



**CITY OF CARLTON
CITY COUNCIL WORK SESSION AGENDA
TUESDAY, FEBRUARY 6, 2024, 6:00 – 8:00 P.M.
VIA ZOOM & 945 WEST GRANT STREET, CARLTON OR 97111**

The Mission of the City of Carlton is to safeguard and enhance the vitality and livability of the community by providing essential services with professionalism and integrity.

	<u>Pages</u>
1) CALL TO ORDER – ROLL CALL	
A. Changes to the Agenda	
2) WORK SESSION AGENDA ITEMS	
A. Draft code review: Divisions V, VI and VIII	2
3) FUTURE WORK SESSION AGENDA ITEMS	
4) ADJOURNMENT	

The public is encouraged to join the meeting virtually using Zoom due to lack of seating. Please follow the directions below:

To join using a computer, please use the link:

<https://us02web.zoom.us/j/89187837300?pwd=V3VuZUlnRWmthbWN3S3IKS1pUQT09>

To join using a phone, please call: 1-253-215-8782 and enter Meeting ID: 891 8783 7300 and then enter Passcode: 674123



MEMO

DATE: January 30, 2024
TO: Mayor Linda Watkins and City Councilors
Envision Carlton Project Advisory Committee Members
Planning Commissioners
FROM: Elizabeth Decker, JET Planning
SUBJECT: Code Companion for Draft Carlton Code Updates, Divisions V, VI, VII
ATTACHED: Carlton Development Code Division V – General Standards, Division VI – Application Requirements and Review Criteria, Division VII – Administrative Procedures

I. PURPOSE & BACKGROUND

The City of Carlton is continuing its review of the proposed updates to the Carlton Development Code (CDC), with focused review of the third portion of code, including the final three divisions. The purpose of the February 6th work session is to review the draft code language and specific code provisions in more detail to confirm or revise the proposed direction.

The review schedule for the draft code includes:

- ✓ November 7, 2023: Review of key concepts
- ✓ December 5, 2023: Review of draft code for Division I (definitions and administration) and Division II (zoning districts)
- ✓ January 9, 2024: Review of draft code for Division III (development standards including streets and utilities, landscaping and design), Division IV (special uses including PUDs, vacation rentals)
- **February 6, 2024:** Review of draft code for Division V (general standards), Division VI (application requirements and review criteria) and Division VIII (administration)
- March 5, 2024: City-led review of draft code and any outstanding issues or questions from City Council.

After completing initial review of the draft code and key issues, the City will begin the adoption process for the final code integrating refinements generated during the work sessions.

II. CODE OVERVIEW

The following table serves as a companion to review the proposed code updates, to explain the more significant changes. The draft code incorporates consultants' and staff review, and is recommended as proposed with any outstanding issues for Council discussion *noted in italics*.

PROPOSED CODE UPDATES	
Code Section	Summary of Changes & Additional Issues
Division V – General Standards, CDC 17.128-17.140	
Minor administrative changes proposed for clarity, no substantial policy changes.	
Division VI – Application Requirements and Review Criteria	
CDC 17.144 Summary of Application Types	
<i>See explanation of land use review types in Section III.A.</i>	
CDC 17.144.020 Type I action	<p>Focuses the Type I (ministerial) review on minor land use applications and those applying clear and objective criteria.</p> <ul style="list-style-type: none"> • Removes fence permits since those are not a required a land use review. • Moves several reviews that involve limited discretion to the new Type II review: minor variance, floodplain permit, and minor conditional use permit. • Keep minor site design review as a Type I review to ensure a clear and objective review procedure for residential applications.
CDC 17.144.030 Type II action	<ul style="list-style-type: none"> • Significantly revises the Type II action to provide a staff-level review applying limited discretion, rather than review by Planning Commission with a public hearing. See explanation in Section III.A. • Moves several reviews that apply discretionary criteria to Type III review to ensure they are reviewed by Planning Commission: major variance, major conditional use permit, major site design review, code interpretations, and nonconforming uses.
CDC 17.144.040 Type III action	<ul style="list-style-type: none"> • Creates streamlined quasi-judicial review of major land use applications with hearing before Planning Commission, similar to previous Type II review process. City Council only hears the case if appealed. • Retains current requirement for Planning Commission review prior to City Council hearing on zone changes, annexations, and street vacations. • Removes road dedications which are not a land use review.

PROPOSED CODE UPDATES	
Code Section	Summary of Changes & Additional Issues
CDC 17.148 Variances	Consistent with changes to Type I, II and III applications, clarify that minor variances (up to 20% deviation from numerical standard) require a Type II review and that major variances (more than 20% deviation) require a Type III review.
CDC 17.152 Conditional Use Permits	For consistency with procedural changes, clarify that minor conditional use permits (for minor modifications to existing CUPs) require a Type II review and that major conditional use permits (new CUPs and major modifications) require a Type III review.
CDC 17.156 Site Design Review	
CDC 17.156.040 Applicability of provisions	Clarifies two categories of major site design review (new non-residential developments and substantial redevelopments, Type III) and minor site design review (new residential development and minor redevelopment, Type I), to ensure that there is a clear and objective review process for residential development.
CDC 17.156.040.C Exemptions	Exempts single-family, duplex and up to two attached townhouses from site plan review because they are subject only to dimensional standards in the base zones and very limited, objective design standard for a garage in Chapter 17.106. Those residential types will be reviewed as building permits.
CDC 17.156.060 Approval criteria	Simplifies approval criteria by requiring compliance with adopted standards in code that address the issues raised in the existing criteria. For example, consideration of parking, traffic safety and connectivity is addressed through detailed standards in Chapters 17.64 (Street Standards) and 17.68 (Off-street Parking and Loading).
CDC 17.156.070 Public improvements	Similarly, remove separate public improvement review criteria that are superseded by specific standards in Chapters 17.64 (Street Standards), 17.72 (Storm Drainage) and 17.76 (Utility Lines and Facilities).
CDC 17.156.100 Design standards in the commercial business and commercial industrial zones	Add some additional specifics and clarity to design standards for non-residential development; these can include some flexibility and subjectivity because they do not apply to residential development, but more detail can better guide application.
CDC 17.156.110 Exception to design standards	Given the additional specificity added to the commercial design standards, offer two options to vary from the design standards: either an alternative design approved by Planning Commission as part of a major site design review, or a

PROPOSED CODE UPDATES	
Code Section	Summary of Changes & Additional Issues
	variance to demonstrate exceptional site characteristics justifying the departure from standards.
CDC 17.160 Similar Use Determination	Focus title and standards on determination of similar uses, rather than broader code interpretations, consistent with existing text herein.
CDC 17.164 Nonconforming Uses	Minor revisions for clarity and to align with new levels of review.
CDC 17.172 Partitions	<ul style="list-style-type: none"> • Improve organization of partition standards, for land divisions that create 2-3 lots. • Extend validity of preliminary plats to 2 years, rather than 18 months. • Relocate expedited land division standards; they can apply to a land division of any size, not just a partition.
CDC 17.174 Expedited Land Divisions <i>*new*</i>	<ul style="list-style-type: none"> • Add new Chapter specific to expedited land divisions that implements state statutes (ORS 197.360-197.380), creating an alternative review path for a land division of any size meeting the applicable criteria. • Update existing standards throughout to better align with state statutes, including specific statutory references.
CDC 17.176 Subdivisions and Planned Unit Developments	
CDC 17.176.020 Application requirements	<ul style="list-style-type: none"> • Include requirement for site plan where subdivision is proposed to include three or more townhouses, multi-family dwellings or cottage clusters, either a formal Site Design Review application or a conceptual site plan. • Introduce requirement for tree survey to be submitted with subdivision application, which provides necessary information to review compliance with tree preservation and replacement standards. <i>See Section III.B.</i>
CDC 17.176.030 Preliminary Plat Approval Criteria <i>*new*</i>	<ul style="list-style-type: none"> • Relocate existing standards for subdivision process and refocus section on approval criteria for preliminary plats. • Generally, require conformance with development standards elsewhere in code including base zone standards and public improvement standards in Division III, including Development Standards for Land Divisions in Chapter 17.88. • 17.176.030.A.12: Add new allowance for lot size averaging, allowing up to a 10 percent modification to minimum lot sizes within a subdivision provided overall maximum density is not exceeded. This allows some lots to be slightly smaller and others to be larger for greater variety. <i>Do you support this standard?</i> • 17.176.030.A.13: Add new requirement that no single housing type can make up more than 75% of new dwellings

PROPOSED CODE UPDATES	
Code Section	Summary of Changes & Additional Issues
	<p>within a new subdivision of 30 units or more to create more housing variety. Multi-family and cottage clusters would be exempted as they already provide a different type of housing relative to many existing single-family detached homes, and it would be more inconsistent with those housing types to require 25% of dwellings to be a different type. <i>Do you support this standard?</i></p> <ul style="list-style-type: none"> • 17.176.030.A.14: Add new requirement to preserve or replace existing large trees at a one-to-one ratio. <i>See Section III.B.</i>
CDC 17.176.040 Open space requirements <i>*new*</i>	Two code options proposed for consideration to require inclusion of additional open space within new subdivisions. <i>See Section III.C.</i>
CDC 17.176.050 Final plat approval	<ul style="list-style-type: none"> • Extend validity of preliminary plats to 2 years, rather than 18 months (same as partitions). • Require final plats to be submitted—rather than recorded—within 2-year timeframe, to account for potential delays in County recording process outside of City control. • Specify Type I review for final plats.
CDC 17.180 Zone Change	Relocate approval criteria to appropriate section.
CDC 17.184 Annexation	<p>Delete various provisions for voter-approved annexation, which has been struck down by Oregon Courts in favor of orderly annexation within adopted urban growth boundaries (UGBs).</p> <p><i>Note that the City limits include all of the City’s current UGB, so no properties would be considered for annexation until the City expands the UGB.</i></p>
Division VII – Administrative Procedures	
CDC 17.188.005 Pre-application conferences <i>*new*</i>	Add requirement for a pre-application conference for all Type III applications and make optional for all Type II applications. Pre-apps help to coordinate city review and provide more information upfront to applicants.
CDC 17.188.010 Procedures for Type I action	<ul style="list-style-type: none"> • Clarify standards for reviewing an application for completeness, consistent with state statute. • Clarify applicability of 120-day review period.
CDC 17.188.020 Procedures for Type II and Type III actions	<ul style="list-style-type: none"> • Generally, clarify where standards apply to Type II administrative actions, Type III quasi-judicial actions, or both. • Clarify standards for reviewing an application for completeness, consistent with state statute. • Cross-reference appeals standards in Chapter 17.204 rather than duplicate standards.

PROPOSED CODE UPDATES	
Code Section	Summary of Changes & Additional Issues
CDC 17.188.030 Consolidated review	Codify common practice that multiple applications for the same property may be consolidated for review, subject to the procedures for the highest level of review.
CDC 17.192 Public Notice Requirements	Clarify and align public notice requires with proposed Type I, II, III and IV levels of review, including additional detail on required content of notices consistent with state statute.
CDC 17.196 Public Hearing Before the Planning Commission	Minor updates for clarity and consistency with other procedural changes.
CDC 17.204 Appeal Provisions	<ul style="list-style-type: none"> • Revise appeal procedures to align with three levels of review and ensure there is one (and only one) opportunity for local appeal, to ensure City can complete “final review” of all applications within 120 days as required by state statute. <ul style="list-style-type: none"> ○ Planning Commission to hear appeals of Type I and II decisions. ○ City Council to hear appeals of Type III decisions, except zone changes, annexations and road vacations that are subject to final action by City Council. ○ No local appeal for Type IV applications; appeal is to LUBA. • Clarify procedures for Planning Commission public hearing for appeals.
CDC 17.212 Type IV Actions	<ul style="list-style-type: none"> • Clarify procedures for Type IV legislative actions, which require hearings before both Planning Commission and City Council.

III. KEY TOPICS

Several topics that have been highlighted above and in previous discussions merit further detail to inform refinements to these code sections.

A. Land Use Review Types

Code sections: CDC 17.144, 17.188

Related Council goal: Goal 2: Housing and Livability

There are four levels of review proposed in the draft code that align with prevailing land use review procedures across the state as applied to land use permits relevant for Carlton:

- **Type I Ministerial:** Staff-level review applying only objective criteria, with no public notice or comment opportunity, and no local appeal option. The proposed changes move several review types from Type I to Type II because they apply limited discretion.
- **Type II Administrative:** The biggest proposed change would create a distinct, staff-level review for Type II applications where limited discretion is applied, appealable to Planning Commission. Previously, Type II and III applications were reviewed by Planning Commission and there was less difference between the two categories. The proposed Type II process will include public notice to nearby property owner and opportunity to submit written comments to ensure continued opportunity for public engagement in lieu of a public hearing. The process will provide a more efficient and quicker review option for moderately sized project applications, consistent with land use review practices in nearly all other Oregon cities.
- **Type III Quasi-judicial:** Planning Commission review through a public hearing; final decision by Planning Commission except that zone change, annexation and street vacations are recommendations to City Council for their final decision. With the change to make Type II reviews a staff-level review, many former Type II actions that merit review by Planning Commission are proposed for review through the Type III process; this will ensure they continue to be reviewed through a quasi-judicial hearing.
- **Type IV Legislative:** Initial Planning Commission hearing and recommendation to City Council for final decision, with appeal only to the state's Land Use Board of Appeals. Reserved for matters of broad policy importance such as changes to the development code, Comprehensive Plan or zoning maps. No changes are proposed to these review procedures or land use actions subject to Type IV review.

