

## **Recommended Additional Revisions to Ordinance Bill No. 6-19**

### **Homeowners Association Notice:**

(Additional proposed revisions identified in **bold double underline** and ~~**bold double strikethrough**~~)

### **Sec. 300.210. - Application submittal.**

- (a) Land use applications shall be submitted on forms prescribed by the Planning Administrator. A land use application shall not be accepted in partial submittals. All of the following must be submitted to initiate completeness review under SRC 300.220. All information supplied on the application form and accompanying the application shall be complete and correct as to the applicable facts.
- (1) A completed application form. The application form shall contain, at a minimum, the following information:
    - (A) The names and addresses of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
    - (B) The address or location of the subject property and its assessor's map and tax lot number;
    - (C) The size of the subject property;
    - (D) The comprehensive plan designation and zoning of the subject property;
    - (E) The type of application(s);
    - (F) A brief description of the proposal; and
    - (G) Signatures of the applicant(s), owner(s) of the subject property, and/or the duly authorized representative(s) thereof authorizing the filing of the application(s).
  - (2) Recorded deed/land sales contract with legal description;
  - (3) Any information that would give rise to an actual or potential conflict of interest under state or local ethics laws for any member of a Review Authority that will or could make a decision on the application;
  - (4) Pre-application conference written summary, if a pre-application conference was required under SRC 300.310(a) and Table 300-2; or copy of the approved pre-application conference waiver, if such approval was granted pursuant to SRC 300.310(b);
  - (5) A statement as to whether any City-recognized neighborhood associations whose boundaries include, or are adjacent to, the subject property were contacted in advance of filing the application and, if so, a summary of the contact. The summary shall include the date when contact was made, the form of the contact and who it was with (e.g., phone conversation with neighborhood association chairperson, meeting with land use committee, presentation at neighborhood association meeting), and the result;
  - (6) For applications requiring neighborhood association contact under SRC 300.310, a copy of the required e-mail or letter to the neighborhood association, and a list of the e-mail or postal addresses to which the e-mail or letter was sent;

- (7) For applications requiring an open house under SRC 300.320:
- (A) A copy of the sign-in sheet for the open house and a summary of the comments provided; or
  - (B) When a neighborhood association meeting has been substituted for a required open house, a summary of the comments provided at the neighborhood association meeting;
- ~~(6)~~(8) A statement as to whether the Salem-Keizer Transit District was contacted in advance of filing the application; and if so, a summary of the contact. The summary shall include the date when contact was made, the form of the contact, who it was with, and the result;
- ~~(7)~~(9) A written statement addressing each applicable approval criterion and standard;
- (10) For Type II, Type III, and applicant initiated Type IV applications involving property subject to **an active and duly incorporated** Homeowner's Association (HOA) **registered with the Oregon Secretary of State which includes an identified registered agent, the HOA name and mailing address and e-mail address, if an e-mail address exists, for the registered agent HOA.**
- (11) For applications for affordable multiple family housing where a 100-day state mandated decision date is sought, a draft copy of the covenant required under ORS 197.311 restricting the owner, and each successive owner, of the development or a residential unit within the development from selling or renting any of the identified affordable residential units as housing that is not affordable housing for a period of 60 years from the date of the certificate of occupancy.
- ~~(8)~~(11) Any additional information required under the UDC for the specific land use action sought;
- ~~(9)~~(12) Any additional information, as determined by the Planning Administrator, that may be required by another provision, or for any other permit elsewhere, in the UDC, and any other information that may be required to adequately review and analyze the proposed development plan as to its conformance to the applicable criteria;
- ~~(10)~~(13) Payment of the applicable application fee(s) pursuant to SRC 110.090.
- (b) The Planning Administrator may waive any submittal requirement if the Planning Administrator determines that the specific requirement would not provide evidence needed to satisfy any of the applicable criteria.
  - (c) Each application, when received, shall be date-stamped with the date the application was received, and designated with a receipt number and a notation of the staff person who received the application.

**Sec. 300.520. - Type II procedure.**

- (a) *Application requirements.*
  - (1) *Application form.* Type II applications shall be made on forms provided by the Planning Administrator.

