAD AND HOFFMAN ROAD
PROPERTY:	Unaddressed Property Accessible from Stryker and Hoffman Roads Tax Map: 8.4.21B; Taxlot: 1300
ACREAGE:	27.24 Acres
ZONING:	Heavy Industrial (IH) Zone
CRITERIA:	Independence Comprehensive Plan Independence Development Code (IDC) • Subchapter 11 Administrative Provisions • Subchapter 41 Heavy Industrial (IH) Zone • Subchapter 54 Buffering, Screening, Landscape and Ash Creek Setback Requirements • Subchapter 73 Parking • Subchapter 80 Site Design Review Requirements
ATTACHMENT:	A. Extension Request (3 pages)

I. BACKGROUND

On November 15, 2024, Laura LaRoque of Udell Engineering and Land Surveying, LLC submitted a request to extend the Site Design Review approval for the construction of a new building and site improvements for Western Interlock.

The Independence Planning Commission approved the Site Design Review Application for the project on April 3, 2023, with 19 conditions of approval.

Following the approval of the project, interest rates increased and the applicant delayed the project to study the market and potentially obtain more favorable loan terms. To accommodate the additional time and the long period necessary to implement the complex project, the applicant has requested that the approval be extended to April 17, 2026 (three years from the date that the Notice of Decision for the project became final).

No changes to the originally approved proposal were requested as part of the extension request.

II. PROCESS

The Independence Planning Commission may extend the Site Design Review approval for one-year, subject to the requirements of Independence Development Code Section 11.080(D). This section states:

D. The following criteria shall govern the review of the extension.

1. The extension request shall be filed no later than 45 days before the expiration of the previous approval.

Staff Response: The request for the extension was originally submitted on November 15, 2024, well in advance of the 45-day period required by this section.

2. The proposed extension shall be in substantial conformance with the originally approved plan.

Staff Response: The proposed extension did not seek any revisions to the original approval. This standard is achieved.

3. The applicant shall submit a reason for the need to extend the approval and satisfactorily demonstrate that they plan to complete the work articulated in IDC 11.070(B) within the one-year extension period.

Staff Response: The applicant stated that the increase in interest rates had an impact on project feasibility and financing. Given the complexity of the project and the time frame necessary to complete the effort, the applicant has sought an additional year to get a more favorable loan and start the "actual construction or alteration under a required permit." Details about the proposed timeframe moving forward have been provided. This standard is met.

4. No substantive changes shall have occurred to the applicable Code provisions on which the approval was based. If there have been substantive changes to the applicable Code provisions and the subject plan does not comply with the changes, an extension shall not be granted, and a new application shall be required.

Staff Response: The code under which the project started has not been changed. The proposal is consistent with this standard.

III. ANALYSIS AND FINDINGS

Given the analysis of the code criteria offered above, staff believes that the application meets the criteria in IDC 11.080(D). The extension was submitted with an appropriate amount of time to process the request, the proposal has not changed from the original submittal, and the code under which the proposal was submitted has not been amended. Additionally, the applicant has submitted adequate information to detail why the project was not started to date, and how the proponent plans to move the project forward. Given these considerations, the approval can be extended.

IV. RECOMMENDATION

Based on the findings noted above, staff recommends that the Planning Commission approve the request for the extension of the Site Design Review approval based on the requirements in IDC Section 11.080.

The Commission may elect to:

1. Approve the extension of the subdivision till April 17, 2026, or
2. Deny the extension if the Commission feels that a legislative amendment or other applicable change has warranted a reconsideration of the approval.

Laura LaRoque

Udell Engineering and Land Surveying
63 E. Ash Street, Lebanon, OR 97355
Phone: (541) 990-8661
Email: laura@udelleng.com

► **City of Independence
Planning Department**

555 S. Main Street / P.O. Box 7
Independence, OR 97351

To whom it may concern,

At a public hearing on April 3, 2023, the Independence Planning Commission conditionally approved an application to construct a new manufacturing facility for Western Interlock, a proposal for an 89,000 square-foot industrial building and associated site improvements on a 27.24-acre parcel, accessible from Hoffman and Stryker Roads (i.e., planning file no. SDR-2023-01). Based on the decision effective date of April 17, 2023, the 2-year approval period will expire on April 17, 2025. A one-year extension to April 17, 2026, is requested in accordance with Independence Development Code 11.080.

As outlined below, the request for extension satisfies the criteria of Independence Development Code 11.080(D):

1. *The extension request shall be filed no later than 45 days before the expiration of the previous approval.*

An extension is requested on November 14, 2024, 154 days prior to April 17, 2025, period expiration date.

2. *The proposed extension shall be in substantial conformance with the originally approved plan.*

No modifications to the approved plan are requested in association with the extension request.

3. *The applicant shall submit a reason for the need to extend the approval and satisfactorily demonstrate that they plan to complete the work articulated in IDC 11.070(B) within the one-year extension period.*

The reason for the approval extension is two-fold:

- 1) There was a substantial increase in interest rates after the approval of the subject application, which had a profound impact on project feasibility and financing.
- 2) The increased cost of construction necessitated additional design time to explore cost saving measures.

The requested extension will allow for additional time to secure more favorable loan terms as well as additional time for project design time needed produce a development that is not only functional but also financially viable.

IDC 11.070(B)(2) states that (...) the applicant shall begin actual construction or alteration under a required permit, or, in the case of a permit not involving construction or alteration, commence the operation of the authorized activity. Actual construction can begin under many different permits including a grading permit, public improvement permit, building permits, and etc.

A one-year extension from the April 17, 2025, is a 15-month timeline in which final design plans will be created, submitted to the city for review and approval, and construction to commence. It is anticipated that that the project will commence with the following estimated timeline:

- a. Obtain a Grading Permit for the building footprint that will allow the existing un-documented fill to be removed and replaced with a structurally favorable imported fill material. This permit is planned to be secured by July of 2025 and the grading work completed by November of 2025.
 - b. Obtain a public works permit for the work within the public street and for the public waterline onsite. This permit is planned to be secured by April 2026 and the work associated with the permit completed by November of 2026.
 - c. Obtain a building permit for the construction of the onsite structures and associated onsite infrastructure. This permit is planned to be secured by April 2026 and the work associated with the permit completed by November of 2030.
4. *No substantive changes shall have occurred to the applicable Code provisions on which the approval was based. If there have been substantive changes to the applicable Code provisions and the subject plan does not comply with the changes, an extension shall not be granted, and a new application shall be required.*

There have been no substantive changes to the applicable code provisions on which the approval was based.

Thank you for your consideration.

Laura LaRoque

Udell Engineering and Land Surveying, LLC



DRAFT LIMITED LAND USE DECISION STANDARDS STAFF REPORT

FROM: Fred Evander, Community Planner

TO: Planning Commission

MEETING DATE: January 6, 2025

FILE NUMBER: LA | 2025-02

RE: **LIMITED LAND USE DECISION STANDARDS**

ATTACHMENT: A. Sections 37 through 43 of SB 1537 (5 pages)
B. Draft Housing Adjustment Code (2 pages)

I. SUMMARY

At the Planning Commission meeting on January 6, 2025, the Commission will discuss a draft of standards that incorporate limited land use decisions into the Independence Development Code.

II. WHAT IS THE PROBLEM?

During the 2024 legislative session, the State of Oregon passed SB 1537, a bill intended to spur housing production throughout the state. As part of that bill, the legislature adopted new provisions that require the following land uses to be reviewed through a staff-level "limited land use decision."