B. Tree Preservation and Replacement

Code section: CDC 17.176.020.A.9, 17.176.030.14

Related Council goal: Goal 2: Housing and Livability

The proposed additional standards for new subdivisions include requirements to map existing trees with a trunk diameter of 10 inches or more and to preserve or replace those trees at a one-to-one ratio. These standards are included as a relatively simple code approach to tree preservation in response to Council's interest to preserve trees in new development and are modified from the City of Redmond's subdivision ordinance.

However, there are many complexities of tree codes that were not able to reviewed as part of this project. Tree preservation codes need to address central issues such as which trees to inventory, based on size, species and/or health, and under what circumstances those trees must be preserved, or replanted on- or off-site, potentially through a fee-in-lieu program where

onsite replanting is not desired or feasible. Standards that lean heavily towards preserving existing trees onsite can cause significant conflict with proposed development, whereas standards that lean towards allowing replacement or payments in lieu may favor new planting of smaller trees rather than preservation of older trees. It can take careful and more complex standards to balance tree preservation priorities and development feasibility, which could be further explored by the City outside of this code update process. The City also needs to ensure that it has capacity and expertise to review tree surveys and proposed preservation or replacement plans.

Do you support including the proposed tree preservation standards for new subdivisions, or working to develop more detailed tree preservation standards for new development at a later date? Consultant recommendation would be to develop more refined proposal as a separate tree preservation ordinance to reflect the importance this issue deserves.

C. Open Space Requirements for Subdivisions

Code section: CDC 17.176.040

Related Council goal: Goal 2: Housing and Livability

Two options are proposed to require open space within new subdivisions that attempt to meet Council's goals for additional green space and recreation options without creating onerous requirements that could constitute a legal 'takings' of private property. (Note: any proposed code should be further reviewed by the City Attorney prior to adoption.)

- The first, simpler option requires 150 square feet per dwelling unit to be developed as active or passive open spaces, based on code from the City of Redmond. The 150 square feet is the same as the required open space for cottage developments, and could be adjusted up or down. Note that it takes large-scale developments to generate significant open space at this ratio, leading to the creation of smaller facilities often dubbed "tot lots." For example, a development in the R-1 zone with 7,500-square-foot lots would be required to have one 7,500-square-foot open space per 50 dwellings.
- The second option requires 5% of the site area for open space with more complex standards around what forms the open space can take, options for public dedication or maintenance by a homeowners association, density transfer from the open space area, and intersections with planned projects in the Parks Development Plan. In comparison to the above option, a development of 50, 7,500-square-foot lots in the R-1 zone would be required to have 18,750 square feet of open space.
- A combination of the first and second options could also be developed.
- The third option would be to continue to rely on the adopted Parks Development Plan and collection of Parks SDCs from new development, with no additional subdivision

open space requirements. The Park Development plan can be found on the city website here: <https://www.ci.carlton.or.us/publicworks/page/parks-development-plan>

There are a number of considerations for Council to refine or table an open space standard:

- *How much open space should be required in new subdivisions, in addition to planned parks? What kinds of areas should be permitted to count towards open space? Are there areas that should be prioritized for open space such as along riparian corridors or adjacent to sites identified for parks acquisition?*
- *What improvements, if any, should be required within open spaces?*
- *Should private or public open spaces be required? Is the City prepared to assume maintenance responsibilities for such facilities, and/or what types of facilities should the City prioritize for acceptance?*
- *How can the open space requirement be designed to avoid a ‘takings’ argument, such as offering Parks SDC credits for dedicated land and improvements, density transfers and/or other strategies? (legal input needed)*
- *How should the open space requirements intersect with Parks Development Plan?*
- *Do you want to see an open space requirement for subdivisions with these code updates or continue to develop a more detailed proposal outside of this project? Consultant recommendation would be to develop more refined proposal that addresses open space, recreation and park needs comprehensively through the Parks Development Plan and any additional code requirements to reflect the importance of this issue for the City.*

Division V. GENERAL STANDARDS

Chapter 17.128 GENERAL STANDARDS

17.128.010 Minimum requirements.

In interpreting and applying this title, the provisions herein shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.

17.128.020 Completion of a structure.

A structure not completed within one year of beginning construction shall constitute a violation of this title unless a performance guarantee is provided to the city in accordance with Section 17.216.010.

17.128.030 Lots of record.

A lot of record is a plot of land that meets one or more of the following criteria, pursuant to ORS 92.010 to 92.190:

- A. The plot of land was lawfully created through a subdivision or partition plat prior to annexation to the city;
- B. The plot of land was created through a deed or land sales contract recorded with Yamhill County prior to adoption of the first City of Carlton Zoning Ordinance (Dec. 11, 1969); or
- C. The plot of land was created through a deed or land sales contract recorded with Yamhill County prior to January 1, 2007 and the subject plot of land would have complied with the applicable planning, zoning, subdivision or partition regulations in effect, if any existed, at the time it was created.
- D. Requests to validate a lot of record shall follow the procedures in ORS 92.010 to 92.190. **and are subject to the Type I ministerial procedure per Section 17.188.010.**

17.128.040 Lots abutting a partial street.

New structures ~~that are proposed to be~~ constructed on lots abutting an existing public street that does not meet the minimum standards of Chapter 17.64 for right-of-way width shall ~~provide setbacks sufficient~~ **be set back** to allow for the future widening of the right-of-way. **For this purpose, the Future Street Plan of the Carlton Transportation System Plan shall be used for identifying the appropriate street classification, shown as existing or proposed. In addition to the minimum front and street side yard setbacks of the underlying zone, all new structures shall be set back to at least half the minimum right-of-way width of the respective street classification. Measurements for this purpose shall be taken from existing street centerline at a 90-degree angle toward the subject property.** Building permits shall not be issued unless yard setbacks equal to the minimum yard requirements of the zoning district plus **half** the required minimum ~~additional~~ right-of-way width ~~is~~ **are** provided.

17.128.050 Boundary street requirements.

- A. The owner(s) of property upon which application for permits for new construction shall be responsible, at a minimum, for sidewalk construction and improvement along all property frontages of all boundary streets.
- B. Prior to approval of an application for a permit for new construction where all boundary streets do not meet or exceed the requirements of Standard Specifications for Public Works Construction in the City of Carlton the following action shall be taken:
 - 1. A partial street improvement, including curbing, sidewalk and piped storm drainage shall be installed in conformance with plans reviewed and approved by the city engineer in all boundary streets; or an improvement deferral agreement or non-remonstrance agreement, see Section 17.128.030, shall be filed.
 - 2. A partial street improvement, referenced in subsection (B)(1) of this section, shall consist of a pavement width equal to three-fourths of the width designated for the boundary street by the City of Carlton, Transportation System Plan or twenty-four (24) feet, which ever is the greater.
 - 3. The city may require all or a portion of the improvements be deferred if it is in the interest of the city to do so because of programmed future construction or safety considerations.

17.128.060 Reserved.**17.128.070 Unsafe building.**

Nothing in this title shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe.

~~17.128.080 Limitations on buildings.~~

~~In an R-1 district there shall be only one main building on a lot.~~

Chapter 17.132 GENERAL EXCEPTIONS

17.132.010 General exception to building height.

Projections such as chimneys, spires, domes, elevator shaft housing, flagpoles, and other similar objects not used for human occupancy are not subject to the building height limitations of the underlying zone.

17.132.020 Height exceptions for public buildings.

Public or quasi-public buildings, hospitals, places of worship, and educational institutions may be constructed to a height not to exceed forty-five (45) feet provided the required yards are increased one foot for each foot of additional building height above the height regulation for the zone.

17.132.030 Public dedications.

~~Setback restrictions of this title shall not apply to existing structures whose setback is reduced by a public dedication.~~ **Where an existing street setback or required landscaping must be reduced by a public dedication, the setback or landscaping requirements of this ordinance which are no longer met as a result of the dedication shall not apply to the structure or landscaping. Further encroachment into the setback or reduction of landscaping beyond the reduction caused by the public dedication is not permitted.**

17.132.040 Miscellaneous setback exceptions.

Setback limitations stipulated elsewhere in this title may be modified as follows:

- A. Bus shelters that are intended for use by the general public and are under public ownership and/or control shall be exempt from setback requirements.
- B. Side and rear yards of underground structures may be reduced to three (3) feet except all openings into the structure, including doors, windows, skylights, plumbing, intake and exhaust vents, shall meet the minimum setbacks of the district.

Chapter 17.136 TRANSPORTATION IMPROVEMENT PROJECTS

17.136.010 Purpose.

The transportation improvement projects process is intended to provide for the approval of projects identified in the adopted City of Carlton, Transportation System Plan and for the review of other transportation improvement projects.

17.136.020 Permitted uses.

Except where otherwise specifically regulated by this title, the following improvements are permitted outright in all districts **and are not subject to land use approval.**

- A. Normal operation, maintenance, repair, and preservation activities on existing transportation facilities.
- B. Installation of culverts, sidewalks, curbing, median fencing, guardrails, lighting and similar types of improvements within existing rights-of-way.
- C. **Improvement Pp** projects specifically identified in the City of Carlton, Transportation System Plan.
- D. Acquisition of right-of-way for public road, highways, and other transportation improvements designated in the City of Carlton, Transportation System Plan.
- ~~E. Construction of a street or road as part of an approved subdivision or partitioning.~~

17.136.030 ~~Conditional uses~~ **Reserved.**

~~Construction, reconstruction, or widening of highways, road, bridges or other transportation projects that are:~~

- ~~A. Not improvements designated in the City of Carlton, Transportation System Plan.~~
- ~~B. Not designed and constructed as a part of an approved subdivision, partitioning or planned unit development.~~

17.136.040 ~~Review standards~~ **Reserved.**

~~Projects requiring a conditional use permit shall be reviewed and findings made to comply with the following criteria:~~

- ~~A. The project is compatible with existing land use and social patterns, including noise generation and safety.~~
- ~~B. The project is designed to minimize avoidable environmental impacts to wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities.~~
- ~~C. The project preserves or improves the safety and function of the facility through access management and other design features.~~
- ~~D. The project includes provision for bicycle and pedestrian circulation as consistent with the comprehensive plans and other requirements of this title.~~

Chapter 17.140 USES PERMITTED IN ALL ZONES

17.140.010 Permitted uses.

The following uses and activities are permitted in all zones:

- A. Placement and maintenance of underground or above ground wires, cables, pipes, guys, support structures, pump stations, drains, and detention basins within rights-of-ways by public agencies and utility companies for telephone, TV cable, or electrical power transmission, or transmission of natural gas, petroleum products, geothermal water, water, wastewaters, sewage and rainwater.
- B. Railroad tracks and related structures and facilities located within rights-of-ways controlled by a railroad operator.

Division VI. APPLICATION REQUIREMENTS AND REVIEW CRITERIA

Chapter 17.144 SUMMARY OF APPLICATION TYPES

17.144.010 Generally.

All development permits and land use actions are processed under the administrative procedures provided for in this chapter. There are four types of actions, each with its own procedures.

17.144.020 Type I action.

A Type I action is subject to A ministerial action reviewed by staff the City Manager or designee, where development proposals are limited in scope and decisions are based on the ability to meet clear and objective standards. No conditions may be placed on the decision and notice of the decision is sent only to the applicant. Appeal is to the Planning Commission. Procedures for Type I action are described in Chapters 17.188 and 17.192. The following actions are processed under the Type I procedure:

- A. Minor variance;
- B. A Lot line adjustment/ Lot consolidation;
- C. Fence permit;
- D. B Sign permit;
- E. Floodplain permit;
- F. C Home occupation;
- G. D Access permit;
- H. Conditional use permit, minor;
- I. E. Site development design review, minor;
- J. F. Nonconforming use, Type I modification - for Restoration and Repair.

17.144.030 Type II action.

A Type II action is a quasi-judicial review in which the Planning Commission applies a mix of subject to administrative review by the City Manager or designee, where development proposals are limited in scope objective and subjective standards that allow considerable and where limited discretion is applied. Public notice and a public hearing is provided, see as described in Chapter 17.188 and Chapter 17.192. Appeal of a Type II decision is to the City Council. The following actions are processed under a Type II procedure:

- A. Major Minor variance;
- B. Conditional use permit, major, minor;
- C. Site design review, major;
- D. Code interpretation;
- E. Nonconforming uses, Type II modification;
- F. C. Partitions / Replat of 2-3 lots;

yellow highlighted (proposed new) and ~~blue strike through~~ (proposed for delete)

~~G. Subdivision;~~

~~H. Planned unit development.~~

D. Floodplain development permit.

17.144.040 Type III action.

A Type III action is a quasi-judicial process in which the ~~City Council~~ **Planning Commission** ~~exercises substantive discretion and may apply subjective standards in land use decision-making~~ **acts in a judicial role, evaluating facts and evidence presented in response to applicable standards and criteria. A decision is required. Procedures for Type III action are described in Chapters 17.188 and 17.192. For zone change, annexation and street vacation applications,** ~~the~~ **Planning Commission** ~~has~~ **acts in** an advisory role **to the City Council where,** ~~public notice is provided and public hearings are held at the Planning Commission and City Council, per Chapter 17.192. Appeal of the decision is to the land use board of appeals (LUBA).~~ The following actions are processed under a Type III procedure:

A. Zone change;

B. Annexation;

C. Street Vacation;

~~D. Road dedication.~~

D. Major variance;

E. Conditional use permit, major;

F. Site design review, major;

G. Code interpretation / similar use determination;

H. Nonconforming use – for alteration and expansion

I. Sign permit variance.

17.144.050 Type IV action.

A Type IV action is a legislative review in which the city considers and enacts or amends laws and policies. Type IV actions are initiated by the City of Carlton; other parties may request the City Council consider a proposal requiring Type IV review. Public notice and hearings are provided in a Type IV process. **Procedures for Type IV action are described in Chapters 17.188 and 17.192.** Appeal is to the land use board of appeals (LUBA).