- (2) *Submittal requirements.* Type II applications shall include the information required under SRC 300.210.
- (b) *Public notice and comment.* Public notice is required for Type II applications. Public notice shall be by first class mail. Posted notice on the subject property is required for subdivisions, Class 2 wireless communications facilities siting, manufactured dwelling park permits, and Class 1 greenway development permits. All Type II applications include a comment period of 14 days from the date notice is mailed.
- (1) *Mailed notice.* Mailed notice shall be provided as follows:
- (A) The City shall mail notice of the application within ten days after the application is deemed complete. An affidavit of mailing shall be prepared and made part of the file.
- (B) Notice of the application shall be mailed to:
- (i) The applicant(s) and/or the applicant's authorized representative(s);
  - (ii) The owner(s) or contract purchaser(s) of record of the subject property;
  - (iii) The address of the subject property, based on the City's current addressing records;
  - (iv) Any **active and duly incorporated** Homeowner's Association (HOA) involving the subject property **that is registered with the Oregon Secretary of State and which includes an identified registered agent.** For purposes of this subsection, the HOA shall be the HOA as identified by the applicant. Notice requirements to the HOA shall be deemed to have been met when notice is provided to the **registered agent of the HOA with-utilizing** the contact information provided by the applicant;
  - ~~(iii)~~(v) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
  - ~~(iv)~~(vi) Property owners of record, as shown on the most recent property tax assessment roll, of properties located within 250 feet of the subject property;
  - (vii) Addresses, based on the City's current addressing records, within 250 feet of the subject property.
  - ~~(v)~~(viii) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City; and
  - ~~(vi)~~(ix) Any community organizations, public utilities, agencies, or individuals who have submitted written requests for notification to the City.
- (C) Mailed notice shall include:
- (i) The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;
  - (ii) The type of application and a concise description of the nature of the land use action;
  - (iii) The proposed site plan;
  - (iv) The street address, or other easily understood geographical reference, for the subject property;

- (v) A vicinity map identifying the subject property with relation to nearby major streets or other landmarks;
- (vi) A list of the approval criteria by name and code section;
- (vii) A statement that the application and all documents and evidence submitted by the applicant are available for review and that copies can be obtained at a reasonable cost;
- (viii) A brief summary of the decision making process for the application;
- (ix) The place, date, and time that written comments are due, and the person to whom the comments should be addressed;
- (x) A statement that comments received after the close of the public comment period will not be considered;
- (xi) A statement that issues which may provide the basis for an appeal to the Oregon Land Use Board of Appeals must be raised in writing prior to the expiration of the comment period and with sufficient specificity to enable the applicant and Review Authority to respond to the issue;
- (xii) A statement that subsequent to the closing of the public comment period a decision will be issued and mailed to the applicant, property owner, everyone entitled to the initial notice of the application, anyone who submitted written comments on the application, and to any other persons otherwise legally entitled to notice of the decision; and
- (xiii) The name and contact information for the staff case manager.

(2) *Posted notice.* Posted notice shall be provided, when required, as follows:

- (A) The applicant shall post notice on the subject property no earlier than 14 and no later than ten days prior to the end of the 14 day comment period. The notice shall remain in place throughout the comment period. The applicant shall file an affidavit of posting with the City no later than five days after the date of original posting. The affidavit shall be made a part of the file.
- (B) Notice shall be posted on each street frontage of the subject property, in a conspicuous place that is visible from the public right-of-way. If no street abuts the subject property, the notice shall be placed as near as possible to the subject property in a conspicuous place that can be readily seen by the public.
- (C) Posted notice shall be provided on signs ~~prepared as prescribed~~ by the Planning Administrator.
- ~~(D) To replace signs that are lost or damaged to the extent they can no longer be reused, the Planning Administrator shall establish a refundable sign deposit fee required for each sign, to be paid by the applicant at the time signs are issued to the applicant.~~
- ~~(D)~~(E) The applicant shall remove the signs from the subject property ~~and return them to the Planning Administrator~~ within seven days after the date the decision is issued. ~~The Planning Administrator shall refund the sign deposit fee if the sign is returned within the required seven days, in an undamaged and reusable condition.~~

(c) *Application review.* The Review Authority shall review the application, all written comments submitted during the public comment period, and the applicant's response to the comments, if

any. Written comments received after the expiration of the public comment period shall not be considered by the Review Authority.

- (d) *Decision.* The Review Authority shall approve, conditionally approve, or deny the application based upon the facts contained within the record and according to the applicable standards and criteria. The decision of the Review Authority shall be a written order containing findings that explain the criteria and standards applicable to the decision, stating the facts relied upon in rendering the decision, and explaining the justification for the decision.
- (e) *Notice of decision.* Notice of the decision shall be mailed within five days after the decision is signed. An affidavit of mailing shall be prepared and made part of the file.