- (A) *The approval or denial of a tentative subdivision or partition plan, as described in ORS 92.040 (1).*
- (B) *The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review.*
- (C) *The approval or denial of an application for a replat.*
- (D) *The approval or denial of an application for a property line adjustment.*
- (E) *The approval or denial of an application for an extension, alteration or expansion of a nonconforming use. (see Attachment A, Section 44(12)(a))*

This requirement removes many of the reviews typically conducted by the Planning Commission from Commission purview.

III. WHAT IS PROPOSED?

To respond to the bill, staff recommends that the Planning Commission incorporate Limited Land Use

Decisions into Subchapter 11 of the Independence Development Code.¹ The attached draft is meant to include the framework.

The addition of limited land use decisions also provides an opportunity for the city to simplify Subchapter 11, incorporate headings and add a matrix that helps individuals to better understand the land use review process. The attached draft is meant to achieve each of these items.

IV. NEXT STEPS

If the proposed approach is appropriate, additional changes will be necessary throughout the rest of the Independence Development Code. If the Commission feels comfortable with the initial draft as written, staff will work on the additional changes before the Commission meeting in February.

¹ Guidance from the state has implied that it is not necessary for cities to change their land use standards, in part because portions of the bill will sunset on January 2, 2032 (see Section 47). However, the portion of the bill that sunsets is Section 46, which pertains to requests for extensions for complying with the limited land use decision standards. As such, staff believes that it is unlikely that the provisions will be repealed.

(c) Failing to comply with conditions of approval adopted under subsection (4) of this section.

SECTION 40. Temporary exemption authority. Before January 1, 2025, notwithstanding section 39 of this 2024 Act:

(1) Cities may deliver applications for exemption under section 39 of this 2024 Act to the Department of Land Conservation and Development; and

(2) The Department of Land Conservation and Development may perform any action that the Housing Accountability and Production Office may take under section 39 of this 2024 Act. Decisions and actions of the department under this section are binding on the office.

SECTION 41. Reporting. (1) A city required to provide a report under ORS 197A.110 shall include as part of that report information reasonably requested from the Department of Land Conservation and Development on residential development produced through approvals of adjustments granted under section 38 of this 2024 Act. The department may not develop a separate process for collecting this data or otherwise place an undue burden on local governments.

(2) On or before September 15 of each even-numbered year, the department shall provide a report to an interim committee of the Legislative Assembly related to housing in the manner provided in ORS 192.245 on the data collected under subsection (1) of this section. The committee shall invite the League of Oregon Cities to provide feedback on the report and the efficacy of section 38 of this 2024 Act.

SECTION 42. Operative date. Sections 38 to 41 of this 2024 Act become operative on January 1, 2025.

SECTION 43. Sunset. Sections 38 to 41 of this 2024 Act are repealed on January 2, 2032.

LIMITED LAND USE DECISIONS

SECTION 44. ORS 197.015 is amended to read:

197.015. As used in ORS chapters 195, 196, 197 and 197A, unless the context requires otherwise:

(1) “Acknowledgment” means a commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the goals or certifies that Metro land use planning goals and objectives, Metro regional framework plan, amendments to Metro planning goals and objectives or amendments to the Metro regional framework plan comply with the goals.

(2) “Board” means the Land Use Board of Appeals.

(3) “Carport” means a stationary structure consisting of a roof with its supports and not more than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

(4) “Commission” means the Land Conservation and Development Commission.

(5) “Comprehensive plan” means a generalized, coordinated land use map and policy statement of the governing body of a local government that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational facilities, recreational facilities, and natural resources and air and water quality management programs. “Comprehensive” means all-inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the plan. “General nature” means a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is “coordinated” when the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible. “Land” includes water, both surface and subsurface, and the air.

(6) “Department” means the Department of Land Conservation and Development.

(7) “Director” means the Director of the Department of Land Conservation and Development.

(8) “Goals” means the mandatory statewide land use planning standards adopted by the commission pursuant to ORS chapters 195, 196, 197 and 197A.

(9) "Guidelines" means suggested approaches designed to aid cities and counties in preparation, adoption and implementation of comprehensive plans in compliance with goals and to aid state agencies and special districts in the preparation, adoption and implementation of plans, programs and regulations in compliance with goals. Guidelines are advisory and do not limit state agencies, cities, counties and special districts to a single approach.

(10) "Land use decision":

(a) Includes:

(A) A final decision or determination made by a local government or special district that concerns the adoption, amendment or application of:

(i) The goals;

(ii) A comprehensive plan provision;

(iii) A land use regulation; or

(iv) A new land use regulation;

(B) A final decision or determination of a state agency other than the commission with respect to which the agency is required to apply the goals; or

(C) A decision of a county planning commission made under ORS 433.763;

(b) Does not include a decision of a local government:

(A) That is made under land use standards that do not require interpretation or the exercise of policy or legal judgment;

(B) That approves or denies a building permit issued under clear and objective land use standards;

(C) That is a limited land use decision;

(D) That determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility that is otherwise authorized by and consistent with the comprehensive plan and land use regulations;

(E) That is an expedited land division as described in ORS 197.360;

(F) That approves, pursuant to ORS 480.450 (7), the siting, installation, maintenance or removal of a liquefied petroleum gas container or receptacle regulated exclusively by the State Fire Marshal under ORS 480.410 to 480.460;

(G) That approves or denies approval of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan; or

(H) That a proposed state agency action subject to ORS 197.180 (1) is compatible with the acknowledged comprehensive plan and land use regulations implementing the plan, if:

(i) The local government has already made a land use decision authorizing a use or activity that encompasses the proposed state agency action;

(ii) The use or activity that would be authorized, funded or undertaken by the proposed state agency action is allowed without review under the acknowledged comprehensive plan and land use regulations implementing the plan; or

(iii) The use or activity that would be authorized, funded or undertaken by the proposed state agency action requires a future land use review under the acknowledged comprehensive plan and land use regulations implementing the plan;

(c) Does not include a decision by a school district to close a school;

(d) Does not include, except as provided in ORS 215.213 (13)(c) or 215.283 (6)(c), authorization of an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period; and

(e) Does not include:

(A) A writ of mandamus issued by a circuit court in accordance with ORS 215.429 or 227.179;

(B) Any local decision or action taken on an application subject to ORS 215.427 or 227.178 after a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179; or

(C) A state agency action subject to ORS 197.180 (1), if:

(i) The local government with land use jurisdiction over a use or activity that would be authorized, funded or undertaken by the state agency as a result of the state agency action has already made a land use decision approving the use or activity; or

(ii) A use or activity that would be authorized, funded or undertaken by the state agency as a result of the state agency action is allowed without review under the acknowledged comprehensive plan and land use regulations implementing the plan.

(11) "Land use regulation" means any local government zoning ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for implementing a comprehensive plan.

(12)(a) "Limited land use decision"[:]

[(a)] means a final decision or determination made by a local government pertaining to a site within an urban growth boundary that concerns:

(A) The approval or denial of a tentative subdivision or partition plan, as described in ORS 92.040 (1).

(B) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review.

(C) The approval or denial of an application for a replat.

(D) The approval or denial of an application for a property line adjustment.

(E) The approval or denial of an application for an extension, alteration or expansion of a nonconforming use.

(b) "**Limited land use decision**" does not mean a final decision made by a local government pertaining to a site within an urban growth boundary that concerns approval or denial of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan.