A. Comprehensive plan amendment;

B. Land use district map changes;

C. Development code amendments.

Chapter 17.148 VARIANCE

17.148.010 Purpose.

The development standards in this title protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics the intent and purpose of the development standards may be maintained while allowing for a variance to quantifiable requirements.

17.148.020 Applicability.

Under the following provisions, a property owner or his or her designate may propose a modification or variance from a standard or requirement of this title, except when one or more of the following applies:

- A. The proposed variance would allow a use that is not permitted in the district;
- B. Another procedure and/or criteria is specified in this title for modifying or waiving the particular requirement or standard; or
- C. Modification of the requirement or standard is prohibited within the district.

17.148.030 Application and fee.

An application for a variance shall be filed with the city and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application, including findings that address relevant review criteria of this chapter.

17.148.040 Criteria and procedure—Minor variance.

- A. The city manager **or designee** may approve a minor variance from a requirement or standard of this title in accordance with the Type I review procedures provided that **the variance proposal does not expand or reduce a quantifiable standard by more than twenty (20) percent, and** the applicant provides evidence that the following circumstances substantially exist:
 1. The intent and purpose behind the specific provision sought to be varied is either clearly inapplicable under the circumstances of the particularly proposed development; or
 2. The particular development as proposed otherwise clearly satisfies the intent and purpose for the provision sought to be varied; and
 3. The variance does not result in a development, or any portion of a development, moving closer to an existing dwelling (i.e., reduced setback adjacent to a dwelling); and
 - ~~4. The minor variance does not expand or reduce a quantifiable standard by more than twenty (20) percent~~
 - 5.4.** The variance is the minimum necessary to achieve the purpose of the minor variance; and
 - 6.5.** There has not been a previous land use action approved on the basis that a minor variance would not be allowed.
- B. ~~When the approval criteria in subsection A, above, are not met, or it is unclear to the city manager whether the criteria can be met, the city manager shall advise the applicant in a timely manner that the request is likely to be denied unless it is modified to be consistent with the approval~~

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criteria. The applicant may then modify the application, withdraw it, or ask that it be elevated to a Type II review. Where a request is made **by the applicant** to elevate the application to a Type II review, the city manager shall do so without unreasonable delay and the previously paid fee for the Type I review shall be credited toward the Type II review.

- C. When a minor variance application is submitted concurrently with an application requiring a Type II review, such as a **partition**, subdivision, or planned unit development, the city manager may refer the minor variance application to the Planning Commission for their review.

17.148.050 Criteria and procedure—Major variance.

Major variances apply to proposals that expand or reduce the quantifiable standard by more than twenty (20) percent. The Planning Commission may allow a major variance **(greater than 20 percent deviation from a numerical standard)** from a requirement or standard of this title after a public hearing conducted in accordance with the Type II review procedures provided that the applicant provides evidence that the following circumstances substantially exist:

- A. Exceptional or extraordinary circumstances apply to the property that do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of the ordinance codified in this title, topography, or other circumstances over which the applicant has no control.
- B. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district.
- C. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or otherwise conflict with the objectives of any city plan or policy.
- D. That the special conditions and circumstances on which the application is based does not result from the negligent or knowing violation of this title by the applicant.
- E. The variance requested is the minimum variance that would alleviate the hardship.

17.148.060 Expiration of approval.

- A. Variance approval shall be effective for a period of eighteen (18) months from the date of approval. If the variance has not been implemented within the 18-month period, the approval shall expire.
- B. Variance approval shall be voided immediately if the use established on site does not substantially conform to the approval granted by the Planning Commission.
- C. The city manager shall upon written request by the applicant and payment of the required fee, grant an extension of the approval for a period not to exceed six (6) months provided that:
 1. No changes are made to the approved variance;
 2. The applicant can show intent to implement the variance within the six-month extension period; and
 3. There have been no changes in existing conditions, facts, or applicable policies or ordinance provisions on which the original approval was based;

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4. The request for extension shall be submitted, in writing, thirty (30) days prior to the expiration of the approval period.

Chapter 17.152 CONDITIONAL USE PERMITS

17.152.010 Purpose.

The conditional use permit process is intended to:

- A. Guide future growth and development in accordance with the comprehensive plan and other related ordinances;
- B. Provide an efficient process and framework to review development proposals;
- C. Ensure safe, functional, energy-efficient developments which are compatible with the natural and man-made environment; and
- D. Resolve potential conflicts that may arise between proposed developments and adjacent uses.

17.152.020 Process.

This chapter provides for two types conditional use permit reviews: "major conditional use permit" applications shall be reviewed in accordance with the Type ~~II~~ **III** review procedures, and "minor conditional use permit" applications are reviewed in accordance with the Type ~~I~~ **II** review procedures. An application for a conditional use permit shall be filed with the city recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this chapter.

- A. Major Conditional Use Permit. Major conditional use permit review shall be applicable to all new conditional uses proposed where the subject site does not currently have a conditional use on it, and to changes to existing conditional uses that meet the threshold criteria for major site design review under Section 17.156.~~020~~ **040**.
- B. Minor Conditional Use Permit. Minor conditional use permit review shall be applicable to ~~all new developments, exterior alterations to existing developments, and~~ changes **or expansions in to existing conditional uses** that do not otherwise meet the threshold criteria for major conditional use permit review under [Section] 17.152.020 **that are less than twenty-five (25) percent of the existing floor area, and not exceeding a total floor area of 1,000 square feet**.
- C. All of the provisions and regulations of the underlying zone shall apply unless modified by other sections of this title.
- D. Where a proposal is subject to both site design review and conditional use permit review, the applications may be consolidated and processed by the city concurrently, though the Planning Commission shall make findings and reach a decision individually for each application.

17.152.030 Criteria for approval.

Conditional use permits shall be approved if the applicant provides evidence substantiating that all the requirements of this title relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:

- A. The use is listed as a conditional use in the underlying district or the approval body finds that the use is similar to a conditional use listed in the underlying district.

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- B. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations.
- C. All required public facilities, including water, sanitary sewer, and streets, have adequate capacity or are to be improved to serve the proposal, consistent with City standards.
- D. The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district.
- E. The negative impacts of the proposed use, if any, on adjacent properties and on the public can be mitigated through application of other Code standards, or other reasonable conditions of approval.

17.152.035 Criteria for approval of medical marijuana dispensary or commercial retail marijuana facility.

- A. The lot on which the business is proposed shall only be located on property zoned and classified as Commercial Business, Commercial Industrial, or General Industrial;
- B. The business shall be located in a permanent building and may not locate in a trailer, cargo container or motor vehicle;
- C. The lot is not within one thousand (1,000) feet of any lot upon which there is located an educational institution primarily attended by minors, including kindergarten, elementary and secondary schools;
- D. If the use is a medical marijuana dispensary the lot is not within one thousand (1,000) feet of any lot upon which there is located another marijuana dispensary business;
- E. The lot is not within one thousand (1,000) feet of the exterior boundaries of a city park.
- F. The exterior appearance of the structure shall be consistent with the appearance of existing commercial structures on abutting lots or within the immediate neighborhood, so as not to cause blight, deterioration, or avoidable depreciation in property values within the general vicinity;
- G. No marijuana dispensary business or commercial retail marijuana facility shall have operating hours earlier than 8:00 a.m. or later than 8:00 p.m. of the same day;
- H. Cultivation, retail cultivation or infusion of marijuana at the site of the dispensary or commercial retail facility is prohibited;
- I. The business shall provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed within the facility's exterior refuse containers;
- J. Drive-through services are prohibited.

17.152.040 Conditions of approval.

The approval body may impose conditions that it finds necessary to ensure that the use is compatible with other uses in the vicinity, and that the negative impact of the proposed use, if any, on the surrounding uses and public facilities is minimized. These conditions include, but are not limited to, one or more of the following:

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- A. Limiting the hours, days, place and/or manner of operation;
- B. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;
- C. Requiring larger setback areas, lot area, and/or lot depth or width;
- D. Limiting the building or structure height, size, lot coverage, and/or location on the site;
- E. Designating the size, number, location and/or design of vehicle access points or parking and loading areas;
- F. Requiring street right-of-way to be dedicated and street improvements made, or the installation of pathways or sidewalks, as applicable;
- G. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;
- H. Limiting the number, size, location, height and/or lighting of signs;
- I. Limiting or setting standards for the location, type, design, and/or intensity of outdoor lighting;
- J. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
- K. Requiring and designating the size, height, location and/or materials for fences;
- L. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands;
- M. Requiring improvements to water, sanitary sewer, or storm drainage systems, in conformance with City standards; and
- N. Establish a timetable for periodic review and renewal, or expiration, of the conditional use permit to ensure compliance with conditions of approval; such periodic review may occur through Type I or Type II review process, as specified by the approval.

17.152.050 Expiration of approval.

- A. Conditional use permit approval shall be effective for a period of eighteen (18) months from the date of approval. If the approved use has not been established or substantial construction of buildings associated with the approved use has not begun within the 18-month period, the approval shall expire.
- B. Conditional use permit approval shall be voided immediately if the use established on site does not substantially conform to the approval granted by the Planning Commission.
- C. The city manager shall upon written request by the applicant and payment of the required fee, grant an extension of the approval for a period not to exceed six (6) months provided that:
 - 1. No changes are made to the approved conditional use;
 - 2. The applicant can show intent to establish the use within the six-month extension period;
 - 3. There have been no changes in existing conditions, facts, or applicable policies or ordinance provisions on which the original approval was based; and

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4. The request for extension is submitted, in writing, thirty (30) days prior to the expiration of the approval period.

Chapter 17.156 SITE DESIGN REVIEW

17.156.010 Purpose.

The site design review process is intended to:

- A. Guide future growth and development in accordance with the comprehensive plan and other related ordinances;
- B. Provide an efficient process and framework to review development proposals;
- C. Ensure safe, functional, energy-efficient developments which are compatible with the natural and man-made environment; and
- D. Resolve potential conflicts that may arise between proposed developments and adjacent uses.
- E. The site design review provisions are not intended to preclude uses that are permitted in the underlying zones.
- F. Implement design standards contained in this title, which are intended to allow new development that is visually compatible with the historic context of commercial development within Carlton.

17.156.020 Process.

This chapter provides for two types of site design review. "Major site design review" applications shall be reviewed in accordance with the Type III review procedures, and "minor site design review" applications are reviewed in accordance with the Type II review procedures. **All residential developments may be reviewed as a minor site design review.** An application for site design review shall be filed with the city recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this chapter.

17.156.030 Application and fee.

An application for site design review shall be filed with the city recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this chapter.

17.156.040 Applicability of provisions.

- A. Major Site Design Review. Major site design review shall be applicable to all new **non-residential** developments and major expansion or remodel (twenty-five (25) percent or more increase in total square footage) of existing **non-residential** developments ~~except single-family detached dwellings and individual duplex dwellings (not part of a subdivision proposal) do not require site design review.~~ **For residential development, major site design review shall apply when the development plan is shown not to meet one or more applicable residential design standards as contained in Chapter 17.106.** Major site design review also applies to a development or change in use that requires a new access permit for access onto a state highway, requires the development of additional off-street parking, or increases AM or PM peak hour automobile trips to/from the site by more than ten (10) percent or ten (10) vehicles, whichever is greater. For purposes of this criterion, the current use as of the time of site design review application submittal shall provide the basis for calculating vehicle trips. Where the subject development is not currently in use, the most intensive

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use of the site during the past twelve (12) months shall serve as the basis for calculating proposed changes in parking and traffic.

- B. Minor Site Design Review. Minor site design review shall be applicable to all new developments, exterior alterations to existing developments, **minor expansion or remodel (less than twenty-five (25) percent increase in total square footage) of existing non-residential developments**, and changes in use that do not otherwise meet the threshold criteria for major site design review under 17.156.040(A), except for **exterior alterations actions** listed as exempt under subsection 17.156.040(C). **Additionally, minor site design review is applicable to all new and expanded residential developments where shown to comply with all applicable design standards in Chapter 17.106.**
- C. Exemptions.
- 1.** Changes in use that do not involve development and do not increase AM or PM peak hour automobile trips are exempt from site design review.
 - 2.** Routine building maintenance and repair work (e.g., painting, weatherization, window replacement, and similar maintenance and repair) that do not expand the building envelope and are not otherwise subject to site design review under Chapter 17.30 Downtown (D) District, are exempt; provided all building code requirements shall be met. Projects within the Downtown (D) District shall additionally conform to the standards for building materials and colors contained in Chapter 17.30.
 - 3. Any new or remodeled single-family detached dwelling, duplex dwelling, or two attached townhouse dwellings.**
- D. Notwithstanding the exceptions under subsection 17.156.040(C), all of the provisions and regulations of the underlying zone and other provisions of this title, as applicable, shall apply.