(1) Notice of the decision shall be mailed to:

- (A) The applicant(s) and/or authorized representative(s);
- (B) The owner(s) or contract purchaser(s) of record of the subject property;
- (C) The address of the subject property, based on the City's current addressing records;
- (D) Any **active and duly incorporated** Homeowner's Association (HOA) involving the subject property **that is registered with the Oregon Secretary of State and which includes an identified registered agent.** For purposes of this subsection, the HOA shall be the HOA as identified by the applicant. Notice requirements to the HOA shall be deemed to have been met when notice is provided to the **registered agent of the HOA with-utilizing** the contact information provided by the applicant;
- ~~(C)~~(E) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
- ~~(D)~~(F) Any group or individual who submitted written comments during the comment period;
- ~~(E)~~(G) Property owners of record, as shown on the most recent property tax assessment roll, of properties located within 250 feet of the subject property;
- (H) Addresses, based on the City's current addressing records, within 250 feet of the subject property.
- ~~(F)~~(I) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City, and any governmental agency which submitted written comments during the comment period; and
- ~~(G)~~(J) Any community organizations, agencies, or individuals who have submitted written requests to the City for notice of the decision.

(2) Notice of the decision shall include:

- (A) A brief description of the application;
- (B) A description of the site sufficient to inform the reader of its location, including site address, if available, map and tax lot number, and its comprehensive plan designation and zoning;
- (C) A brief summary of the decision, and conditions of approval, if any;
- (D) A statement of the facts relied upon;

- (E) The date the Review Authority's decision becomes effective, unless appealed;
- (F) The date and time by which an appeal must be filed, a brief statement explaining how to file an appeal, and where further information may be obtained concerning the appeal process;
- (G) A statement that all persons entitled to notice of the decision may appeal the decision; and
- (H) A statement that the complete case file, including findings, conclusions, and conditions of approval, if any, is available for review. The notice shall state where the case file is available and the name and telephone number of the staff case manager to contact about reviewing the case file.

(f) *Appeal and review.*

- (1) Unless appealed pursuant to SRC 300.1010, or review is initiated by the Council pursuant to SRC 300.1050, the decision ~~by of the Planning Administrator~~ Review Authority on a Type II application shall be the final decision of the City.
- (2) Only the applicant, persons who provided comments during the public comment period, and persons entitled to notice of the decision have standing to appeal the decision.
- (3) The Review Authorities for appeals are identified under Table 300-2. Except as otherwise provided in subsections (f)(3)(A) and (B) of this section, the decision of the Review Authority on appeal, or, if review is initiated by the Council, the Council on review, shall be the final decision of the City.

(A) Upon receipt of an appeal of a decision on a Class 3 site plan review, modification of a Class 3 Site Plan Review, ~~or a Class 2 adjustment~~, or modification of a Class 2 Adjustment, notice of the appeal shall be provided to the Council at its next regular meeting. The Council may, pursuant to SRC 300.1050, assume jurisdiction for review pursuant to SRC 300.1040. If the Council does not assume jurisdiction, then the decision of the Review Authority on the appeal is the final decision of the City.

(B) The decision on a Class 1 adjustment, modification of a Class 1 adjustment, ~~or a Class 2 design review~~, modification of a Class 2 design review, Class 2 driveway approach permit, Class 2 temporary use permit, PUD final plan, modification of a PUD final plan, or sign adjustment is not subject to Council review. The decision of the Review Authority is the final decision of the City.

(4) Appeal of the City's final decision is to the Oregon Land Use Board of Appeals.

(g) *Expiration of approval.* Approval of a Type II application expires automatically as provided by SRC 300.850(a).

**Sec. 300.620. - Type III procedure.**

(a) *Application requirements.*

(1) *Application form.* Type III applications shall be made on forms provided by the Planning Administrator.

- (2) *Submittal requirements.* Type III applications shall include the information required under SRC 300.210.
- (b) *Public notice.* Public notice is required for Type III applications. Public notice shall be by first class mail and by posting on the subject property.
- (1) *Oregon Department of Land Conservation and Development notice.* Notice to the Oregon Department of Land Conservation and Development is required for certain Type III applications, pursuant to ORS 197.610. Notice to the Oregon Department of Land Conservation and Development ~~is~~ shall be provided as follows:
- (A) The City shall provide notice of the application to the Oregon Department of Land Conservation and Development no later than the minimum number of days required by ORS ch. 197. An affidavit of mailing shall be prepared and made part of the file.
- (B) Notice to the Oregon Department of Land Conservation and Development shall be made on forms provided by the Oregon Department of Land Conservation and Development. Notice shall be accompanied by information of sufficient detail to convey the nature and effect of the application, and a certificate of mailing.
- (2) *Mailed notice.* Mailed notice shall be provided as follows:
- (A) The City shall mail notice of the public hearing not less than 20 days prior to the public hearing. An affidavit of mailing shall be prepared and made part of the file.
- (B) Notice of public hearing shall be mailed to:
- (i) The applicant(s) and/or authorized representative(s);
- (ii) The owner(s) or contract purchaser(s) of record of the subject property;
- (iii) The address of the subject property, based on the City's current addressing records;
- (iv) Any **active and duly incorporated** Homeowner's Association (HOA) involving the subject property **that is registered with the Oregon Secretary of State and which includes an identified registered agent.** For purposes of this subsection, the HOA shall be the HOA as identified by the applicant. Notice requirements to the HOA shall be deemed to have been met when notice is provided to the **registered agent of the HOA with utilizing** the contact information provided by the applicant;
- ~~(iii)~~(v) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
- ~~(iv)~~(vi) Property owners of record, as shown on the most recent property tax assessment roll, of properties located within 250 feet of the subject property;
- (vii) Addresses, based on the City's current addressing records, within 250 feet of the subject property;
- ~~(v)~~(viii) Any governmental agency entitled to notice by law or under an intergovernmental agreement with the City;
- ~~(vi)~~(ix) Any community organizations, public utilities, agencies, or individuals who have submitted written requests for notification to the City;