(13) "Local government" means any city, county or Metro or an association of local governments performing land use planning functions under ORS 195.025.

(14) "Metro" means a metropolitan service district organized under ORS chapter 268.

(15) "Metro planning goals and objectives" means the land use goals and objectives that Metro may adopt under ORS 268.380 (1)(a). The goals and objectives do not constitute a comprehensive plan.

(16) "Metro regional framework plan" means the regional framework plan required by the 1992 Metro Charter or its separate components. Neither the regional framework plan nor its individual components constitute a comprehensive plan.

(17) "New land use regulation" means a land use regulation other than an amendment to an acknowledged land use regulation adopted by a local government that already has a comprehensive plan and land regulations acknowledged under ORS 197.251.

(18) "Person" means any individual, partnership, corporation, association, governmental subdivision or agency or public or private organization of any kind. The Land Conservation and Development Commission or its designee is considered a person for purposes of appeal under ORS chapters 195, 197 and 197A.

(19) "Special district" means any unit of local government, other than a city, county, Metro or an association of local governments performing land use planning functions under ORS 195.025, authorized and regulated by statute and includes but is not limited to water control districts, domestic water associations and water cooperatives, irrigation districts, port districts, regional air quality control authorities, fire districts, school districts, hospital districts, mass transit districts and sanitary districts.

(20) "Urban growth boundary" means an acknowledged urban growth boundary contained in a city or county comprehensive plan or adopted by Metro under ORS 268.390 (3).

(21) "Urban unincorporated community" means an area designated in a county's acknowledged comprehensive plan as an urban unincorporated community after December 5, 1994.

(22) "Voluntary association of local governments" means a regional planning agency in this state officially designated by the Governor pursuant to the federal Office of Management and Budget Circular A-95 as a regional clearinghouse.

(23) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration that are sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

SECTION 45. ORS 197.195 is amended to read:

197.195. (1) A limited land use decision shall be consistent with applicable provisions of city or county comprehensive plans and land use regulations. Such a decision may include conditions authorized by law. Within two years of September 29, 1991, cities and counties shall incorporate all comprehensive plan standards applicable to limited land use decisions into their land use regulations. A decision to incorporate all, some, or none of the applicable comprehensive plan standards into land use regulations shall be undertaken as a post-acknowledgment amendment under ORS 197.610 to 197.625. If a city or county does not incorporate its comprehensive plan provisions into its land use regulations, the comprehensive plan provisions may not be used as a basis for a decision by the city or county or on appeal from that decision.

(2) A limited land use decision is not subject to the requirements of ORS 197.797.

(3) A limited land use decision is subject to the requirements of paragraphs (a) to (c) of this subsection.

(a) In making a limited land use decision, the local government shall follow the applicable procedures contained within its acknowledged comprehensive plan and land use regulations and other applicable legal requirements.

(b) For limited land use decisions, the local government shall provide written notice to owners of property within 100 feet of the entire contiguous site for which the application is made. The list shall be compiled from the most recent property tax assessment roll. For purposes of review, this requirement shall be deemed met when the local government can provide an affidavit or other certification that such notice was given. Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(c) The notice and procedures used by local government shall:

(A) Provide a 14-day period for submission of written comments prior to the decision;

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

(C) List, by commonly used citation, the applicable criteria for the decision;

(D) Set forth the street address or other easily understood geographical reference to the subject property;

(E) State the place, date and time that comments are due;

(F) State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;

(G) Include the name and phone number of a local government contact person;

(H) Provide notice of the decision to the applicant and any person who submits comments under subparagraph (A) of this paragraph. The notice of decision must include an explanation of appeal rights; and

(I) Briefly summarize the local decision making process for the limited land use decision being made.

(4) Approval or denial of a limited land use decision shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

(5) A local government may provide for a hearing before the local government on appeal of a limited land use decision under this section. The hearing may be limited to the record developed pursuant to the initial hearing under subsection (3) of this section or may allow for the introduction

of additional testimony or evidence. A hearing on appeal that allows the introduction of additional testimony or evidence shall comply with the requirements of ORS 197.797. Written notice of the decision rendered on appeal shall be given to all parties who appeared, either orally or in writing, before the hearing. The notice of decision shall include an explanation of the rights of each party to appeal the decision.

(6) A city shall apply the procedures in this section, and only the procedures in this section, to a limited land use decision, even if the city has not incorporated limited land use decisions into land use regulations, as required by ORS 197.646 (3), except that a limited land use decision that is made under land use standards that do not require interpretation or the exercise of policy or legal judgment may be made by city staff using a ministerial process.

SECTION 45a. Section 46 of this 2024 Act is added to and made a part of ORS chapter 197.

SECTION 46. Applicability of limited land use decision to housing development. (1) The Housing Accountability and Production Office may approve a hardship exemption or time extension to ORS 197.195 (6), during which time ORS 197.195 (6) does not apply to decisions by a local government.

(2) The office may grant an exemption or time extension only if the local government demonstrates that a substantial hardship would result from the increased costs or staff capacity needed to implement procedures as required under ORS 197.195 (6).

(3) The office shall review exemption or time extension requests under the deadlines provided in section 39 (3) of this 2024 Act.

SECTION 47. Sunset. Section 46 of this 2024 Act is repealed on January 2, 2032.

SECTION 47a. Operative date. Section 46 of this 2024 Act and the amendments to ORS 197.015 and 197.195 by sections 44 and 45 of this 2024 Act become operative on January 1, 2025.

ONE-TIME SITE ADDITIONS TO URBAN GROWTH BOUNDARIES

SECTION 48. Sections 49 to 59 of this 2024 Act are added to and made a part of ORS chapter 197A.

SECTION 49. Definitions. As used in sections 49 to 59 of this 2024 Act:

(1) “Net residential acre” means an acre of residentially designated buildable land, not including rights of way for streets, roads or utilities or areas not designated for development due to natural resource protections or environmental constraints.

(2) “Site” means a lot or parcel or contiguous lots or parcels, or both, with or without common ownership.

SECTION 50. City addition of sites outside of Metro. (1) Notwithstanding any other provision of ORS chapter 197A, a city outside of Metro may add a site to the city’s urban growth boundary under sections 49 to 59 of this 2024 Act, if:

(a) The site is adjacent to the existing urban growth boundary of the city or is separated from the existing urban growth boundary by only a street or road;

(b) The site is:

(A) Designated as an urban reserve under ORS 197A.230 to 197A.250, including a site whose designation is adopted under ORS 197.652 to 197.658;

(B) Designated as nonresource land; or

(C) Subject to an acknowledged exception to a statewide land use planning goal relating to farmland or forestland;

(c) The city has not previously adopted an urban growth boundary amendment or exchange under sections 49 to 59 of this 2024 Act;

(d) The city has demonstrated a need for the addition under section 52 of this 2024 Act;

(e) The city has requested and received an application as required under sections 53 and 54 of this 2024 Act;

(f) The total acreage of the site:

SUBCHAPTER 11: ADMINISTRATIVE PROVISIONS

11.002 Applications and Review Procedures ~~ADDED NEW TYPE I (LIMITED ACTION); SIMPLIFIED PORTIONS OF OTHER SECTIONS~~

All development permits and land use actions are processed under the City's administrative procedures. There are four types of actions, each with its own procedures.