17.156.050 Submittal requirements.

The following information shall be submitted as part of a complete application for site design review:

- A. Site Analysis:
1. Existing site topography;
 2. Identification of areas exceeding ten (10) percent slopes;
 3. Site drainage, areas of potential flooding;
 4. Areas with significant natural vegetation;
 5. Classification of soil types;
 6. Existing structures, roadway access, utilities, and easements on the subject site;
 7. Fire flow information;
 8. Existing and proposed streets, bikeways, and pedestrian facilities within three hundred (300) feet.
- B. Site Plan:
1. Proposed grading and topographical changes;

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2. All proposed structures including finished floor elevations, setbacks, exterior elevations, and exterior finishing;
3. Vehicular and pedestrian circulation patterns, parking, loading and service areas;
4. Proposed access to public roads and highways, railroads or transportation systems;
5. Site drainage plan including methods of storm drainage, sanitary sewer system, water supply system and electrical services. Invert elevations may be required for all underground transmission lines;
6. Proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses;
7. Proposed on-premise signs, fencing or other fabricated barriers, together with their heights and setbacks;
8. Proof of ownership and signed authorization for the proposed development if applicant is not the owner of the site; and
9. A schedule of expected development;
10. A traffic impact analysis if requested by the city manager;
11. Other appropriate studies and information that may be required by the city manager to adequately evaluate the project, including Traffic Impact Analyses, as applicable.

17.156.060 ~~Evaluation of site plan~~ Approval criteria.

~~The review of a site plan shall be based upon consideration of the following:~~

- A. ~~Conformance~~ **All applications for site design review shall comply with the standards of this chapter, the standards in the base zone,** General Development Standards, **Division III** (Chapters 17.60 through 17.106) of this title, **and any applicable Special Use Standards in Division IV.**
- B. ~~Application of the standards of this title relative to the characteristics of adjoining and surrounding uses;~~
- C. ~~Drainage and erosion control requirements relative to applicable city and DEQ standards, and engineering best practices;~~
- D. ~~Public health factors relative to applicable building codes, sanitation requirements, and city standards;~~
- E. ~~Parking, traffic safety, and connectivity of internal circulation to existing and proposed streets, bikeways and pedestrian facilities;~~
- F. ~~Provision for adequate noise and/or visual buffering from non-compatible uses or activities;~~
- G. ~~Balancing retention of natural features with individual property rights and growth management policies; and~~
- H. ~~Avoidance of natural hazards.~~

17.156.070 ~~Public improvements~~ Reserved.

~~As part of a design review approval, the decision body may impose the following conditions on a new or expanding development to ensure compliance with the city's public facility standards:~~

- ~~A. Limit or prohibit access to streets, including requiring consolidation or reconfiguration of existing accesses;~~
- ~~B. Require transportation improvements, including but not limited to new or widened streets, sidewalks, bicycle lanes, on-street parking, roadway markings, traffic controls, bus transit waiting areas, or other improvements consistent with the city's transportation system plan or as recommended in a traffic impact analysis pursuant to Chapter 17.100;~~
- ~~C. Require the dedication of additional right of way and/or street improvements where necessary to meet city street standards.~~
- ~~D. Require the replacement, extension, and/or upgrade of other essential infrastructure, public or private, including but not limited to water, sewer and storm drainage facilities, provided the required improvements must be necessary to serve the proposed development in conformance with city standards, and the cost borne by the developer/applicant must be roughly proportional to the impact the development is expected to have on those facilities.~~

17.156.080 Expiration of approval.

- A. Site design review approval shall be effective for a period of eighteen (18) months from the date of approval. If substantial construction of the approved plan has not begun within the 18-month period, the approval shall expire.
- B. Site design review approval shall be voided immediately if construction on the site is a departure from the approved plan.
- C. The city manager shall upon written request by the applicant and payment of the required fee, grant an extension of the approval for a period not to exceed six (6) months provided that:
 - 1. No changes are made to the approved site design plan;
 - 2. The applicant can show intent to initiate construction on the site within the six-month extension period;
 - 3. There have been no changes in existing conditions, facts, or applicable policies or ordinance provisions on which the original approval was based; and
 - 4. The request for extension is submitted, in writing, thirty (30) days prior to the expiration of the approval period.

17.156.090 Performance guarantees.

All public improvements required as a condition of approval site design review approval shall be completed prior to the issuance of any building permits for any structures within the subject development, unless there exists a performance guarantee acceptable to the city attorney, as provided for in Chapter 17.216. In addition to requiring a performance guarantee for public improvements, the city may require a performance guarantee to ensure completion landscaping, screening, fences, walls, and/or other improvements required to ensure compliance with the requirements of this title.

17.156.100 Design standards in the commercial business and commercial industrial zones.

As part of the site design review process, all developments subject to site design review, pursuant to Section 17.156.040, in the commercial business district or commercial industrial district shall be subject to compliance with **the** all of following design standards. (Note: Section 17.156.100 does not apply to development in the downtown (D) district. Development in the D district shall conform with the design standards of Chapter 17.30).

- A. Building Orientation. The primary entrance to a business shall be oriented toward the major street frontage. Businesses on corner lots may be oriented toward the street corner **with an entry within 10 feet of right-of-way in lieu of orientation towards the major street frontage.**
- B. Building Height.
 - 1. Building heights shall vary from adjacent buildings, using either "stepped" parapets or **slightly dissimilar overall building** height **that varies a minimum of two feet** to maintain the traditional "staggered" streetscape appearance;
 - 2. Multi-story development is the standard without a variance and shall be required on corner lots.
- C. Setbacks. All buildings shall extend to the side lot line, except to accommodate areas specifically designed and maintained as plaza spaces, courtyards, or rear access for pedestrian walkways.
- D. Building Openings.
 - 1. The primary ground level street access shall be recessed from the public right-of-way to create a sense of entry **through design or use of materials;**
 - 2. Ground level entry doors shall be **primarily a minimum of 60%** transparent;
 - 3. Ground level elevation shall maintain a consistent proportion of transparency **(i.e. windows)** with **the pattern found in the commercial business area a minimum requirement of windows for 60 percent of the ground floor façade along public street frontages;**
 - 4. ~~Scale, proportion and materials used in alteration or additions to existing structures, such as the size and relationship of new windows, doors, entrances and other building features shall be visually compatible with the original architecture of the building~~ **Each building facade adjacent to a street shall be articulated through recessing, projecting, banding, articulation of exterior materials, or change of materials, by incorporating patterns that are offset by a minimum depth (projecting or recessing) of at least 16 inches from one exterior wall surface to the other and the offset shall extend the length and height of its module. Articulation patterns shall repeat a minimum of every 20 feet for the entire length of the facade. This standard shall only apply to facades that exceed 40 feet in length;**
 - 5. Upper floor windows shall be vertically orientated, their height greater than their width;
 - 6. Except for transom windows, windows shall not break the front plane of the building;
 - 7. ~~Blank walls adjacent to a public sidewalk shall be prohibited in new structures.~~
- E. Rear and Alley Entrances.

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1. ~~Where applicable, alley~~ **Alley** entrances shall be designed to encourage pedestrian access;
 2. ~~Signs shall be of modest scale to fit the visual characters of an alley or rear entrance;~~
 23. Security lighting shall be provided and focused on rear entries;
 34. Refuse containers and service facilities shall be screened from view.
- F. Rhythms.
1. ~~Prominent horizontal lines at similar levels along the street front shall be maintained~~ **Where a wall of a proposed building is 10 feet or more taller than an adjacent building, the taller building must follow the horizontal lines of the shorter building along the ground floor. This requirement is met by incorporating corncing or a similar architectural feature that projects a minimum of 2 inches from the façade between the full length of all upper story floors;**
 2. ~~A clear visual division shall be maintained between the ground level floor and upper floors;~~ **Multi-story buildings must have designs that establish prominent horizontal lines and avoid blank walls by incorporating one or more of the following:**
 - (A) A series of storefront windows;**
 - (B) Awning or canopy along the ground floor;**
 - (C) Belt course between building stories; and/or**
 - (D) Cornice or parapet line.**
 3. ~~Buildings shall provide a foundation or base from ground level to the bottom of the lower windowsills, with changes in volume or material;~~
 34. ~~Buildings shall reflect a vertical orientation, through either actual volume or the use of surface detail to divide large walls.~~ **For buildings three stories or more, elevations must incorporate changes in material that define a building's base, middle, and top and create visual interest and relief.**
- G. Roof Forms.
1. Sloped or residential style roof forms are prohibited unless visually screened from the right-of-way by either parapet or false fronts incorporating a ~~well-defined~~ cornice line **made of different material and color than the predominate siding of the building, except that brick siding may include matching brick cornices;**
 2. Roof mounted equipment shall not be seen from street level and shall not extend above the parapet of a building.
- H. Building Materials and Color.
1. Exterior building materials shall consist of traditional building materials originally found on buildings in the commercial business area or new materials that closely approximate traditional building materials;
 2. Glass, metal panels, smooth stucco, metal shingles or highly polished surfaces **may not be used as a majority of the on more than 40 percent of a** building's exterior surface ~~is prohibited;~~

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- ~~3. Traditional materials shall not be used in non-traditional applications;~~
 - 34.** Masonry facades shall not be painted;
 - 45.** Subdued colors are encouraged and bright "neon" paint colors or intense white shall be avoided.
- I. ~~Awnings and Marquees. Awnings, marquees or similar pedestrian shelter over sidewalk areas shall be provided and placed giving due consideration to the building architectures such as using the prominent horizontal lines of the building. The use of illuminated, barrel shaped or plastic awnings shall be prohibited. **Pedestrian shelters.**~~
- 1. Pedestrian shelters such as a canopy or overhang shall be provided over all adjacent public sidewalks so that 50 percent of the length of the building frontage and adjacent sidewalk has weather protection.**
 - 2. Pedestrian shelters must be at least the same width of storefronts or window openings and meet any and all additional building code requirements.**
 - 3. The minimum horizontal projection (depth) is 3 feet.**
 - 4. All portions of any pedestrian shelter shall be at least 8 but not more than 12 feet above any public walkway.**
- J. Remodeling, restoration, rehabilitation or remodeling projects shall incorporate, whenever possible, original design elements that were previously removed, changed or covered over.

17.156.110 Exception to design standards in the commercial business and commercial industrial zones.

- A.** The **applicant may request and the** Planning Commission may grant an exception to the design standards in the commercial business and commercial industrial zones ~~if all of the following circumstances exist:~~ **as part of the site design review for an alternative design that accomplishes the purpose of Section 17.156.100 in a manner that is equal or superior to a project designed pursuant these standards or historical precedent.**
- B. The applicant may apply for a variance for specific relief from the requirements of Section 17.156.100.**
- ~~A. There is demonstrable difficulty in meeting the specific requirements of Section 17.156.100 due to a unique or unusual aspect of the site, an existing structure or proposed use.~~
 - ~~B. There is demonstrable evidence that an alternative design accomplishes the purpose of Section 17.156.100 in a manner that is equal or superior to a project designed pursuant these standards or historical precedent.~~
 - ~~C. The exception requested is the minimum necessary to alleviate the difficulty of meeting the standards of Section 17.156.100.~~

Chapter 17.160 ~~CODE INTERPRETATION~~ SIMILAR USE DETERMINATION

17.160.010 Purpose.

The purpose of this chapter is to provide ~~for a code interpretation for~~ a process for determining those uses not specifically listed in a particular zoning district but which are similar in character, scale and performance to the permitted uses specified therein.

17.160.020 Process.

Similar use requests shall be reviewed in accordance with the Type ~~II~~ III review procedures.

17.160.030 Application and fee.

Any application for a similar use shall be filed with the city manager and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this chapter.

17.160.040 Review criteria.

A similar use may be authorized provided that the applicant demonstrates that the proposed use satisfies the following criteria:

- A. The use is consistent with the purpose of the underlying zoning district and is similar in character, scale and performance to uses specified in the underlying district.
- B. The use conforms to the applicable standards and limitations of the underlying zoning district.

17.160.050 Determination.

- A. In approving an application for a similar use, the Planning Commission may:
 1. Determine whether the use is prohibited, permitted or conditionally permitted in the specified zone;
 2. Determine whether the use is permitted or conditionally permitted in a different zone;
 - ~~3. Consistent with the development requirements of the identified zone, determine whether additional land use actions, such as conditional use approval or a site plan review, are required.~~
- B. The determination by the Planning Commission that a proposed similar use cannot be accommodated in a given zone does not preclude an ~~application, by the appropriate party, for an amendment to the text of the comprehensive plan and/or development code.~~ appeal of the determination further to the City Council through the process described in Chapter 17.204. As explained in Chapter 17.04.070, the Planning Commission may issue an interpretation of the question if they have first determined that such interpretation is within their power and is not a legislative act.

Chapter 17.164 NONCONFORMING USES

17.164.010 Purpose.

Within the zoning districts established by this title and amendments thereto, uses and structures may exist which were lawful before the date of adoption or amendment of this title but which would be prohibited or restricted under the terms of this title. The general purpose of this chapter is to encourage the conversion of such nonconforming uses to conforming uses. However, this chapter allows nonconforming uses and structures to be continued, altered, restored or replaced subject to satisfaction of the review criteria specified. This chapter is also intended to facilitate changes over time that would bring properties into closer conformity with this title. Nothing contained in this title shall require any change in the plans, construction, or designated use of any structure for which a building permit was issued and actual construction commenced prior to the date of adoption of this title or any amendment thereto. No alteration of a nonconforming use shall be permitted except in compliance with the provisions of this chapter.

17.164.020 Process.

Proposals to alter a nonconforming situation shall be reviewed in accordance with the Type II review procedures, except that proposals that would bring a property into closer conformity with this Title are reviewed in accordance with the Type I review procedures.

17.164.030 Application and fee.

An application for an alteration or expansion of a nonconforming use shall be filed with the city manager and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this chapter.