- ~~(vii)~~(x) The tenants of a manufactured home or mobile home park, for applications involving a comprehensive plan map change and/or zone change affecting all or part of the manufactured home or mobile home park; and
- ~~(viii)~~(xi) All property owners within the historic district, for major historic design review applications within a historic district and historic resource demolition applications.

(C) Mailed notice shall include:

- (i) The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;
- (ii) The type of application and a concise description of the nature of the request;
- (iii) The proposed site plan, if any;
- (iv) The street address or other easily understood geographical reference to the subject property;
- (v) A vicinity map identifying the subject property with relation to nearby major streets or other landmarks;
- (vi) A list of the applicable criteria by name and code section;
- (vii) The date, time, and place of the public hearing;
- (viii) A statement that the application and all documents and evidence submitted by the applicant are available for review and that copies can be obtained at a reasonable cost;
- (ix) A brief summary of the decision making process for the application;
- (x) A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
- (xi) A statement that all interested persons may appear either in person or with representation by an attorney and provide testimony; and that only those participating at the hearing, in person or by submission of written testimony, have the right to appeal the decision;
- (xii) A statement that failure to raise an issue prior to the close of the public hearing, in person or in writing, or failure to provide statements or evidence with sufficient specificity to afford the applicant and Review Authority to respond to the issue precludes an appeal to the Oregon Land Use Board of Appeals on that issue;
- (xiii) A statement that a copy of the staff report with recommendation to the Review Authority will be available for inspection at no cost at least seven days prior to the hearing, and that copies will be provided at a reasonable cost;
- (xiv) A statement that after the close of the public hearing a decision shall be made that will be mailed to the applicant, property owner, affected neighborhood association, anyone who participated in the hearing, either in person or in writing, and anyone who requested to receive notice of the decision; and
- (xv) The name and contact information for the staff case manager.

(3) *Posted notice.* Posted notice shall be provided as follows:

- (A) The applicant shall post notice on the subject property no earlier than 14 and no later than ten days prior to the public hearing. The notice shall remain in place through the day of the public hearing. The applicant shall file an affidavit of posting with the City no later than five days after the date of the original posting. The affidavit shall be made a part of the file.
- (B) Notice shall be posted on each street frontage of the subject property in a conspicuous place that is visible from the public right-of-way. If no street abuts the subject property, the notice shall be placed as near as possible to the subject property in a conspicuous place that can be readily seen by the public.
- (C) Posted notice shall be provided on signs ~~prepared as prescribed~~ by the Planning Administrator.
- ~~(D) To replace signs that are lost or damaged to the extent they can no longer be reused, the Planning Administrator shall establish a sign deposit fee required for each sign, to be paid by the applicant at the time signs are issued to the applicant.~~
- ~~(D)(E) The applicant shall remove the signs from the subject property and return them to the Planning Administrator within seven days after the close of the public hearing. The Planning Administrator shall refund the sign deposit fee if the sign is returned within the required seven days in an undamaged and reusable condition.~~
- (c) *Application review and staff report.* Staff shall review the application, written comments, and evidence submitted prior to the public hearing and prepare a staff report summarizing the application, comments received to-date, and relevant issues associated with the application; and making a recommendation to the Review Authority. The staff report shall be made available to the public for review a minimum of seven days prior to the hearing.
- (d) *Public hearing.* A public hearing shall be held before the Review Authority for the purpose of receiving evidence and testimony regarding the application. The hearing shall be conducted in accordance with the public hearing procedures established under SRC 300.900. The Review Authority shall consider in its review the application, all evidence and testimony submitted for the record, and the recommendation of staff.
- (e) *Decision.* The Review Authority shall approve, conditionally approve, or deny the application based upon the facts contained within the record and according to the applicable standards and criteria. The decision shall be a written order and include:
  - (1) A list of the approval criteria by section number;
  - (2) A statement of facts upon which the Review Authority relied to find the application does or does not comply with each approval criterion and to justify any conditions of approval. The Review Authority may direct the party whose position is adopted to prepare the statement of facts, and may adopt or incorporate a staff report or written findings prepared by any party to the proceeding into the order;
  - (3) A statement of conclusions based on the statement of facts; and
  - (4) An order approving, approving with conditions, or denying the application.