A. Type I Action

A Type I action is a ministerial action reviewed by staff based on clear and objective standards. ~~The type includes standard Type I procedures, and Type I limited land use actions as defined in ORS 197.015. Clear and objective conditions may be placed on the decision, and notice of the decision is sent to the applicant and any interested party who requests a copy of the decision. Appeal is to the Planning Commission.~~

1. The following actions are processed under the standard Type I procedures:

- ~~1. Lot Line Adjustment~~
- ~~2.a. Floodplain Permit~~
- ~~3. Site Design Review~~
- ~~4. Minor Partition~~
- ~~5.b. Administrative Variance~~
- ~~6.c. Willamette Greenway Administrative Review~~
- ~~7.d. Type I Historic Preservation Review~~
- ~~e. Home Occupation~~
- ~~Downtown Overlay Design Standards Review~~
- ~~8. Home Occupation.~~

2. The following actions are Type I limited land use decisions:

- a. Subdivision
- b. Minor or Major Partition
- c. Subdivision or Partition Replat
- d. Lot Line Adjustment
- e. Non-Conforming Use Extension, Alteration or Expansion
- f. Site Design Review
- g. Downtown Overlay Design Standards and Guidelines Review

~~BB.~~ Type II Action

A Type II action is a quasi-judicial review in which the Planning Commission

or other applicable hearing body applies a mix of objective and subjective standards that allow considerable discretion. ~~Public notice is provided pursuant to Section 11.025. A public hearing is required for Type II actions unless otherwise specified. Appeal of a Type II decision is to the City Council.~~ The following actions are processed under the Type II procedure:

1. Variance, including Floodplain Variances
2. Conditional Use Permit
- ~~3. Major Partition~~
- ~~4. Subdivision~~
- ~~53. Planned Unit Development~~
- ~~64. Similar Use Determination~~
- ~~5. Type II Historic Preservation Review~~
- ~~7. Downtown Overlay Design Guidelines Review~~
- ~~8. Site Design Review applications for commercial/industrial developments with more than 40,000 square feet of total gross floor area.~~

C. Type III Action

A Type III action is a quasi-judicial process in which the City Council applies a mix of objective and subjective standards, and makes the final, local decision. The Planning Commission plays an advisory role. Public notice is provided and, except as noted in subsection (43), public hearings are held before both the Planning Commission and City Council. ~~Sections 11.025 and 11.030 list the notice and hearing requirements. Appeal of the decision is to the Land Use Board of Appeals (LUBA).~~ The following actions are processed under a Type III procedure:

1. Zone Change
2. Comprehensive Plan Map Amendment
3. Annexation and Zone Change when requested concurrent with one another. The City Council reviews such a request without review or recommendation by the Planning Commission.

D. Type IV Action

A Type IV action is a legislative review in which the City considers and enacts or amends laws and policies. Private parties may request a Type IV action; however, ~~it the action~~ must be initiated by the Planning Commission, or City Council. ~~The City Council makes the final, local decision. Sections 11.025 and 11.030 list the notice and hearing requirements. The following actions are considered as part of a Type IV procedure~~

1. Amendments and Revisions of the Comprehensive Plan

2. City Plan Document Adoption, e.g. Water System Plan
3. Zoning Code Amendments

E. Consolidated Review of Applications. ~~MOVED FROM IDC 11.015(D)~~

When an applicant applies for more than one type of land use action for one or more contiguous parcels of land, the proceedings shall be consolidated for review and decision, unless otherwise requested by the land use applicant. When proceedings are consolidated, required notices may be consolidated, provided the notice shall identify each application to be decided. When more than one land use action is reviewed, separate findings and decisions shall be made on each land use action.

11.005 Applications for Land Use Actions ~~SMALL CHANGE TO REFLECT CURRENT PRACTICE~~

Applications for all land-use actions as defined in this ordinance shall be filed with the City Manager or designee. An application shall be submitted in writing on the form provided by the City Manager and shall include the following:

- A. Name, address and telephone number of the applicant;
- B. Name, address, and telephone number of the owner of record of the subject property;
- C. Name, address, and telephone number of any agent acting on behalf of the applicant;
- D. Township, range, section and tax lot number of the subject property;
- E. A legal description of the property;
- F. A list of all property owners of record within the notification area of the subject property, unless the applicant elects to pay the City to produce the list;
- G. A map showing all properties within the notification area and any other information pertinent to the request;
- H. The fee for the land-use action, as determined by resolution of the City Council;
- I. Other information required by this ordinance or deemed necessary by the City Manager or their designee or Planning Commission.

11.010 Persons Who May Apply for a Land Use Action

An application for a land-use action may be filed by any of the following:

- A. The owner of record of the property that is the subject of the request;
- B. A contract purchaser of the subject property, provided that a written statement of the owner of record's consent to the request accompanies the application;
- C. A lessee of the subject property, provided that a written statement of the owner of record's consent to the request accompanies the applications; or
- D. The agent of any of the above persons. A written statement of the owner of record's consent to the request and a written statement that the agent is authorized to act on behalf of the applicant must accompany any application made by an agent.

11.012 Land Use Review Process **NEW TABLE TO SUMMARIZE PROCESSES**

The following table summarizes the review process for land use actions:

<u>Land Use Types</u>	<u>Type I</u>	<u>Type II</u>	<u>Type III</u>	<u>Type IV</u>
<u>Decision Type</u>	<u>Ministerial</u>	<u>Quasi-Judicial</u>	<u>Quasi-Judicial</u>	<u>Legislative</u>
<u>Initiator</u>	<u>Applicant</u>	<u>Applicant</u>	<u>Applicant</u>	<u>City Council or Planning Commission</u>
<u>Decision-Maker</u>	<u>Staff</u>	<u>Planning Commission</u>	<u>City Council with Recommendation from Planning Commission¹</u>	<u>City Council with Recommendation from Planning Commission</u>
<u>Standards that May be Used</u>	<u>Clear and Objective</u>	<u>Objective and Subjective</u>	<u>Objective and Subjective</u>	<u>Objective and Subjective</u>
-	-	-	-	-
<u>Completeness Review</u>	-	-	-	-
<u>Staff Time for Review of Application for Completeness (Days)</u>	<u>30</u>	<u>30</u>	<u>=</u>	<u>=</u>
<u>Allowed Time for Applicant to Respond to Incomplete Application (Days)</u>	<u>180</u>	<u>180</u>	<u>=</u>	<u>=</u>
-	-	-	-	-

<u>Providing Notice for A Complete Application²</u>	-	-	-	-
<u>-Post Project Site</u>	<u>14 days before decision</u>	<u>20 days before hearing</u>	<u>10 days before hearing</u>	<u>-</u>
<u>-Mail to Nearby Properties</u>	<u>14 days before decision to property owners within 250 feet of site</u>	<u>20 days before hearing to property owners within 250 feet of site</u>	<u>10 days before hearing to property owners within 250 feet of site</u>	<u>-</u>
<u>-Mail to Neighborhood or Community Organization whose Boundaries Include the Site</u>	<u>-</u>	<u>10 days before hearing</u>	<u>10 days before hearing</u>	<u>-</u>
<u>-Mail to State, County and Local Agencies potentially Impacted by Activity</u>	<u>14 days before decision</u>	<u>20 days before hearing</u>	<u>10 days before hearing</u>	<u>10 days before hearing</u>
<u>-Publish in Newspaper</u>	<u>-</u>	<u>10 days before hearing (for Planned Unit Developments Only)</u>	<u>10 days before hearing</u>	<u>10 days before hearing</u>
<u>-Post on Website</u>	<u>14 days before decision</u>	<u>10 days before hearing</u>	<u>10 days before hearing</u>	<u>10 days before hearing</u>
<u>-Send to Department of Land Conservation and Development</u>	<u>-</u>	<u>-</u>	<u>35 days before hearing</u>	<u>35 days before hearing</u>
<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
<u>Review Time Period</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
<u>Days Allowed for Review Including Appeal Process (After Determination of Complete Application)</u>	<u>120</u>	<u>120</u>	<u>N/A</u>	<u>NA</u>
<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
<u>Appeal</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
<u>Days to Appeal Decision</u>	<u>12</u>	<u>12</u>	<u>Process Defined by LUBA</u>	<u>Process Defined by LUBA</u>
<u>Appeal Body</u>	<u>Planning Commission</u>	<u>City Council</u>	<u>Land Use Board of Appeals</u>	<u>Land Use Board of Appeals</u>

¹ No Planning Commission hearing and recommendation is required for an Annexation and Zone Change.