17.164.040 Discontinuation of use.

If a nonconforming use is discontinued for a period of more than twelve (12) consecutive months, the use shall not be resumed unless the new or resumed use conforms to the requirements of this title. A nonconforming single-family dwelling may be continued, altered, or restored for residential purposes without review. A single-family dwelling does not lose its nonconforming status due to vacancy. For purposes of calculating the twelve (12) month period, a use is discontinued or abandoned upon the occurrence of the first of any of the following events:

1. On the date when the use of land is physically vacated;
2. On the date the use ceases to be actively involved in the sale of merchandise or the provision of services;
3. On the date of termination of any lease or contract under which the nonconforming use has occupied the land; or
4. On the date a request for final reading of water and power meters is made to the applicable utility districts.

17.164.050 Alterations required by law.

The alteration of any nonconforming use when necessary to comply with any lawful requirement for alteration of the use or structure, or to bring the use or structure into closer compliance with this title shall be permitted, subject to all other laws, ordinance and regulations.

17.164.060 Maintenance.

Normal maintenance of a nonconforming use is permitted provided there are not major structural alterations as determined by the building official.

17.164.070 Alteration, restoration, or replacement.

- A. The city manager shall authorize restoration or replacement of any nonresidential nonconforming use when restoration or replacement is made necessary by fire, casualty, or natural disaster and does not exceed forty (40) percent of the value of the original structure, provided the physical restoration or replacement is lawfully commenced within six months of the damage or destruction.
- B. The city manager shall authorize restoration or repair of any residential nonconforming use when restoration or replacement is made necessary by fire, casualty, or natural disaster provided the physical restoration or replacement is lawfully commenced within six months of the damage or destruction.
- C. If the use is discontinued or abandoned for any reason for a period of more than 12 months, any subsequent use of land shall conform to the applicable standards and criteria specified by this Code for the land use district in which such land is located.
- D. The Planning Commission, subject to the Type ~~II~~ III review procedure, may extend the restoration or replacement period for an additional six months. In no case shall the total restoration or replacement period exceed one year. Requests for extension of restoration or replacement period shall be submitted in writing thirty (30) days prior to the expiration date of the restoration or replacement period.
- E. The alteration of a nonconforming use may be authorized by the Planning Commission, subject to the Type ~~II~~ III review procedure, provided that the applicant demonstrates that the proposal satisfies the following criteria:
 - 1. That the alteration of the structure or development would not expand a nonconformity by more than twenty (20) percent of floor area or site area, as applicable, and would have no greater adverse impact on the neighborhood; an alteration that brings a nonconforming situation into closer conformity with this title may be approved through the Type I review procedure; ~~or~~
 - 2. ~~That the~~ A change in use to another nonconforming use ~~may be permitted subject to the Type II review procedure if it is~~ would be of the same or less intensity of use.
- ~~G.~~ ~~3.~~—The alteration of a nonconforming single-family residence that does not involve a change in use is authorized without Planning Commission approval.
- ~~H.~~ ~~4.~~—Should a nonconforming structure be moved on- or off-site for any reason, and by any distance, it shall thereafter conform to the regulations of this title.

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17.164.080 Conditions of approval.

In approving the alteration, restoration, or replacement of a nonconforming use, the Planning Commission may impose such conditions, as it deems appropriate to ensure that the intent of this chapter is carried out.

Chapter 17.168 LOT LINE ADJUSTMENTS

17.168.010 Applicability.

The procedures and requirements in this chapter apply to the relocation of a common property line between two abutting properties.

17.168.020 Standards.

- A. The number of lots or parcels as large as the minimum lot size in the affected zone is at least the same after the adjustment as before the adjustment.
- B. The number of lots or parcels resulting from the adjustment is the same or less than the number of lots or parcels existing prior to the adjustment.
- C. Following the lot line adjustment, all lots must comply with lot size and dimensional standards of the applicable land use district. For nonconforming lots, the adjustment shall not increase the degree of non-conformance of the subject property or surrounding properties.
- D. All lots or parcels having access to a public or private street before the adjustment must retain access after the adjustment.
- E. The lot line adjustment shall not reduce any required development feature or standard, such as parking, landscaping, or building setbacks, to a size or dimension that does not meet the minimum standards of this title.

17.168.030 Submittal requirements.

The applicant must submit the following information and materials:

- A. Applications for lot line adjustments shall be submitted on forms provided by the city to the city recorder and accompanied by the appropriate fee. A lot line adjustment application shall be signed by the property owner, contract purchaser or an authorized agent of the owner or contract purchaser of all lots impacted by the lot line adjustment.
- B. Each application shall be accompanied by a preliminary map drawn to scale of not less than one inch equals fifty (50) feet, and containing at a minimum, the following:
 1. A written statement that explains the applicants reasons for adjusting the boundaries and demonstrating that the adjustment conforms to city land use policies and regulations of the applicable zone;
 2. North point, scale and date;
 3. Name and addresses of landowners, applicants, engineer, surveyor, planner, architect or other individuals responsible for the plan;
 4. Map number and tax lot or tax account number of subject property;
 5. Dimensions and size in square feet or acres of each parcel before the proposed adjustment and of each parcel after the proposed adjustment;
 6. The approximate location and identification of existing streets, easements or rights-of-way adjacent to, or within, the subject property, and, existing improvements on the property.

17.168.040 Process.

- A. A lot line adjustment is subject to a Type I review. After a lot line adjustment is approved, the new boundary becomes effective only if within one year of the written approval the following steps are completed:
 - 1. A metes and bounds legal description of the adjusted lots is recorded with the Yamhill County clerk.
 - 2. If required by ORS Chapter 92, a final plat and boundary survey are prepared and all new boundaries are monumented as required by ORS Chapters 92 and 209.
- B. The applicant shall submit a copy of the recorded lot line adjustment survey map to the city prior to issuance of any building permits on the re-configured lots.

Chapter 17.172 PARTITIONS

17.172.010 Applicability.

A partition is required for any land division that creates two or three parcels in a calendar year. ~~The parcels shall meet the Development Standards for Land Division of Chapter 17.88, other applicable development standards and the following additional requirements:~~

- ~~A. Each parcel shall satisfy the dimensional standards of the applicable zoning district, unless a variance from these standards is approved.~~
- ~~B. Adequate public facilities shall be available to serve the existing and newly created parcels.~~

17.172.020 General provisions.

A. The partition shall meet the Development Standards for Land Division of Chapter 17.88.

B. Each parcel shall satisfy the dimensional standards of the applicable zoning district, unless a variance from these standards is approved.

A.C. Partition approval is valid in perpetuity, upon recording of the final surveyed plat.

B.D. No parcel within an approved partition may be redivided within the same calendar year in which it was recorded, except through the subdivision process.

C.E. A master plan for development is required for any application that ~~leaves a portion of the subject property capable of replatting~~ **creates an oversized lot which is greater than twice the required minimum lot size allowed by the subject zone.**

17.172.030 Process.

Preliminary plats for partitions shall be reviewed in accordance with the Type II review procedures.

17.172.040 Application and fee.

- A. Applications for partitions shall be submitted on forms provided by the city to the city recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this chapter.
- B. The applicant shall submit ten (10) clear and legible copies of the preliminary plan on sheets not less than eleven (11) inches by seventeen (17) inches and no more than twenty-four (24) inches by thirty-six (36) inches in size. Preliminary plans shall be drawn to a scale of one-inch equals fifty (50) feet or larger.
 - 1. General Information. The following general information shall be shown on the tentative plan:
 - a. Vicinity map extending eight hundred (800) feet in each direction showing all streets, property lines, streams, and other pertinent data to locate the proposal;
 - b. North arrow, scale of drawing and date of preparation;
 - c. Tax map and tax lot number or tax account of the subject property;
 - d. Dimensions and size in square feet or acres of the subject property;

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- e. The names and addresses of the property owner, partitioner and engineer, surveyor, or other individual responsible for laying out the partition.
2. Existing Conditions.
 - a. Location of all existing easements within the property;
 - b. Location of city utilities (water, sanitary sewer, storm drainage) within or adjacent to the property proposed for use to serve the development;
 - c. The location and direction of watercourses or drainage swales. The location and disposition of any wells, wetlands identified on the State Wetland Inventory, septic tanks, and drain fields in the partition;
 - d. Existing uses of the property, including location of existing structures on the property. It should be noted whether the existing structures are to be removed or to remain on the property.
3. Proposed Plan. A detailed plan of the propose partition clearly showing the following:
 - a. Locations, approximate dimensions and area in square feet of all proposed parcels. All parcels shall be numbered consecutively;
 - b. Location, width and purpose of any proposed easements.
4. Supplemental Information. Proposed deed restrictions, if any, in outline form.

17.172.050 Final plat approval.

- A. Within ~~eighteen (18) months~~ **two (2) years** of the final decision approving a preliminary plat, a final survey of the approved plat shall be recorded **submitted to the city**. If the final survey is not submitted within ~~eighteen (18) months~~ **two (2) years**, the preliminary approval shall lapse. Final plats requirements for partitions are the same as for subdivisions. Both are reviewed in accordance with Section 17.176.050.
- B. The city manager shall upon written request by the applicant and payment of the required fee, grant an extension of the approval for a period not to exceed six (6) months provided that:
 1. No changes are made to the approved preliminary plat; and
 2. There have been no changes in existing conditions, facts, or applicable policies or ordinance provisions on which the original approval was based.

~~17.172.060 Expedited land division.~~

~~A. Definition. An expedited land division:~~

~~1. Is an action of the city that:~~

- ~~a. Includes land that is zoned for residential uses and is within an urban growth boundary;~~
- ~~b. Is solely for the purposes of residential use, including recreational or open space uses accessory to residential use;~~
- ~~c. Does not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations~~

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for full or partial protection of natural features under the statewide planning goals that protect open spaces, scenic historic areas, natural resources, and estuarine resources;

d. — Satisfies minimum street or other right-of-way connectivity standards established by acknowledged land use regulations or, if such standards are not contained in the applicable regulations, as required by statewide planning goals or rules;

e. — Creates enough lots or parcels to allow building residential units at eighty (80) percent or more of the maximum net density permitted by the zoning designation of the site.

2. — Is a land division that:

a. — Will create three or fewer parcels; and

b. — Meets the criteria set forth for an action under Section 17.172.060(A)(1)(a) through (e).

B. — Exclusion.

1. — Property and process exclusions include properties specifically mapped and designated in the comprehensive plan or development ordinance for full or partial protection of natural features under the statewide planning goals that protect open space, scenic and historic areas and natural features and not eligible for the construction of dwelling units or accessory buildings;

2. — The expedited land division process is not a land use or limited land use decision and is not subject to the permit requirements of city enabling legislation. Decisions are not subject to the comprehensive plan and not eligible for appeal to the land use board of appeals (LUBA).

C. — Complete Application. The city shall review an application and makes a decision on its completeness within twenty one (21) days of submittal. Upon determination of an incomplete application, the applicant has one hundred eighty (180) days to submit the missing information.

D. — Public Notice. Upon submittal of a complete application, the city shall send written notice to affected governmental agencies and property owners within two hundred (200) feet of the site proposed for the land division. The notice shall include the following:

1. — A fourteen (14) day deadline for submission of written comments;

2. — The time and place where all copies of evidence submitted by the applicant will be available for review;

3. — The name, address, and telephone number of the city's staff person available to comment on the application;

4. — Summary of the local decision making process for such a decision;

5. — Applicable decision criteria;

6. — Notification that participants must raise all issues during the written comment period.

E. — Initial Decision. The Planning Commission shall allow at least fourteen (14) days for written comments and shall render a decision within sixty three (63) days of a complete application. No public hearing may be held during the initial decision making phase.

F. — Notice of Final Decision. A notice of decision must be given to the applicant and other participants of the decision. The notice of decision shall state the appeal process.

G. — Time Extension.

1. Applicant. If a decision is not made within sixty three (63) days, the applicant may seek review by writ of mandamus;
 2. City. The city may extend the sixty three (63) day period up to one hundred twenty (120) days based on the determination that an unexpected or extraordinary increase in applications makes the sixty three (63) day period impracticable. Following a seven day notice to the applicant, consideration of an extension is considered at a regularly scheduled City Council meeting. That determination is specifically declared not to be a land use decision or limited land use decision.
- H. Decision Criteria. Criteria for approving the partition shall be as follows:
1. The criteria established in Section 17.172.010;
 2. Density. The application must be able to establish at least eighty (80) percent of the allowable density of the applicable residential zone;
 3. Street Standards. The application must comply with the most recent transportation plan or provide evidence of meeting the city's minimum street connectivity standards.
- I. Appeal of Initial Decision. A decision may be appealed to a local hearings officer within fourteen (14) days of filing the notice of decision by the applicant or any person or organization that filed comments on the initial decision.
- J. Appeal Fee. Filing an appeal requires a deposit of three hundred dollars (\$300.00) to cover costs. An appellant faces the possibility of an assessment of five hundred dollars (\$500.00) for the total costs of local proceedings if the appellant does not prevail. If an appellant materially improves its position, the deposit and appeal fee shall be refunded.
- K. Basis of an Appeal of the Initial Decision. The local appeal shall be based on the following:
1. The failure to meet local substantive and procedural requirements;
 2. Unconstitutionality;
 3. The decision was not within the expedited land division category; or
 4. A party's substantive rights have been substantially prejudiced by an error in procedure of the local government.
- L. Hearings Officer. A city designated hearings officer shall hear the appeal of the initial expedited land use decision. The hearings officer may not be a city officer or city employee.
- M. Hearings Officer Notification. Within seven days of the hearings officer's appointment, the city shall notify the appellant, the applicant (if not the appellant), and the persons or organizations entitled to notice and which provided written comments, of the hearing date before the hearings officer. If a person submitting comments did not appeal, the issues presented by that person are limited to those in their submitted comments.
- N. Appeal Hearing. The hearings officer conducts a hearing that:
1. Follows the commission proceeding requirements;
 2. Allows the local government's explanation of its decision; and
 3. May consider evidence not previously considered.