(f) *Notice of decision.* Notice of the decision shall be mailed within seven days from the date the Review Authority adopts the written order. An affidavit of mailing shall be prepared and made part of the file.

(1) Notice of decision shall be mailed to:

- (A) The applicant(s) and/or authorized representative(s);
- (B) The owner(s) or contract purchaser(s) of record of the subject property;
- (C) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
- (D) Any group or individual who submitted testimony for the record prior to the close of the public hearing;
- (E) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City, and any governmental agency that submitted testimony prior to the close of the public hearing;
- (F) Any community organizations, agencies, or individuals who submitted written requests for notice of the decision to the City; and
- (G) The Oregon Department of Land Conservation and Development, for decisions which required notice to the Oregon Department of Land Conservation and Development.

(2) Notice of decision shall include:

- (A) A brief description of the application;
- (B) A description of the site sufficient to inform the reader of its location, including site address, if available, map and tax lot number, and its comprehensive plan designation and zoning;
- (C) A brief summary of the decision, and conditions of approval, if any;
- (D) A statement of the facts relied upon;
- (E) The date the Review Authority's decision becomes effective, unless appealed;
- (F) The date, time, and place by which an appeal must be filed, a brief statement explaining how to file an appeal, and where further information may be obtained concerning the appeal process;
- (G) A statement that all persons who presented evidence or testimony as part of the hearing may appeal the decision; and
- (H) A statement that the complete case file, including findings, conclusions, and conditions of approval, if any, is available for review. The notice shall state where the case file is available and the name and telephone number of the staff case manager to contact about reviewing the case file.

(g) *Appeal and review.*

(1) Unless appealed pursuant to SRC 300.1010 or review is initiated by the Council pursuant to SRC 300.1050, the decision ~~by~~of the Review Authority on a Type III application shall be the final decision of the City.

- (2) Only the applicant and persons who provided evidence or testimony prior to the close of the public hearing have standing to appeal a Type III application.
- (3) The Review Authorities for appeals are identified under Table 300-2. Except as otherwise provided in subsection (g)(4) of this section, the decision of the Review Authority on appeal, or, if review is initiated by the Council, the Council on review, shall be the final decision of the City.
- (4) Except for new construction, as defined under SRC chapter 230, the decision on a Major Historic Design Review application is not subject to Council review. The decision on a Major Historic Design review application for new construction, as defined under SRC chapter 230, shall be subject to Council review.
- (5) Appeal of the City's final decision is to the Oregon Land Use Board of Appeals.
- (h) *Expiration of approval.* Approval of a Type III application expires automatically as provided under SRC 300.850(a).

**Sec. 300.720. - Type IV procedure.**

- (a) *Application requirements.*
  - (1) *Applicant initiated.* If the Type IV application is applicant initiated, the following shall apply.
    - (A) *Application form.* Type IV applications shall be made on forms provided by the Planning Administrator.
    - (B) *Submittal requirements.* Type IV applications shall include the information required under SRC 300.210.
  - (2) *City initiated.* If the Type IV application is City initiated, the application shall be initiated by resolution of the Council, Planning Commission, or Historic Landmarks Commission.
- (b) *Public notice.* Public notice is required for Type IV applications. Because Type IV applications require evidentiary public hearings before the initial Review Authority and before the Council, public notice is required for each hearing. Public notice shall be mailed and posted on the subject property.
  - (1) *Oregon Department of Land Conservation and Development notice.* Notice to the Oregon Department of Land Conservation and Development is required for certain Type IV applications, pursuant to ORS 197.610. Notice to the Oregon Department of Land Conservation and Development shall be provided as follows:
    - (A) The City shall provide notice of the application to the Oregon Department of Land Conservation and Development no later than the minimum number of days required by ORS ch. 197. An affidavit of mailing shall be prepared and made part of the file.
    - (B) Notice to the Oregon Department of Land Conservation and Development shall be provided on forms provided by the Oregon Department of Land Conservation and Development. The notice shall be accompanied by information of sufficient detail to convey the nature and effect of the application and approval being sought, and the certificate of mailing of the notice.