² No forms of notice are required for Home Occupations, Lot Line Adjustments, or Floodplain Permits

11.015 Completeness Review for Applications ~~**CONSOLIDATED FROM ADMINISTRATIVE AND QUASI-JUDICIAL SECTIONS IN 11.015(E) AND 11.015(F)**~~

General Provisions

~~In order to provide for citizen review of the planning process and the orderly keeping of records of actions relating to this Ordinance, the City shall ensure that the following measures are maintained and available for public review:~~

~~A. The City staff shall prepare a written report relating to all applications and actions pursuant to this Ordinance.~~

~~B. The City shall maintain a record of all actions taken pursuant to this Ordinance. The record shall include the required application materials, any exhibits presented to the decision-making bodies, findings for approval or denial, conditions of approval, and any other materials that may have a bearing on the decision.~~

~~C. Citizen and Agency Involvement. The City shall provide opportunities for public and agency input in the planning process. The City shall give notice to:~~

~~(1) the Oregon Department of Transportation (ODOT) regarding any proposed land use action within 250 feet of, or affects private access to, a State transportation facility and~~

~~(2) the public works department of any jurisdictions (for example, Polk County), when any action by the City could potentially affect another jurisdiction's transportation facilities.~~

~~(3) ODOT, Polk County and the City of Monmouth of any land use applications that require public hearings or subdivision and partition applications.~~

~~(4) Oregon Department of Aviation of applications within airport noise impact boundaries and imaginary surfaces that affect airport operations.~~

~~Information conveyed to reviewing agencies and jurisdictions shall include the project location, proposed land use action, and the location of project access points.~~

~~D. Consolidated Review of Applications. When an applicant applies for more than one type of land use action for one or more contiguous parcels of land, the proceedings shall be consolidated for review and decision. When proceedings are consolidated, required notices may be consolidated, provided the notice shall identify each application to be decided. When more than one land use action is reviewed in a hearing, separate findings and decisions shall be made on each land use action.~~

~~E. Ministerial Actions — Type I. This subsection establishes the procedures to be followed in Type I actions. Applications subject to ministerial review shall be reviewed and decided by the City Manager's designee.~~

~~1. Initiation: An application may be submitted by the property owner, contract purchaser or an authorized agent of the owner or contract purchaser.~~

~~2. — Completeness: Upon receipt of an application for a development permit, the City staff shall review the application for completeness with respect to the submission requirements of this Ordinance. If the application is incomplete, staff shall notify the applicant of exactly what information is missing within 30 days of the receipt of the application, and allow the applicant to submit the missing information. The application shall not be acted upon until:~~

~~a. — All necessary information is received and the application is deemed complete.~~

~~3. — Within 180 days of receipt of staff's completeness determination, the applicant shall submit:~~

~~(a) — All of the missing information;~~

~~(b) — Some of the missing information and written notice from the applicant that no other information will be provided; or~~

~~(c) — Written notice from the applicant that none of the missing information will be provided (ORS 227.178).~~

~~4. — Information submitted to the City after the date the application is deemed complete that results in a substantial change from the original application shall authorize review as a new application. The City Manager's designee shall determine whether a submission constitutes a substantial change from the original application.~~

~~5. — Except for Home Occupations, Sign Permits, Lot Line Adjustments, and Floodplain Permits, notice of the application will be sent to interested agencies such as City departments, school district, utility companies, and applicable state agencies. Notice will not be provided for Home Occupations, Sign Permits, Lot Line Adjustments, and Floodplain Permits.~~

~~6. — Except for Home Occupations, Sign Permits, Lot Line Adjustments, and Floodplain Permits, notice of the application will be sent to adjacent property owners within 250 feet of the subject property. For conditional use permit applications for wireless communication facilities, notice will be sent to adjacent property owners within 350 feet of the subject property. Notice will not be provided for Home Occupations, Sign Permits, Lot Line Adjustments, and Floodplain Permits. Except for applications for Home Occupations, Sign Permits, Lot Line Adjustments, and Floodplain Permits, adjacent property owners will have 14 days to respond with written comments prior to issuance of a decision. There is no public comment period for Home Occupations, Sign Permits, Lot Line Adjustments, and Floodplain Permits.~~

~~7. If the staff finds that the facts of the particular case require interpretation of existing standards, then the application shall be forwarded to the Planning Commission for review. The procedures for conducting the public hearing shall comply with the standards in Section 11.030.~~

~~8. Within 30 days of receipt of a complete application or such longer period mutually agreed to by both staff and the applicant, staff shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this Ordinance.~~

~~9. Except for Home Occupations, Sign Permits, Lot Line Adjustments, and Floodplain Permits, written notice of any Type I decision shall be mailed to the applicant and any adjacent property owner or interested party that requested a copy of the decision.~~

~~10. A Type I land use decision may be appealed to the Planning Commission by the applicant or person(s) with standing. The appeal shall be filed within 12 days from the date of the decision, pursuant to the provisions of Section 11.040.~~

~~11. The timing requirements established in this subsection are intended to allow a final action, including resolution of any appeals, within 120 days from the date the application is deemed complete. If for any reason it appears that such final action may not be completed within the 120-day period, unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this Ordinance.~~

~~a. The City staff shall notify the City Council of the time conflict by the 95th day. The City Council shall, in accordance with its own procedures, set a time for an emergency meeting within the 120-day period.~~

~~b. Public notice shall be mailed to affected parties as specified in this section.~~

~~c. The City Council shall hold a public hearing on the specified date and render a decision approving or denying the request within the 120-day period. Such action shall be the final action by the City on the application.~~

~~F. Quasi-Judicial Actions. This subsection establishes the procedures to be followed in Type II and Type III land use actions.~~

~~1. The City Manager's designee shall examine each application to ascertain if the appropriate forms have been completed, the appropriate~~

~~fees have been paid and if all required documents and information has been submitted. If the application is found to be complete, a public hearing shall be scheduled before the Planning Commission. A complete application for a land-use action must be submitted at least 30 days prior to the public hearing.~~

~~2. If the application for a land-use action is incomplete, the City Manager's designee shall notify the applicant of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete upon receipt of the missing information.~~

~~3. Within 180 days of receipt of staff's completeness determination, the applicant shall submit:~~

- ~~(a) All of the missing information;~~
- ~~(b) Some of the missing information and written notice from the applicant that no other information will be provided; or~~
- ~~(c) Written notice from the applicant that none of the missing information will be provided (ORS 227.178).~~

~~4. Should the applicant refuse or fail to submit the missing information, or request that the application be deemed complete as submitted within 180 days of staff's completeness determination, the application is void.~~