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~~O. — Hearings Officer Decision. In all cases, not involving a procedural issue, the hearings officer shall seek to identify means by which the application can satisfy the applicable requirements. The hearings officer may not reduce the density of the application or remand the application to the city, but shall make a written decision on the appeal within forty two (42) days of the filing of the appeal. Unless the local government determines that exigent circumstances exist, a hearings officer who fails to decide a case within the forty two (42) day period shall receive no compensation for services as the hearings officer. If the decision was not an expedited land division, the hearings officer must remand the decision for proper procedural determination.~~

~~P. — Appeal of Hearings Officer Decision. Appeals of the hearings officer decision are to the Oregon Court of Appeals.~~

~~Q. — Basis of an Appeal of the Hearings Officer Decision. The grounds for review of a hearings officer's decision are limited to:~~

- ~~1. — Whether the decision followed the process for an expedited land division and appellant raised that issue;~~
- ~~2. — Unconstitutionality; and~~
- ~~3. — Certain bias or interest on the part of the hearings officer or local government.~~

~~R. — Process for Final Plat Approval. Final plats for expedite land divisions shall be reviewed consistent with the requirements in Section 17.172.050.~~

Chapter 17.174 EXPEDITED LAND DIVISIONS

17.174.010 Definition.

An expedited land division, consistent with ORS 197.360, is division of land into two or more parcels that:

- A. Includes land that is zoned for residential uses and is within an urban growth boundary;**
- B. Is solely for the purposes of residential use, including recreational or open space uses accessory to residential use;**
- C. Does not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect open spaces, scenic historic areas, natural resources, and estuarine resources;**
- D. Satisfies minimum street or other right-of-way connectivity standards established by acknowledged land use regulations or, if such standards are not contained in the applicable regulations, as required by statewide planning goals or rules;**
- E. Will result in development that either:**
 - 1. Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or**
 - 2. All dwellings will be sold or rented to households with incomes below 120 percent of the median family income for Yamhill County. A copy of a deed restriction or other legal mechanism approved by the City Manager or designee shall be submitted.**

17.174.020 Process.

- A. The expedited land division process is not a land use or limited land use decision and is not subject to the permit requirements of city enabling legislation. Decisions are not subject to the comprehensive plan and not eligible for appeal to the land use board of appeals (LUBA).**
- B. Complete Application. The city shall review an application and makes a decision on its completeness within twenty-one (21) days of submittal. Upon determination of an incomplete application, the applicant has one hundred eighty (180) days to submit the missing information.**
- C. Public Notice. Upon submittal of a complete application, the city shall send written notice to affected governmental agencies and property owners within two hundred (200) feet of the site proposed for the land division. The notice shall include the following:**
 - 1. A fourteen (14)-day deadline for submission of written comments;**
 - 2. The time and place where all copies of evidence submitted by the applicant will be available for review;**
 - 3. The name, address, and telephone number of the city's staff person available to comment on the application;**
 - 4. Summary of the local decision making process for such a decision;**
 - 5. Applicable decision criteria;**

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6. Notification that participants must raise all issues during the written comment period.

D. Initial Decision. The City Manager or designee shall allow at least fourteen (14) days for written comments and shall render a decision within sixty-three (63) days of a complete application. No public hearing may be held during the initial decision making phase.

E. Notice of Final Decision. A notice of decision must be given to the applicant and other participants of the decision. The notice of decision shall state the appeal process.

F. Time Extension.

1. Applicant. If a decision is not made within sixty-three (63) days, the applicant may seek review by writ of mandamus;

2. City. The city may extend the sixty-three (63) day period up to one hundred twenty (120) days based on the determination that an unexpected or extraordinary increase in applications makes the sixty-three (63)-day period impracticable. Following a seven-day notice to the applicant, consideration of an extension is considered at a regularly scheduled City Council meeting. That determination is specifically declared not to be a land use decision or limited land use decision.

17.174.030 Decision criteria.

The City Manager or designee's decision must be based on compliance with the standards of this Chapter and the applicable development standards of this code. An approval may include conditions to ensure that the application meets applicable land use regulations.

17.174.040 Appeal.

A. A decision may be appealed within 14 days of the mailing of the decision notice by the applicant or a person or organization who submitted written comments during the written comment period allowed by Section 17.174.020.C. The appeal must include the appeal application and a \$300.00 deposit for costs.

B. An appeal must be based solely on one or more of the allegations:

1. The decision violates the substantive provisions of the applicable land use regulations;

2. The decision is unconstitutional;

3. The application was not eligible for review under this Chapter, Expedited Land Divisions, and should be reviewed as a land use decision or limited land use decision;

4. The appellant's substantive rights were substantially prejudiced by a procedural error.

C. The City must appoint a Hearings Officer to decide the appeal decision and the appointed Hearings Officer must comply with ORS 197.375(3)through (6) when issuing a decision.

17.174.050 Final plat.

Final plats for expedited land divisions shall be reviewed consistent with the requirements in Section 17.172.050.

Chapter 17.176 SUBDIVISIONS AND PLANNED UNIT DEVELOPMENTS

17.176.010 General provisions.

- A. All subdivisions and planned unit developments (PUDs) shall conform to all applicable zoning district Standards, development standards and other provisions of this title.
- B. A master plan for development is required for any application that leaves a portion of the subject property capable of redevelopment.

C. All subdivisions and PUDs shall be reviewed in accordance with the Type III review procedures.

17.176.020 Application ~~and fee~~ requirements.

- A. The following submittal requirements shall apply to all preliminary plan applications for subdivisions and PUDs:
 - 1. All applications shall be submitted on forms provided by the city to the city recorder along with the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this chapter;
 - 2. The applicant shall submit ten (10) clear and legible copies of the preliminary plan on sheets that are twenty-four (24) inches by thirty-six (36) inches in size. Preliminary plans shall be drawn to a scale of one-inch equals one hundred (100) feet or larger;
 - 3. General Information. The following general information shall be shown on the preliminary plan:
 - a. Vicinity map extending one thousand two hundred (1,200) feet in each direction showing all streets, property lines, streams, and other pertinent data to locate the proposal;
 - b. North arrow, scale of drawing and date of preparation;
 - c. Tax map and tax lot number or tax account of the subject property;
 - d. Dimensions and size in square feet or acres of the subject property;
 - e. The names and addresses of the property owner, partitioner and engineer, surveyor, or other individual responsible for laying out the partition.
 - 4. Existing Conditions. The preliminary plan shall show:
 - a. Location of all existing easements within the property;
 - b. Location of city utilities (water, sanitary sewer, storm drainage) within or adjacent to the property proposed for use to serve the development;
 - c. The location and direction of watercourses or drainage swales. The location and disposition of any wells, wetlands identified on the State Wetland Inventory, septic tanks, and drain fields in the development;
 - d. Existing uses of the property, including location of existing structures on the property. It should be noted whether the existing structures are to be removed or to remain on the property;

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- e. Contour lines related to an established benchmark, having the following minimum intervals:
 - i. Areas with less than five percent slope: one-foot contours;
 - ii. Areas with slope between five percent and ten (10) percent: two-foot contours;
 - iii. Areas with slope greater than ten (10) percent: five-foot contours;
5. Proposed Plan. The preliminary plan shall clearly show to scale the following:
 - a. Proposed name of the PUD or subdivision;
 - b. Locations, approximate dimensions and area in square feet of all proposed lots. Identification of each lot and block by number;
 - c. Proposed streets and their names, approximate grade, radius of curves, and right-of-way widths;
 - d. Any other legal access to the subdivision or PUD, other than a public street;
 - e. Location, width and purpose of any proposed easements;
 - f. If the development is to be constructed in phases, indicate the area of each phase.
6. Supplemental Information. Proposed deed restrictions, if any, in outline form.
7. A traffic impact analysis **in accordance with Section 17.100.070.B.** ~~if requested by the city manager.~~
- 8. Concept Plan for Building Orientation, Open Space and Vehicle Access. When lots within a proposed subdivision are intended for future construction of three or more attached townhouse dwellings, multi-family dwellings, cottage clusters or any nonresidential development, the plan submittal shall include either:**
 - a. Application for Site Design Review in accordance with Chapter 17.156 for concurrent review; or**
 - b. A concept plan, depicting the general location of buildings, orientation to the street, open space and vehicle access points for demonstrating feasibility of meeting applicable design standards in Chapter 17.106.**
- 9. Tree Survey. A survey indicating location of all trees having a ten-inch trunk diameter 4.5 feet above grade or greater, their diameter, and whether they are coniferous or deciduous on private property and in the right of way adjacent to the property. The plan shall show which trees are proposed for removal and the location of replacement trees relative to the proposed lots, streets and other improvements.**
- B. The following supplemental information shall be required for all PUD preliminary plan applications:
 - ~~1. Calculations justifying the proposed density of development as required by Section 17.112.050(C);~~
 - 12.** Proposed uses of the property, including **all proposed residential uses and** sites, if any, for ~~attached dwelling units,~~ recreational facilities, parks and playgrounds or other public or semi-public uses, with the purpose, condition and limitations of such reservations clearly indicated;

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23. The approximate location and dimensions of all commercial **or multi-family** structures proposed to be located on the site;
34. Statement of improvements to be made or installed including streets, sidewalks, bikeways, trails, lighting, tree planting, landscaping, and time such improvements are to be made or completed;
45. Written statement-outlining proposals for ownership and maintenance of all open space areas, private streets and any commonly owned facilities.

17.176.030 ~~Process.~~ Preliminary Plat Approval Criteria.

- ~~A. Preliminary plans for subdivisions and PUDs shall be reviewed in accordance with the Type II review procedures.~~
- ~~B. Approvals of any preliminary plans for a subdivision or PUD shall be valid for eighteen (18) months after the date of the written decision. A final plat for a subdivision shall be recorded within this time period or the approvals shall lapse. PUDs that do not involve the subdivision of property shall show substantial progress toward the construction of the project within the 18-month period or the approval shall lapse.~~
- ~~C. The Planning Commission may extend the approval period for any subdivision or PUD for not more than one additional year at a time. Requests for extension of approval time shall be submitted in writing thirty (30) days prior to the expiration date of the approval period.~~
- ~~D. If the approval period is allowed to lapse, the applicant must resubmit the proposal, including all applicable fees, for public hearing before the Planning Commission. The applicant will be subject to all applicable standards currently in effect.~~

A. The Planning Commission may approve, approve with conditions, or deny a preliminary plat. The Planning Commission decision shall be based on findings of compliance with all of the following approval criteria:

- 1. The land division application shall conform to the requirements of Chapter 17.176;**
- 2. All proposed lots and land uses shall conform to the applicable provisions of Division II (Zoning and Development Provisions);**
- 3. Access to individual lots, block configuration and public improvements necessary to serve the development, including but not limited to water, sewer, and streets, shall conform to Division III (General Development Standards);**
- 4. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;**
- 5. The proposed streets, utilities, and surface water drainage facilities conform to City of Carlton adopted plans and applicable engineering standards, and allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications;**

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- 7. All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas is assured through appropriate legal instrument;**
- 8. Evidence that any required state and federal permits, as applicable, have been obtained or can reasonably be obtained prior to development;**
- 9. Evidence that improvements or conditions required by the City, road authority, Yamhill County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met.**
- 10. Flag Lots. Flag lots may be created only when a through street cannot be extended to serve abutting uses or future development. A flag lot driveway ("flag pole") shall serve not more than four dwelling units, including accessory dwellings and dwellings on individual lots. The layout of flag lots, the placement of buildings on such lots, and the alignment of shared drives shall be designed so that future street connections can be made as adjacent properties develop, to the extent practicable, and in accordance with the transportation connectivity and block length standards of Section 17.88.040.**
- 11. Emergency Vehicle Access. A drive serving more than one lot shall have a reciprocal access and maintenance easement recorded for all lots it serves. No fence, structure, or other obstacle shall be placed within the drive area. Where required, emergency vehicle apparatus lanes, including any required turn-around, shall conform to applicable building and fire code requirements. Fire sprinklers may also be required for buildings that cannot be fully served by fire hydrants (i.e., due to distance from hydrant or insufficient fire flow).**
- 12. Lot Size Averaging. To allow flexibility in subdivision design and to address physical constraints, such as topography, existing development, significant trees, and other natural and built features, the approval body may grant without a variance a 10 percent modification to the lot area and/or lot dimension (width/depth) standards in Division II, provided that the overall density of the subdivision does not exceed the allowable density of the district and the approval body finds that all of the following are met:**
 - a. Where a proposed subdivision would abut an existing subdivision with standard-, or larger-, sized lots, the perimeter of the proposed subdivision shall contain standard-, or larger-, sized lots; except that this provision does not apply where the existing lots are larger than 20,000 square feet; and**
 - b. The Planning Commission may require screening, buffering, or other transitions in site design where lots are proposed to abut standard-, or larger-, sized lots.**
- 13. Housing Variety. To promote a variety of housing options, no single residential dwelling type may account for more than seventy five (75) percent of the dwelling units in any proposed subdivision with 30 or more dwelling units. This standard shall not apply to developments consisting solely of cottage clusters or multi-family dwellings.**

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14. Preservation and Replacement of Trees. All deciduous or coniferous existing trees having a ten-inch trunk diameter 4.5 feet above grade or greater are considered significant and shall be preserved or replaced at a 'one-to-one' ratio. Replacement trees shall have a minimum 1-1/2-inch trunk diameter measured at 4.5 feet above grade. This criterion shall be met in the submitted landscape plan. Street trees are counted as replacement trees. Trees removed for installation of public infrastructure are not required to be replaced, however they should be preserved where possible.