(2) *Mailed notice.* Mailed notice shall be provided as follows:

(A) *Applicant initiated applications.*

(i) *Initial public hearing.* When a Type IV application is applicant initiated, the City shall mail notice of the initial evidentiary hearing a minimum of 20 days prior to the hearing. Affidavits of mailing shall be prepared and made part of the file. Notice of the initial public hearing shall be mailed to:

(aa) The applicant(s) and/or authorized representative(s);

(bb) The owner(s) or contract purchaser(s) of record of the subject property, if different from the applicant;

(cc) The address of the subject property, based on the City's current addressing records;

(dd) Any **active and duly incorporated** Homeowner's Association (HOA) involving the subject property **that is registered with the Oregon Secretary of State and which includes an identified registered agent.** For purposes of this subsection, the HOA shall be the HOA as identified by the applicant. Notice requirements to the HOA shall be deemed to have been met when notice is provided to the **registered agent of the HOA with utilizing** the contact information provided by the applicant;

~~(ee)~~(ee) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;

~~(dd)~~(ff) Property owners of record, as shown on the most recent property tax assessment roll, of properties located within 250 feet of the subject property;

(gg) Addresses, based on the City's current addressing records, within 250 feet of the subject property.

~~(ee)~~(hh) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City;

~~(ff)~~(ii) Any community organizations, public utilities, agencies, or individuals who have submitted written requests for notification to the City; and

~~(gg)~~(jj) The tenants of a manufactured home or mobile home park for applications involving a comprehensive plan map change and/or zone change affecting all or part of the manufactured home or mobile home park.

(ii) *Subsequent public hearings.* The City shall mail notice of a subsequent public hearing, including, but not limited to, a final hearing, a minimum of ten days prior to the hearing. Affidavits of mailing shall be prepared and made part of the file. Notice of any subsequent public hearing shall be mailed to:

(aa) The applicant(s) and/or authorized representative(s);

(bb) The owner(s) or contract purchaser(s) of record of the subject property, if different from the applicant;

- (cc) The address of the subject property, based on the City's current addressing records;
- (dd) Any **active and duly incorporated** Homeowner's Association (HOA) involving the subject property **that is registered with the Oregon Secretary of State and which includes an identified registered agent.** For purposes of this subsection, the HOA shall be the HOA as identified by the applicant. Notice requirements to the HOA shall be deemed to have been met when notice is provided to the **registered agent of the HOA with utilizing** the contact information provided by the applicant;
- ~~(ee)~~(ee) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
- ~~(dd)~~(ff) Property owners of record, as shown on the most recent property tax assessment roll, of properties located within 250 feet of the subject property;
- (gg) Addresses, based on the City's current addressing records, within 250 feet of the subject property;
- ~~(ee)~~(hh) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City;
- ~~(ff)~~(ii) Any community organizations, public utilities, agencies, or individuals who have submitted written requests for notification to the City;
- ~~(gg)~~(jj) The tenants of a manufactured home or mobile home park for applications involving a comprehensive plan map change and/or zone change affecting all or part of the manufactured home or mobile home park;
- ~~(hh)~~(kk) Any group or individual who submitted testimony for the record prior to the close of the initial public hearing; and
- ~~(ii)~~(ll) Any group or individual who requested notice of the initial decision of the Review Authority making recommendation to the Council.

(B) *City initiated applications.*

- (i) *Initial public hearing.* When a Type IV application is City initiated, the City shall mail notice of the initial evidentiary hearing a minimum of 20 days prior to the hearing. The City shall mail notice of the final public hearing a minimum of ten days prior to the hearing. Affidavits of mailing shall be prepared and made part of the file. Notice of the initial public hearing shall be mailed to:
  - (aa) The owner(s) or contract purchaser(s) of record of the subject property;
  - (bb) The address of the subject property, based on the City's current addressing records.
  - ~~(cc) Any Homeowner's Association (HOA) involving the subject property. For purposes of this subsection, the HOA shall be the HOA as identified by the applicant. Notice requirements to the HOA shall be deemed to have been met when notice is provided to the HOA with the contact information provided by the applicant;~~

- ~~(bb)~~(cc) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
- ~~(ee)~~(dd) Property owners of record, as shown on the most recent property tax assessment roll, of properties located within 250 feet of the subject property;
- ~~(ff)~~(ee) Addresses, based on the City’s current addressing records, within 250 feet of the subject property;
- ~~(dd)~~(ff) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City;
- ~~(ee)~~(gg) Any community organizations, public utilities, agencies, or individuals who have submitted written requests for notification to the City;
- ~~(ff)~~(hh) The tenants of a manufactured home or mobile home park for applications involving a comprehensive plan map change and/or zone change affecting all or part of the manufactured home or mobile home park.

(ii) *Subsequent public hearings.* The City shall mail notice of any subsequent public hearing, including, but not limited to, a final public hearing, a minimum of ten days prior to the hearing. Affidavits of mailing shall be prepared and made part of the file. Notice of any subsequent public hearing shall be mailed to:

- (aa) The owner(s) or contract purchaser(s) of record of the subject property;
- (bb) The address of the subject property, based on the City’s current addressing records.