~~5. Information submitted to the City after the date the application is deemed complete that results in a substantial change from the original application shall authorize review as a new application. The City Manager or designee shall determine whether a submission constitutes a substantial change from the original application.~~

~~6. If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.~~

~~7. Application Review: Type II and Type III, quasi-judicial applications shall be heard by the Planning Commission at a public hearing conducted in accordance with the provisions for public hearings. Type III actions also require a second public hearing before the City Council.~~

~~8. Review Standards: If an application for a quasi-judicial land use action was complete when first submitted, or if the applicant submits the requested additional information within 180 days of the original submittal~~

~~date, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted. Type III actions: the Planning Commission makes recommendations to City Council; the City Council makes the decision.~~

~~9. Written notice for all Type II and Type III decisions shall be sent to the applicant, adjacent property owners within 250 feet of the subject property, and all individuals who have in writing requested notice of the decision, shall be mailed written notice of the action. Notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval.~~

~~10. A Type II land use decision of the Planning Commission may be appealed to the City Council, pursuant to the provisions of Section 11.045. A Type II or Type III decision of the City Council may be appealed to the Land Use Board of Appeals (LUBA).~~

~~11. The timing requirements established in this subsection are intended to allow a final action, including resolution of any appeals, within 120 days from the date the application is deemed complete. If for any reason it appears that such final action may not be completed within the 120-day period, unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this Ordinance.~~

~~a. The City staff shall notify the City Council of the time conflict by the 95th day. The City Council shall, in accordance with its own procedures, set a time for an emergency meeting within the 120-day period.~~

~~b. Public notice shall be mailed to affected parties as specified in this section.~~

~~c. The City Council shall hold a public hearing on the specified date and render a decision approving or denying the request within the 120-day period. Such action shall be the final action by the City on the application.~~

~~12. Conditions of Approval: Approvals of any quasi-judicial action may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:~~

~~a. Conditions shall be designed to protect public health, safety and general welfare. Conditions shall be related to the following:~~

~~i. Protection of the public from the potentially deleterious~~

~~effects of the proposed use; or~~

~~ii. Fulfillment of the need for public service demands created by the proposed use.~~

~~b. Changes or alterations of conditions shall be processed consistent with the level of review provided for the original approval.~~

~~c. Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant provides information that demonstrates to the satisfaction of the Planning Commission that it is not practical to fulfill all conditions prior to issuance of such permit, the Planning Commission may require a performance guarantee to ensure compliance with zoning regulations or fulfillment of required conditions.~~

~~G. Legislative Actions. This subsection establishes the procedures to be followed by the City in the consideration of Type IV land use actions.~~

~~1. Initiation: A Type IV, legislative land use action may be initiated by a majority vote of either the Planning Commission or the City Council.~~

~~2. Procedures: Legislative land use actions shall be heard by the Planning Commission at a public hearing conducted in accordance with the provisions of this section. Public notice shall be in accordance with the procedures set forth in this Section. The Planning Commission may continue any meeting in order to make a reasonable recommendation to the City Council. Following Planning Commission action, the City Council shall hold a public hearing to consider the Planning Commission's recommendation on proposed amendments pursuant to the notification requirements and hearing procedures of this Section.~~

A. This subsection establishes the procedures to be followed during the review of completeness for Type I, II and III land use actions.

1. The City Manager or their designee shall examine each application to ascertain if the appropriate forms have been completed, the appropriate fees have been paid and all required documents and information has been submitted. If the application is found to be complete, notice of the application shall be sent out in accordance with the procedures in IDC 11.012.

2. If the application for a land-use action is incomplete, the City Manager's designee shall notify the applicant of exactly what information is missing within 30 days of receipt of the application and allow the applicant

to submit the missing information. The application shall be deemed complete upon receipt of the missing information.

3. Within 180 days of receipt of staff's completeness determination, the applicant shall submit:

- (a) All of the missing information;
- (b) Some of the missing information and written notice from the applicant that no other information will be provided; or
- (c) Written notice from the applicant that none of the missing information will be provided (ORS 227.178).

4. Should the applicant refuse or fail to submit the missing information, or request that the application be deemed complete as submitted within 180 days of staff's completeness determination, the application is void.

5. Information submitted to the City after the date the application is deemed complete that results in a substantial change from the original application shall authorize review as a new application. The City Manager or designee shall determine whether a submission constitutes a substantial change from the original application.

6. If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

11.025 Notice of ~~Public Hearings~~ Land Use Applications ~~NOTICE INFORMATION IN THIS SECTION HAS BEEN INCLUDED IN IDC 11.012. CHANGES INTENDED TO SIMPLIFY SECTION~~

A. Notice of land use applications shall occur as specified in IDC 11.012. Notice shall additionally be given to the following agencies when the circumstances below are met:

A. ~~Quasi-judicial hearings (Type II or Type III). Except as provided in subsection 11.025.A.(11), whenever a quasi-judicial public hearing (Type II or Type III) is required under this ordinance, the following procedures shall apply:~~

- 1. ~~For Type I land use decisions, see Section 11.015.D.5.~~
- 2. ~~For Type II land use decisions, notice of the hearings governed by this section shall be provided through each of these methods:~~

a. ~~Provided to the applicant and to owners of record of property on the most recent property tax assessment roll within 250 feet of the property, which is the subject of the notice, a minimum of 20 days~~

~~prior to the hearing date.~~

~~b.——Posted on the proposed development site. The notice shall be posted by the project applicant at least 20 days before the public hearing, using a City-provided notice board, in a location considered suitable by the City of Independence. The location of the posted notice shall be visible from the highest classified adjacent roadway (i.e. arterial, collector, or local street).~~

~~c.——Provided to any neighborhood or community organization recognized by the city and whose boundaries include the site.~~

~~d.——Published on the City website a minimum of 10 days prior to the public hearing.~~

~~e.——For Site Design Review applications, Subdivisions and Planned Unit Developments, published in a newspaper of general circulation a minimum of 10 days prior to the public hearing.~~

~~3.——For Type III land use decisions, notice of the hearings governed by this section shall be provided to the applicant and to owners of record of property on the most recent property tax assessment roll within 250 feet of the property, which is the subject of the notice, a minimum of 10 days prior to the initial hearing date before the Planning Commission. Notice shall also be provided to any neighborhood or community organization recognized by the city and whose boundaries include the site. Notice shall be published in a newspaper of general circulation, a minimum of 10 days prior to the initial public hearing before the Planning Commission.~~

~~4.——The City shall give notice to: (~~

~~1.) the The Oregon Department of Transportation (ODOT) regarding any proposed land use action within 250 feet of a State transportation facility. and~~

~~(2.) the public works department of any jurisdictions (for example, Polk County), when any action by the City could potentially affect another jurisdiction's transportation facilities.~~

~~3. The Oregon Department of Aviation for applications within airport noise impact boundaries or imaginary surfaces that affect airport operations. **FROM IDC 11.015(C)**~~

Information conveyed to reviewing agencies and jurisdictions shall include the project location, proposed land use action, and the location of project access points.