17.176.035 Open space requirements.

OPTION 1 (from City of Redmond):

Residential subdivisions shall incorporate "pocket parks" or "tot lots" at a ratio of 150 square feet of park area per dwelling unit. These pocket parks or tot lots shall be privately maintained and must be developed as either 'active-style' or 'passive-style'. Active-style parks shall be a minimum of 15,000 square feet in size, be consolidated in shape, and be configured/furnished for recreational activities such as sports, public/family gatherings, or pet areas. Passive-style parks may be any configuration or shape, and shall be landscaped for aesthetic value and to encourage passive enjoyment (i.e. walking, sitting, trails) without the use of any irrigated turf. No land located within public rights-of-way or a neighborhood or community park identified within the Parks Master Plan may count towards this requirement.

OPTION 2 (from City of Sherwood):

A. A minimum of five percent (5%) of the buildable site area (after exclusion of non-buildable land, such as streets, streams, slopes, open space, easements, and other rights-of-way) shall be maintained as open space. Open space must include usable areas such as public parks, grass areas for picnics and recreational play, walking paths, and other like space. Cottage cluster development is subject to the open space requirements of Section 17.106.040 and not to the requirements of this section. The following may not be counted as open space:

- 1. Required yards or setbacks.**
- 2. Required visual corridors.**
- 3. Areas of special flood hazard.**
- 4. Any area required to meet a standard found elsewhere in this code.**

B. Enhanced streetscapes such as "boulevard treatments" in excess of the minimum public street requirements may count toward a maximum of 10,000 square feet of the open space requirement.

- 1. Example: if a 52-foot-wide right-of-way is required for a 1,000 foot-long street and a 62-foot wide ROW with 5-foot additional plantings/meandering pathway is provided on each side of the street, the additional 10-foot-wide area x 1,000 linear feet, or 10,000 square feet, counts toward the open space requirement.**

C. The open space shall be conveyed in accordance with one of the following methods:

- 1. By dedication to the City as public open space (if acceptable to the City). Open space proposed for dedication to the City must be acceptable to the City Manager or designee with regard to the size, shape, location, improvement, environmental condition, and budgetary and maintenance abilities;**

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- 2. By leasing or conveying title (including beneficial ownership) to a corporation, homeowners' association or other legal entity, with the City retaining the development rights to the open space. The terms of such lease or other instrument of conveyance must include provisions (e.g., maintenance, property tax payment, etc.) suitable to the City.**
- D. The density of the site area dedicated as open space may be transferred to other lots within the subdivision, including reducing minimum lot sizes by up to twenty (20) percent to accommodate the transferred density.**
- E. If a proposed residential subdivision contains or is adjacent to a site identified as open space or park and recreation area in the Parks Development Plan, establishment of open space shall occur in the designated areas if the subdivision contains the park site, or immediately adjacent to the parks site if the subdivision is adjacent to it.**
- F. If the proposed residential subdivision does not contain or is not adjacent to a site identified as open space or parks and recreation area in the Parks Development Plan, the applicant may elect to convey off-site park/open space to meet the minimum open space requirement.**
- G. The value of the open space conveyed under subsection (A) above may be eligible for Parks System Development Charges (SDCs) credits based on the methodology identified in the most current Parks Development Plan.**

17.176.040 Final plat requirements.

- A. Preparation. The final plat shall be submitted to the city in a form and with information consistent with this title, county survey and map standards and state laws including ORS 92.010-160 for plats of record and ORS 209.250 for surveys.
- B. Number of Copies. The applicant shall submit three identical reproducible copies of the final plat for signature. The plats shall be Mylar, meeting the requirements of the county recorder and the county surveyor.
- C. Information Required. In addition to any information specified by current state law or county regulations, the following information shall be shown on the final plat:
1. The area of each lot shall be shown in square feet. For parcels larger than one acre, the area shall be shown to the nearest hundredth of an acre. When front lot lines are on a curve or arc, the front lot line distance shall be indicated by bearing and chord distance;
 2. Identification of land to be dedicated for any purpose, public or private, to distinguish it from lots or parcels intended for sale. The following phrases shall be used when identifying open space dedications:
 - a. Common open space: used to identify those parcels of land created for the purpose of common ownership, enjoyment and maintenance by an approved homeowner's association or is listed as being held in common ownership, with appropriate deed restrictions and responsibilities, by owner's of property within the development;
 - b. Public open space: used when identifying those parcels of land dedicated to the city for open space purposes.

17.176.050 Final plat approval.

- A. Within **eighteen (18) months two (2) years** of the final decision approving a preliminary plat, a final plat shall be ~~recorded~~ **submitted to the city**. If the final plat is not ~~recorded~~ **submitted** within ~~eighteen (18) months two (2) years~~, the preliminary approval shall lapse.
- B. The city manager shall upon written request by the applicant and payment of the required fee, grant an extension of the approval for a period not to exceed six (6) months provided that:
1. No changes are made to the approved preliminary plat; and
 2. There have been no changes in existing conditions, facts, or applicable policies or ordinance provisions on which the original approval was based.
- C. After the final plat has been submitted, the city staff shall review ~~and compare it with the approved preliminary plan to ascertain whether the final plat conforms substantially to preliminary plan and to the~~ **the final plat by means of a Type I review to determine compliance or noncompliance with the preliminary plat and any** conditions of approval as were imposed. ~~The chairperson shall signify Planning Commission approval of the final plat by signing all three reproducible copies of the plat.~~
- D. No final plat shall be approved unless:
1. The plat is in substantial conformance with this title and the provisions of the preliminary plan as approved, including any conditions imposed in connection therewith;
 2. The plat contains free and clear of all liens and encumbrances a donation to the public of all common improvements, including but not limited to streets, roads, sewage disposal and water supply systems, the donation of which is required by this title or was made a condition of the approval of the preliminary plat;
 3. Explanations of all common improvements required as conditions of approval of the preliminary plan have been recorded and referenced on the plat;
 4. All reserve blocks shown on the preliminary plan or required as conditions of approval have been deeded in fee simple to the city;
 5. The City Engineer certifies as follows:
 - a. All required public improvements are completed and approved by the city; or
 - b. All required public improvements are **substantially at least 90 percent** complete and a performance guarantee is provided **for incomplete work** pursuant to Section 17.216.010.
- E. If the city recorder finds that conditions specified in subsection D of this section have not been met, the applicant shall be advised of the changes that must be made and afforded the opportunity to comply. Rejection of a final plat shall not affect the preliminary plan approval.
- F. When the city recorder finds that the final plat is in substantial conformity to the approved preliminary plan and is otherwise in lawful form, the city recorder shall sign and date all three reproducible copies of the plat.
- G. Following endorsement of the plat by the city recorder, the mayor and the city engineer, the applicant shall:
1. Pay all required review fees;

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2. Complete all action required by ORS 92.100;
 3. Obtain any other approval signature required by state or county laws, ordinances or regulations;
 4. Deliver the approved subdivision plat and accompanying documents to the county clerk for recording;
 5. Deliver a signed Mylar copy and three (3) copies of the recorded subdivision plat to the city recorder's office.
- H. Effective Date for Final Plat Approval. The approval process for a development shall become final upon the recording of the approved final plat together with any required documents with the county clerk. Approved final plats shall become void eighteen (18) months after final city approval if they are not recorded.

17.176.060 Subdivision of a mobile home park.

The proposed subdivision of manufactured or mobile home parks under the requirements of ORS 92.830 to 92.845 shall be processed as follows.

- A. The subdivision of an existing mobile home park shall be approved provided:
 1. The park is in compliance with all standards for a mobile dwelling park or is an approved nonconforming use. A park is in compliance if the city has not issued a written notice of noncompliance on or before July 2, 2001;
 2. The tentative subdivision plan does not increase the number of lots approved for the park, change the boundary lines, or setback requirements, or make other development changes; and
 3. A plat is prepared and recorded in compliance with all regulations of this title and Oregon Revised Statutes.
- B. A subdivision of an existing mobile home park is not required to meet the minimum lot size, frontage, setback requirements, or street standards of this title, with the following exception that new structures located within yards abutting properties outside of the subdivision must meet all setback requirements or be approved for a variance.
- C. A subdivision of an existing mobile home park shall be subject to formation of a homeowners association for continued maintenance of streets and open space areas within the subdivision.

Chapter 17.180 ZONE CHANGE

17.180.010 Process.

Rezoning or zone changes shall be reviewed in accordance with the Type III review procedures.

17.180.020 Zone change defined.

A "zone change" is a reclassification of any area from one zone or district to another, after the proposed change has been reviewed and a recommendation made by the Planning Commission. Such change shall be passed in ordinance form by the City Council after proceedings have been accomplished in accordance with the following provisions.

~~17.180.030 Zone change procedure.~~

- ~~A. That there is a lack of other comparatively zoned property to satisfy the proposed use;~~
- ~~B. That the change of zone is in conformance with comprehensive plan, the Carlton development code, and any applicable street and highway plans;~~
- ~~C. That the proposed property is adequate in size and shape to facilitate those uses allowed in the proposed zone;~~
- ~~D. That the proposed property related to streets and highways is adequate to serve the type of traffic that will be generated by uses in proposed zone; and~~
- ~~E. That the proposed change of zone will have no substantial impact on the abutting property or the uses thereof.~~

17.180.040 Application and fee.

An application for a zone change shall be filed with the city recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this chapter.

17.180.050 Criteria for approval.

Zone change proposals shall be approved if the applicant provides evidence substantiating the following:

- A. The proposed zone is appropriate for the comprehensive plan land use designation on the property and is consistent with the description and policies for the applicable comprehensive plan land use classification.
- B. The uses permitted in the proposed zone can be accommodated on the proposed site without exceeding its physical capacity.
- C. Allowed uses in the proposed zone can be established in compliance with the development requirements in this title.
- D. Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property.
- E. There is a lack of other comparatively zoned property to satisfy the purpose of the proposed zone;**

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F. The change of zone is in conformance with the Carlton development code, and any applicable street and highway plans;

G. The proposed property related to streets and highways is adequate to serve the type of traffic that will be generated by uses in proposed zone; and

H. The proposed change of zone will have no substantial impact on the abutting property or the uses thereof.

- I. For residential zone changes, the criteria listed in the purpose statement for the proposed zone shall be met.
- J. The following additional criteria shall be used to review all nonresidential changes:
 - 1. The supply of vacant land in the proposed zone is inadequate to accommodate the projected rate of development of uses allowed in the zone during the next five years, or the location of the appropriately zoned land is not physically suited to the particular uses proposed for the subject property, or lack site specific amenities required by the proposed use;
 - 2. The proposed zone, if it allows uses more intensive than other zones appropriate for the land use designation, will not allow uses that would destabilize the land use pattern of the area or significantly adversely affect adjacent properties.

Chapter 17.184 ANNEXATION

17.184.010 Authority of city to annex.

The boundary of the city may be extended by the annexation of territory not then within the city and which territory is within the city's urban growth boundary and contiguous to the city or separated from it by a stream or right-of-way only.

17.184.020 Process.

Annexations shall be reviewed in accordance with the Type III review procedures.

- A. Following submission of annexation proposal or initiation, the city recorder shall set a date for hearing. Notice shall be pursuant to the proposed method of annexation.
- B. The Planning Commission shall hear testimony and shall recommend approval or denial of the proposed annexation and submit such recommendation to the council within ten (10) days for the hearing. The Planning Commission's decision shall, in a written form, state the rationale used in justifying the decision, and that the decision is in conformance with the city's comprehensive plan. For all annexations the decision shall state how the proposal will:
 1. Promote an orderly, timely and economical transition of rural and agricultural lands into urbanized lands;
 2. Relate to areas with natural hazards;
 3. Protect open spaces and scenic views and areas;
 4. Provide for transportation needs in a safe, orderly and economic manner;
 5. Provide for an orderly and efficient arrangement of public services;
 6. Affect identified historical sites and structures and provide for the preservation of such sites and structures;
 7. Improve and enhance the economy of the city; and
 8. Provide quality, safe housing through a variety of housing types and price ranges.
- C. The city recorder shall set a date for a public hearing with the council upon receipt of the Planning Commission's recommendation. Notice shall be pursuant to the proposed method of annexation. After considering all testimony the council shall sustain or reverse the Planning Commission's recommendation. The council shall, in a written form, state the rationale used in justifying the decision, and that the decision is in conformance with the city's comprehensive plan. The decision shall state how the proposed annexation will address the criteria stated in Section 17.184.020(B).

17.184.030 ~~Annexation by election~~ Reserved.

~~A. The council, upon approval of the annexation proposal, has the authority to submit the proposal for annexation to the registered voters of the city.~~

~~B. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose. The voters of the city and of the territory may vote upon the proposal for annexation simultaneously or at different times not more than twelve (12) months apart.~~

C. Two or more proposals for annexation may be voted upon simultaneously; however in the city each proposal shall be stated separately on the ballot and voted on separately, and in the territory proposed for annexation no proposal for annexing other territory shall appear on the ballot.