~~(cc) Any Homeowner’s Association (HOA) involving the subject property. For purposes of this subsection, the HOA shall be the HOA as identified by the applicant. Notice requirements to the HOA shall be deemed to have been met when notice is provided to the HOA with the contact information provided by the applicant;~~

- ~~(bb)~~(cc) Any City-recognized neighborhood association whose boundaries include, or are adjacent to, the subject property;
- ~~(ee)~~(dd) Property owners of record, as shown on the most recent property tax assessment roll, of properties within 250 feet of the subject property;
- ~~(ff)~~(ee) Addresses, based on the City’s current addressing records, within 250 feet of the subject property;
- ~~(dd)~~(ff) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City;
- ~~(ee)~~(gg) Any community organizations, public utilities, agencies, or individuals who have submitted written requests for notification to the City;
- ~~(ff)~~(hh) The tenants of a manufactured home or mobile home park for applications involving a comprehensive plan map change and/or zone change affecting all or part of the manufactured home or mobile home park;
- ~~(gg)~~(ii) Any group or individual who submitted testimony for the record prior to the close of the initial public hearing; and

~~(hh)~~(jj) Any group or individual who requested notice of the initial decision of the Review Authority making recommendation to the Council.

(C) *Contents.* Mailed notice of each public hearing on a Type IV application shall include:

- (i) The names of the applicant(s) and any representative(s) of the applicant, if applicable, and the owner(s) of the subject property;
- (ii) The type of application and a concise description of the nature of the request;
- (iii) Site plan, if applicable;
- (iv) The street address or other easily understood geographical reference to the subject property;
- (v) A vicinity map identifying the subject property with relation to nearby major streets or other landmarks;
- (vi) A list of the approval criteria by name and code section;
- (vii) The date, time, and place of the public hearing;
- (viii) A statement that the application and/or all documents and evidence submitted are available for review, and that copies can be obtained at a reasonable cost;
- (ix) A brief summary of the decision making process for the application;
- (x) A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
- (xi) A statement that all interested persons may appear either in person or with representation by an attorney and provide testimony and that only those participating at the hearing, or in writing, shall be entitled to appeal;
- (xii) A statement that failure to raise an issue prior to the close of the public hearing, in person or in writing, or failure to provide statements or evidence with sufficient specificity to afford the applicant and Review Authority to respond to the issue precludes an appeal to the Oregon Land Use Board of Appeals on that issue;
- (xiii) A statement that a copy of the staff report with recommendation to the Review Authority will be available for inspection at no cost at least seven days prior to the hearing, and that copies will be provided at a reasonable cost;
- (xiv) For the initial public hearing, a statement that subsequent to the close of the hearing a recommendation will be forwarded to the Council; and for the final public hearing a statement that subsequent to the close of the hearing notice of the decision will be mailed to the applicant, if applicable, the property owner, affected neighborhood association, anyone who participated in the hearing, either in person or in writing, and anyone who requested notice of the decision; and
- (xv) The name and contact information for the staff case manager.

(3) *Posted notice.* Posted notice is required for Type IV applications. Posted notice shall be provided for each public hearing as follows:

- (A) The applicant, or City, if application is City-initiated, shall post notice on the subject property no earlier than 14 and no later than ten days prior to the public hearing. The

notice shall remain in place through the day of the public hearing. An affidavit of posting shall be filed no later than five days after the date of the original posting.

(B) Notice shall be posted on each street frontage of the subject property in a conspicuous place that is visible from the public right-of-way. If no street abuts the subject property, the notice shall be placed as near as possible to the subject property in a conspicuous place that can be readily seen by the public.

(C) Posted notice shall be on signs ~~prepared as prescribed~~ by the Planning Administrator.

~~(D) To replace signs that are lost or damaged to the extent they can no longer be reused, the Planning Administrator shall establish a sign deposit fee required for each sign, to be paid by the applicant at the time signs are issued to the applicant.~~

~~(D)(E) The applicant shall remove the signs from the subject property and return them to the Planning Administrator within seven days after the close of the public hearing. The Planning Administrator shall refund the sign deposit fee if the sign is returned within the required seven days in an undamaged and reusable condition.~~