~~B. 5. The n~~Notice provided by the city shall:

- ~~1. a.~~ Explain the nature of the ~~application activity~~ and the proposed use or uses which could be authorized.
- ~~2. b.~~ List the applicable criteria from the ~~ordinance—Independence Development Code, municipal code~~ and ~~the~~ plan that apply to the application at issue.
- ~~3. c.~~ Set forth the street address or other easily understood geographical reference to the subject property.
- ~~4. d.~~ State the date, time and location of ~~the any~~ hearing.
- ~~5. e.~~ State that failure ~~of to raise~~ an issue ~~to be raised in in writing or at any~~ hearing, ~~in person or by letter, or failure to providewith~~ sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the hearings body based on that issue.
 - ~~f. Be mailed at least twenty days before the evidentiary hearing, except if the application requires two or more hearings, written notice may be mailed ten (10) days before the first hearing.~~
- ~~6. g.~~ Include the name of a local government representative to contact and the telephone number where additional information may be obtained.
- ~~7. h.~~ State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
- ~~8. i.~~ State that a copy of the staff report will be available for inspection at no cost at least seven days prior to ~~the any~~ hearing and will be provided at reasonable cost.
- ~~9. j.~~ Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

~~6. Applicant's documents and evidence. All documents or evidence relied upon by the applicant shall be submitted to the local government and be made available to the public at the time notice of the public hearing is mailed. If additional documents or evidence is provided in support of the application, any party shall be entitled to a continuance of the hearing. Delays caused by the allowance of such a continuance shall extend any deadlines within which the city is required to complete final action on a land use application.~~

~~7. — Staff Reports. Any staff report used at the hearing shall be available at least seven (7) days prior to the hearing.~~

~~8. — Commencement of Hearing. At the Commencement of a hearing under a comprehensive plan or land use regulation, a statement shall be made to those in attendance that:~~

~~a. — Lists the applicable substantive criteria;~~

~~b. — States that testimony and evidence must be directed toward the criteria described in paragraph (1) of this subsection or other criteria in the plan or land use regulation which the person believes to apply to the decision.~~

~~c. — States that failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to LUBA on that issue.~~

~~d. — States that failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government or its designee to respond to the issue precludes an action for damages in circuit court.~~

~~9. — Close of Record. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. Delays caused by keeping the record open under this subsection shall extend any deadlines within which the city is required to complete final action on a land use application.~~

~~10. — New Evidence. If the record of a public hearing is reopened to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.~~

~~11. — An issue which may be the basis for an appeal to the hearing body shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the city. Such issues shall be raised with sufficient specificity so as to afford the hearings body and the parties an adequate opportunity to respond to each issue.~~

C. 12.No Notice Received.— The failure of ~~the a~~ property owner to receive notice as provided in this section shall not invalidate such proceedings if, the city can demonstrate by affidavit, that such notice was given. ~~The notice provisions of this subsection shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.~~

~~B. Legislative Hearings (Type IV). Notice of Public Hearing by the Planning Commission or City Council relating to any legislative action shall be published in a newspaper of general circulation a minimum of 10 days prior to the date of the hearing. Notice shall be provided to the Department of Land Conservation and Development in conformance with DLCD rules prior to the first evidentiary hearing by the City for any legislative action.~~

~~C. Appeals.~~

~~1. Type I actions are appealable to the Planning Commission. Notice is per Type II hearing procedure.~~

~~2. Planning Commission actions are appealable to the City Council. Notice is per Type II hearing procedure.~~

11.027 Information Available ~~(SLIGHTLY MODIFIED FROM 11.025(A)(6))~~

All documents or evidence relied upon by the applicant shall be submitted to the local government and be made available to the public at the time the notice is mailed.

11.028 Staff Reports ~~(SLIGHTLY MODIFIED FROM 11.025(A)(7))~~

A. The staff report for a staff-level land use decision shall be prepared following the close of the public comment period.

B. The staff report used at a public hearing for a quasi-judicial or legislative action shall be available to the public at least seven (7) days prior to the hearing.

11.029 Conditions of Approval ~~(SLIGHTLY MODIFIED FROM 11.015(F)(12))~~

A. Limitations on Conditions. Approval of Type I and II actions may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:

1. Conditions shall be designed to protect public health, safety and general welfare and be related to the following:

a. Protection of the public from the potentially deleterious effects of the proposed use;

b. The addressing of City standards that have not been met by the proposal; or

c. The fulfillment of the need for public service demands created by the proposed use.

B. Changes to Conditions. Changes or alterations of conditions shall be processed consistent with the level of review provided for the original approval.

C. Completion of Conditions. Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit, recordation of a final plat, or similar timeframe. When an applicant provides information, which demonstrates to the satisfaction of the decision-maker for the application, that it is not practical to fulfill all conditions within those timeframes, the decision-maker may require a performance guarantee to ensure compliance with the zoning regulations or the fulfillment of the required conditions.

11.030 Conduct of Public Hearings

The Planning Commission and City Council shall hear and decide upon requests for land-use actions (Type II and Type III actions) in accordance with the following procedures:

A. Hearing Process ~~(FROM 11.025(A)(8) THROUGH 11.02(A)(11))~~

1. Commencement of Hearing. At the commencement of a hearing under a comprehensive plan or land use regulation, a statement shall be made to those in attendance that:

a. Lists the applicable substantive criteria;

b. States that testimony and evidence must be directed toward the criteria described in paragraph (a) of this subsection or other criteria in the plan or land use regulation which the person believes to apply to the decision.

c. States that failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to LUBA on that issue.

d. States that failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government or its designee to respond to the issue precludes an action for damages in circuit court.

2. Close of Record. If a participant requests the record to remain open, before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. Delays caused by keeping the record open under this subsection shall extend any deadlines within which the city is required to complete final action on a land use application.

3. New Evidence. If the record of a public hearing is reopened to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.

4. Appeal Issues. An issue which may be the basis for an appeal to the hearing body shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the city. Such issues shall be raised with sufficient specificity to afford the hearings body and the parties an adequate opportunity to respond to each issue.

B. Hearing Rules

1. The following rules shall govern hearings:

a. A.—Proponents and opponents of ~~the a~~ request shall have an opportunity to present and rebut evidence at ~~thea~~ hearing.

b. B.—Applicants for and proponents and opponents of a land-use action may be represented ~~at the hearing~~ by legal counsel.

~~C. The Planning Commission and the City Council shall establish procedures for the conduct of hearings. Hearings shall be conducted in accordance with those procedures. A written description of such procedures shall be kept at the place of the hearing and shall be available to all persons at the hearing.~~

c. D.—~~For quasi-judicial hearings, M~~members of the Planning Commission and City Council shall disclose any ex-parte contacts made with any person interested in the request being heard.

d. E.—Any decision made by the Planning Commission or City Council ~~on a request for~~regarding a land-use action shall be supported by findings. ~~Such findings shall indicate the facts and reasons used to make the decision.~~

e. If additional documents or evidence are provided in support of the application at a hearing, any party shall be entitled to a continuance of the hearing. Delays caused by the allowance of such a continuance shall extend any deadlines within which the city is required to complete final action on a land use application. (FROM 11.025(A)(6))

~~—F. The Planning Commission or City Council may grant, deny, continue, or table any request for a land-use action. Written notice of the Planning~~

~~Commission's action shall be sent to the applicant and to the City Council within ten days of the Planning Commission's action.~~

~~f. G.~~ Any public hearing may be continued prior to the closing of the hearing. -Notice of the time and place at which the hearing is to be resumed shall be publicly announced during the initial hearing. -Such announcement shall serve as sufficient notice of the continuance to all interested persons.