- (c) *Application review and staff report.* Staff shall review the application, written comments, and evidence submitted prior to each public hearing and prepare staff reports summarizing the application, comments received to-date, and the relevant issues associated with the application. Each staff report shall make a recommendation to the Review Authority. The staff reports shall be made available to the public for review a minimum of seven days prior to each public hearing.
- (d) *Public hearings.* An initial evidentiary public hearing shall be held before the applicable Review Authority. The purpose of the initial evidentiary public hearing is for the Review Authority to receive evidence and testimony on the application and to forward a recommendation to the Council. A final public hearing shall be held before the Council. The purpose of the final public hearing before the Council is to receive additional evidence and testimony and the recommendations of the Review Authority and staff and to make a final decision on the application. Each hearing shall be conducted as provided in SRC 300.900.
- (e) *Recommendation.* Subsequent to the close of the initial public hearing, the Review Authority shall make a recommendation to approve, approve with conditions, or deny the application, based upon the facts contained in the record and according to the applicable standards and criteria. The recommendation of the Review Authority shall be a written order that shall include:
- (1) A list of the approval criteria by section number;
  - (2) A statement of the facts relied upon by the Review Authority in making its recommendation. The Review Authority may direct the party whose position is adopted to prepare the statement of facts, or adopt or incorporate a staff report or written findings prepared by any party to the proceeding into the order;
  - (3) A statement of conclusions based on the statement of facts; and
  - (4) The recommendation of the Review Authority.

- (f) *Notice of recommendation.* Notice of the recommendation shall be mailed within seven days from the date the Review Authority adopts its order. An affidavit of mailing shall be prepared and made part of the file.
- (1) Notice of recommendation shall be mailed to:
    - (A) The applicant(s) and/or authorized representative(s), if applicable;
    - (B) The owner(s) or contract purchaser(s) of record of the subject property;
    - (C) Any City-recognized neighborhood association whose boundaries include, or are adjacent to the subject property;
    - (D) Any group or individual who submitted testimony prior to the close of the public hearing;
    - (E) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City, and any governmental agency which submitted testimony prior to the close of the public hearing; and
    - (F) Any community organizations, agencies, or individuals who submitted written requests for notice of the recommendation.
  - (2) Notice of recommendation shall include:
    - (A) A brief description of the application;
    - (B) A description of the site sufficient to inform the reader of its location, including site address, if available, map and tax lot number, and the comprehensive plan designation, and zoning;
    - (C) A brief summary of the recommendation;
    - (D) A statement of the facts relied upon by the Review Authority in making its recommendation;
    - (E) A brief statement explaining the next steps in the Type IV application process; and
    - (F) A statement that the complete case file is available for review. The notice shall state where the case file is available and the name and telephone number of the staff case manager to contact about reviewing the case file.
- (g) *Decision.* Subsequent to the close of the final public hearing, the Council shall approve, approve with conditions, or deny the application, taking into consideration the recommendations of the Review Authority and staff; and based upon the facts contained within the record and according to the applicable standards and criteria; or refer the matter back to the Review Authority for further consideration. The decision of the Council shall be a written order that shall include:
- (1) A list of the applicable approval criteria by section number;
  - (2) A statement of the facts relied upon by the Council in making its decision. The Council may direct the party whose position is adopted to prepare the statement of facts, or adopt or incorporate a staff report or written findings prepared by any party to the proceeding into the order;
  - (3) A statement of conclusions based on the statement of facts; and

- (4) An order approving, approving with conditions, or denying the application.
- (h) *Notice of decision.* Notice of the decision shall be mailed within seven days from the date the Council adopts its written order. An affidavit of mailing shall be prepared and made part of the file.
  - (1) Notice of decision shall be mailed to:
    - (A) The applicant(s) and/or authorized representative(s), if applicable;
    - (B) The owner(s) or contract purchaser(s) of record of the subject property;
    - (C) Any City-recognized neighborhood association whose boundaries include, or are adjacent to the subject property;
    - (D) Any group or individual who submitted testimony for the record prior to the close of the public hearing;
    - (E) Any governmental agency which is entitled to notice by law or under an intergovernmental agreement with the City, and any governmental agency which submitted testimony prior to the close of the public hearing;
    - (F) Any community organizations, agencies, or individuals who submitted written requests for notice of the decision to the City; and
    - (G) The Oregon Department of Land Conservation and Development for decisions which required initial notice to the Oregon Department of Land Conservation and Development.
  - (2) Notice of decision shall include:
    - (A) A brief description of the application;
    - (B) A description of the site sufficient to inform the reader of its location, including site address, if available, map and tax lot number, and the comprehensive plan designation and zoning;
    - (C) A brief summary of the decision, and conditions of approval, if any;
    - (D) A statement of the facts relied upon by the Council in making its decision;
    - (E) The date the Council's decision becomes the City's final decision;
    - (F) The date, time, and place by which an appeal must be filed and where further information may be obtained concerning the appeal process; and
    - (G) A statement that the complete case file, including findings, conclusions, and conditions of approval, if any, is available for review. The notice shall state where the case file is available and the name and telephone number of the staff case manager to contact about reviewing the case file.
  - (i) *Appeals.* The decision of the Council on a Type IV application shall be the final decision of the City. Appeals of Type IV applications are to the Oregon Land Use Board of Appeals.
  - (j) *Expiration of approval.* Approval of a Type IV application does not expire.