~~g. The Planning Commission or City Council may grant, deny, continue, or table any request for a land-use action.~~

~~h. Written notice of the Planning Commission's action shall be sent to the applicant and to the City Council within ten days of the Planning Commission's action.~~

~~11.035 Resubmission of Requests~~

~~Any request for a land-use action which has been denied by the Planning Commission or City Council shall not be resubmitted for a period of one year following the date of the denial unless consent for resubmission is approved by the Planning Commission or the City Council.~~

11.040 Appeal of ~~Type I~~ Staff or Planning Commission Decision

A. An applicant, agent for or representative of the applicant, or any other aggrieved party who provided written or in-person comment related to a land-use decision made by City staff or the Planning Commission may appeal ~~any Type I decision made by the City Manager's designee the decision~~. Such an appeal shall be directed to the appeal body specified in the table in IDC 11.012. Planning Commission within 12 days of the date the timeframe defined in the table for of the designee's decision. -If no appeal is filed within 12 days from the date of the designee's decision the timeframe specified, ~~that the~~ decision shall be final.

B. Any appeal shall be based upon the applicable criteria from the ordinance and ~~must~~ state with specificity which criteria are being appealed.

C. If an appeal is filed, the Planning Commission appeal body shall be given a report of the designee's action or ruling. ~~The Planning Commission shall and~~ hold a public hearing ~~on~~ the appeal. -Notice of such a public hearing shall be provided in accordance with the provision process for Type II public hearings as set forth in this chapter. -The public hearing for the of an appeal shall be conducted in accordance with the procedures for public hearings set forth in this ordinance.

~~D. The City Council may appoint a hearings officer to hear land-use actions on a case-by-case basis and may provide that the decision of a hearings officer of the Planning Commission is the final determination of the city.~~

~~DE. All appeals shall be accompanied by a fee, established by resolution.~~

~~11.045 — Appeal of Planning Commission Actions~~

~~Any land-use action granted under this ordinance may be rescinded by the Planning Commission or City Council if it is found that the application for such action contains false statements, or if subsequent division, development, or use of land occurs in a manner different from that which was approved.~~

~~A. An applicant, agent for or representative of the applicant, or any person who appeared in person, by representative or in writing, at the public hearing, may appeal any land-use action or ruling made by the Planning Commission. Such an appeal shall be directed to the City Council and shall be filed in writing with the City Manager or designee within 12 days of the date of the Planning Commission decision. If no appeal is filed within 12 days from the Planning Commission's decision, that decision shall be final.~~

~~B. Any appeal shall be based upon the applicable criteria from the ordinance and the plan which were raised in the land use hearing and must state with specificity which criteria are being appealed.~~

~~C. If an appeal is filed, the City Council shall be given a report of the Planning Commission's action or ruling. The City Council shall hold a public hearing of the appeal. Notice of such a public hearing shall be provided in accordance with the provision for public hearings set forth in this chapter. The public hearing of an appeal shall be conducted in accordance with the procedures for public hearings set forth in this ordinance. The decision of the City Council regarding any appeal shall be final and shall become effective on the date of the City Council's action on the appeal.~~

~~D. The City Council may appoint a hearings officer to hear land-use actions on a case-by-case basis and may provide that the decision of a hearings officer of the Planning Commission is the final determination of the city.~~

~~E. All appeals shall be accompanied by a fee, established by resolution.~~

~~11.045 Timeframes for Approval (FROM 11.015(E)(11)) AND (FROM 11.015(F)(11))~~

~~Where a review period is established in the table in IDC 11.012, the timing requirements are intended to allow a final action, including the resolution of any appeals, within 120 days from the date the application is deemed complete. If for any reason it appears that~~

such final action may not be completed within the 120-day period, unless the time period is voluntarily extended by the applicant, the following procedures shall be followed, regardless of the other processes set forth elsewhere in this Ordinance.

A. City staff shall notify the Planning Commission/City Council of the time conflict by the 95th day of the review. The Planning Commission/City Council shall, in accordance with their own procedures, set a time for an emergency meeting within the 120-day period.

B. Public notice shall be mailed to affected parties as specified in this section.

C. The Planning Commission/City Council shall hold a public hearing on the specified date and render a decision approving or denying the request within the 120-day period. Such action shall be the final action by the City on the application.

11.055 Resubmission of Requests ~~(SLIGHTLY MODIFIED FROM 11.035)~~

Any request for a land-use action which has been denied by the Planning Commission or City Council shall not be resubmitted for a period of one year following the date of the denial unless consent allowing resubmission is approved by the Planning Commission or the City Council.

11.060 Supplemental Application for Remaining Permitted Uses Following Denial of an Initial Application

A. A person whose application for a permit is denied by the City may submit to the City a supplemental application for any or all other uses allowed under the City's comprehensive plan and land use regulations in the zone that was the subject of the denied application.

B. The City or its designee shall take final action on a supplemental application submitted under this section, including resolution of all appeals, within 240 days after the application is deemed complete. Except that 240 days shall substitute for 120 days, all other applicable provisions of ORS 227.178 ("The 120-day Rule") shall apply to a supplemental application submitted under this section.

C. A supplemental application submitted under this section shall include a request for any rezoning or variance that may be required to issue a permit under the City's comprehensive plan and land use regulations.

D. The City shall adopt specific findings describing the reasons for approving or denying:

1. A use for which approval is sought under this section; and
2. A rezoning or variance requested in the application.

11.070 Validity of Approval

- A. Unless specified elsewhere within the Independence Development Code, approvals of land use applications are valid for the following time periods:
 - 1. For Type I proposals, one year from the date of approval.
 - 2. For Type II proposals, two years from the date of approval.
- B. The following work is required to be complete within the approval timeframe:
 - 1. For Planned Unit Developments, Subdivisions, Partitions, or Lot Line Adjustments, the applicant shall record a plan, plat, or survey (as appropriate for the land use application).
 - 2. For all other land use approvals, the applicant shall begin actual construction or alteration under a required permit, or, in the case of a permit not involving construction or alteration, commence the operation of the authorized activity.

11.080 Extension of Land Use Approvals

- A. An extension of a land use approval may be granted for one year, subject to the process below.
- B. An applicant shall submit a request for an extension no later than 45 days prior to the expiration of the land use approval.
- C. The extension request shall be considered by the same decision maker or decision-making body that heard the original decision. For Type II decisions, the consideration shall occur in an official public meeting, but no noticed public hearing shall be required.
- D. The following criteria shall govern the review of the extension.
 - 1. The extension request shall be filed no later than 45 days before the expiration of the previous approval.
 - 2. The proposed extension shall be in substantial conformance with the originally approved plan.
 - 3. The applicant shall submit a reason for the need to extend the approval and satisfactorily demonstrate that they plan to complete

the work articulated in IDC 11.070(B) within the one-year extension period.

4. No substantive changes shall have occurred to the applicable Code provisions on which the approval was based. If there have been substantive changes to the applicable Code provisions and the subject plan does not comply with the changes, an extension shall not be granted, and a new application shall be required.

11.090 General Provisions ~~(FROM 11.015(A) AND 11.015(B))~~

A. In order to provide for citizen review of the planning process and the orderly keeping of records of actions relating to this Ordinance, the City shall ensure that the following processes are conducted, and documents are available for public review.

1. The City staff shall prepare a written report relating to all applications and actions pursuant to this Ordinance.
2. The City shall maintain a record of all actions taken pursuant to this Ordinance. The record shall include the required application materials, any exhibits presented to the decision-making bodies, findings for approval or denial, conditions of approval, and any other materials that may have a bearing on the decision.