D. The council shall give notice of each annexation election by publication prior to such election one each week for four successive weeks in a newspaper of general circulation in the city. Whenever simultaneous elections are held, the same notice and publication shall fulfill the requirements of publication for the city election and the election held in the territory. Notice shall also be given by posting notices of the election in four public places within the city if votes are to be cast therein and four public places in each territory proposed to be annexed for a like period as provided in this chapter for publication of notice. The notice shall distinctly state the proposition to be submitted, shall contain a legal description of, and a map indicating the boundaries of each territory proposed to be annexed, and the registered voters shall be invited thereby to vote upon such annexation. The council shall also designate and the notice shall state the hours during which the polls will be open within the city and each territory proposed to be annexed. If the election is to be held at the usual precinct polling places designated for a general election held at that time, or if the election is not held at the same time as a general election, but is held at the same polling places used for the last preceding general election, the notice shall so state; if any polling place is to be different than the regular polling places, the notice shall describe the location of the polling places to be used in the area or precincts in which the polling places are different.

17.184.040 Annexation **without city election.**

- A. By ordinance, the council may elect to dispense with submitting the annexation proposal to the registered voters of the city, set a date for public hearing, at which time the registered voters of the city can be heard on the annexation proposal. **An annexation shall be subject to the review procedures for Type III actions in Chapter 17.188.**
- B. **In addition to the public notice requirements for Type III actions in Chapter 17.192:**
- 1.** Notice of the public hearing shall be published once a week for two successive weeks prior to the day of the hearing, in a newspaper of general circulation in the city, and posted in four public places in the city for a like period.
 - A 2.** Written notice shall be given to all property owners within the boundaries of the proposed annexation and within two hundred (200) feet of the external boundaries of the proposed annexation.

D. After the public hearing the council, by ordinance subject to referendum, and containing a legal description of the proposed annexation:

- 1.** Declare that the territory is annexed to the city upon the condition that the majority of the votes cast in the territory is in favor of annexation;
- 2.** Declare that the territory is annexed to the city where persons with land ownership in the proposed territory consent in writing to such annexation.

17.184.050 **Annexation with election in proposed territory Reserved.**

A. The council need not call or hold an election in any contiguous territory proposed to be annexed, or post notice in the contiguous territory, if more than half the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein

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representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file the annexation proposal on or before the day:

1. ~~The public hearing procedure shall be pursuant to Sections 17.184.020(A) and (B); and Sections 17.184.040(B) and (C). If the council dispenses with submitting the question to the registered voters of the city; or~~
2. ~~The council takes action to call an annexation election in the city under Section 17.184.030(D), if the council submits the question to the registered voters of the city.~~

17.184.060 Island annexation.

- A. It is within the power and authority of the city by ordinance subject to referendum, to annex land that is surrounded by the corporate limits or boundaries of the city, with or without consent of any property owner or resident in the territory.
- B. Notice and procedure for public hearing shall be provided pursuant to the provisions of Section 17.184.040.
- ~~C. If the council elects to submit the questions to the registered voters of the city, procedure shall be pursuant to Section 17.184.030.~~

17.184.070 Submission of annexation reports.

- A. The city shall report all changes in the boundaries or limits of the city to the county clerk, county assessor and Oregon Department of Revenue. The report shall contain a legal description of the new boundaries and shall be filed within ten (10) days from the effective date of the change of any boundary lines.
- B. With the exception of "island annexation" the city recorder shall submit to the Secretary of State:
 1. A copy of the annexation ordinance;
 2. An abstract of the vote within the city if votes were cast therein, which shall show the whole number of registered voters voting therein on the annexation, the number of votes cast in favor of, and against the annexation;
 3. A copy of the statement of consent of landowners in the territory annexed;
 4. A copy of the ordinance of the city declaring that no election is required in the city; and
 5. An abstract of the vote upon the referendum if a referendum petition was filed with respect to the deferred ordinance.

17.184.080 Effective date of annexation.

The annexation shall be complete from the date of filing with the Secretary of State as provided in ORS 222.150, 222.160, 222.170, and 111.900. Thereafter, the annexed territory shall be and remain part of the city. The date of such filing shall be the effective date of annexation, provided such filing is not made later than ninety (90) days prior to any general or primary election; otherwise, the effective date of such annexation shall be the day after the primary or general election next following the date of filing.

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17.184.090 Zone designation of annexed property.

The City Council shall establish the appropriate zoning, in conformance to the comprehensive plan, effective upon the effective date of the annexation of property to the city.

Division VII. ADMINISTRATIVE PROCEDURES

Chapter 17.188 APPLICATION PROCEDURES

17.188.005 Pre-application conference.

- A. A pre-application conference is recommended for Type II administrative applications and is required for Type III permits. The City Manager may waive this requirement in writing.
- B. The applicant shall file the appropriate application, pay the review fee and meet with the City Planner, other city staff and affected agencies. At the conference, the City Planner shall identify the relevant Comprehensive Plan policies, map designations, zone and development standards and procedural requirements that apply to the application. The Planner, staff and affected agencies shall provide technical direction and identify opportunities or constraints concerning the application.
- C. Failure of the city to provide any information required by this section does not constitute a waiver of any of the standards, criteria or requirements for the application. Due to possible changes in federal, state, regional and local law, the applicant is responsible for assuring the application complies with all applicable laws on the day the application is deemed complete.

17.188.010 Procedures for Type I action.

Applications subject to administrative review shall be reviewed and decided by the city manager or designee.

- A. Upon receipt of an application for a Type I ministerial land use action, ~~the city staff shall review the application for completeness.~~ the City Manager or designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application.
 - 1. ~~Incomplete applications shall not be reviewed until all required information has been submitted by the applicant;~~
 - 2. ~~If incomplete, the applicant shall be notified and provided additional time of up to thirty (30) days to submit supplemental information as necessary.~~

On the 181st day after first being submitted, the application is void if the applicant has been notified of missing information within the 30-day period and has not submitted:

 - 1. All of the missing information; or
 - 2. Some of the missing information and written notice that no other information will be provided; or
 - 3. Written notice that none of the missing information will be provided.
- B. The application shall be deemed complete either:
 - 1. Upon receipt of the all additional information; or, if the applicant ~~refuses to submit~~ written notice indicating no other ~~the~~ information will be provided; or

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2. On the thirty-first (31st) day after the original submittal ~~the application shall be deemed complete for review purposes.~~ **date if the city has not informed the applicant of missing information.**
- C. Referrals may be sent to interested agencies such as city departments, the school district, utility companies, and applicable state agencies. If a county road or state highway might be impacted, referrals should be sent to Yamhill County public works and/or ODOT.
 - D. ~~All subdivisions, permits for new structures, conditional use permits and planned unit developments on any land illustrated on the NWI/LWI Maps shall be referred within five days of receipt, to~~ **If applications for Type I ministerial review include the scope of work described under ORS 227.350, the Oregon** ~~Division~~ **Department** of State Lands **shall be notified, and** ~~the~~ **the** applicant shall be notified of the referral.
 - E. If the city manager **or designee** finds that the facts of the particular case require interpretation of city policy or application of discretionary standards, then the city manager shall inform the applicant in a timely manner that the application, as submitted, may be processed only through a Type III **quasi-judicial** review. The applicant shall then have the option of modifying the application to conform to the requirements for a Type I **ministerial** review, withdrawing the application, or proceeding with a Type III **quasi-judicial** review, including a public hearing before the Planning Commission. Where the applicant consents to elevating the application to a Type III **quasi-judicial** review, the applicant shall pay a fee to the city for the ~~Type II~~ **applicable** review but shall be credited in an amount equal to the ~~Type I~~ **review** fee previously paid. ~~Finally, the procedures for conducting a public hearing shall comply with the standards in Chapter 17.196.~~
 - F. ~~Within thirty (30) days of~~ **Following** receipt of a complete application ~~or such longer period mutually agreed to by both staff and the applicant,~~ ~~staff~~ **the City Manager or designee** shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria. **The city shall take final action on an application for Type I ministerial permit, including resolution of all appeals in accordance with ORS 227.180, within 120-days after the application is deemed complete.**
 - G. Written notice of a Type I **ministerial** decision shall be mailed to the applicant.
 - H. The applicant for a Type I **ministerial** review may appeal city staff's decision on the application to the Planning Commission. The appeal shall be filed, pursuant to the provisions of Chapter 17.204, within **ten (10)** days from the date of the decision.
 - I. The timing requirements established in this section are intended to allow a final action, including resolution of any appeals, within one hundred twenty (120) days of receipt of a complete application. ~~If for any reason it appears that such final action may not be completed within the one hundred twenty (120) day period, unless the applicant voluntarily extends the time period, the following procedures shall be followed regardless of other processes set forth elsewhere in this title.~~
 1. ~~The city staff shall notify the City Council of the timing conflict by the ninety fifth (95th) day. The City Council shall, in accordance with its own procedures, set a time for an emergency meeting within the one hundred twenty (120) day period;~~
 2. ~~Public notice shall be mailed to affected parties as specified in Chapter 17.192;~~

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~~3. The City Council shall hold a public hearing on the specified date, in accordance with the provisions of Chapter 17.200 and render a decision approving or denying the request within the one hundred twenty (120) day period.~~

17.188.020 Procedures for Type II and Type III actions.

- A. Upon receipt of an application for Type II **administrative** or Type III **quasi-judicial** land use action, the city staff shall review the application for completeness.
1. Incomplete applications shall not be scheduled for Type II **administrative** or Type III **quasi-judicial** review until all required information has been submitted by the applicant;
 2. If incomplete, the ~~applicant shall be notified and provided additional time of up to thirty (30) days to submit supplemental information as necessary.~~ **City Manager or designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application to submit the missing information.**

On the 181st day after first being submitted, the application is void if the applicant has been notified of missing information within the 30-day period and has not submitted:

 - a. **All of the missing information; or**
 - b. **Some of the missing information and written notice that no other information will be provided; or**
 - c. **Written notice that none of the missing information will be provided.**
- B. The application shall be deemed complete for the purposes of scheduling the hearing and all related timing provisions either:
1. Upon receipt of the additional information; or, if the applicant ~~refuses to submit~~ **written notice indicating no other** ~~the~~ information **will be provided; or**
 2. On the thirty-first (31st) day after the original submittal ~~the application shall be deemed complete for scheduling purposes only.~~ **date if the city has not informed the applicant of missing information.**
- C. Applications for more than one Type II **administrative** or Type III **quasi-judicial** land use action for the same property may, at the applicant's discretion, be combined and heard or reviewed concurrently.
- D. Referrals may be sent to interested agencies such as city departments, the school district, utility companies, and applicable state agencies. If a county road or state highway might be impacted, referrals should be sent to Yamhill County public works and/or ODOT.
- E. All **work described in ORS 227.350, including but not limited the applications for** subdivisions, permits for new structures, conditional use permits and planned unit developments on any land illustrated on the NWI/LWI Maps shall be referred within five days of receipt to the Oregon ~~Division~~ **Department** of State Lands. The applicant shall be notified of the referral.
- F. ~~The public hearing shall be scheduled and notice shall be mailed to the applicant and adjacent property owners.~~ Notice requirements shall comply with Section 17.192.020.
- G. **For applications subject to the Type III quasi-judicial procedure,** ~~S~~ staff shall prepare and have available within seven days of the scheduled hearing a written recommendation concerning the

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proposed action. This report shall be mailed to the applicant and be available at City Hall for all interested parties.

- H. **For applications subject to the Type III quasi-judicial procedure,** ~~the~~ the public hearing before the Planning Commission shall comply with the provisions in Chapter 17.196.
- I. Approvals of any Type II **administrative** or Type III **quasi-judicial** action 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 from potential adverse impacts caused by a proposed land use described in an application. Conditions shall be related to the following:
 - a. Protection of the public from the potentially deleterious effects of the proposed use; or
 - b. Fulfillment of the need for public service demands created by the proposed use;
 2. Changes or alterations of conditions shall be processed as a new administrative action;
 3. All conditions of approval required by the city for a Type II **administrative** or Type III **quasi-judicial** approval shall be completed prior to the issuance of building permits, except that the Planning Commission may stipulate that some conditions be completed prior to issuance of building occupancy permits when the former is impractical. When an applicant provides information demonstrating to the satisfaction of the Planning Commission that it is not practical to fulfill all conditions prior to issuance of a building permit, the applicant must complete a performance guarantee for required improvements pursuant to Chapter 17.216.
- J. **For applications subject to the Type II administrative procedure,** ~~the~~ the applicant shall be notified in writing of the ~~Planning Commission~~ **City Manager's** decision ~~or recommendation~~. In addition, notice of the ~~commission~~ **City Manager's** decision shall be mailed to individuals, ~~who request such notice at the public hearing, or, by those individuals~~ who submitted a written ~~request for notice prior to the public hearing~~ **comments during the 20-day comment period as described in Chapter 17.192.020. For applications subject to the Type III quasi-judicial procedure, the Planning Commission's or City Council's decision shall be mailed to the applicant and all individuals having submitted written comments during the 20-day notice period as described in Chapter 17.192.030, and to individuals having submitted written or oral comments during the public hearing(s).**
- K. ~~Either the applicant or persons receiving notice of the decision may appeal a Type II land use decision to the City Council. The appeal shall be filed within days from the date of the decision, pursuant to the provisions of Chapter 17.204. Type III land use applications are automatically reviewed by the City Council.~~ **Standing to appeal a Type II or Type III decision and requisite timing to submit an appeal is governed by procedures identified in Chapter 17.204.**
- L. The timing requirements established by this section are intended to allow a final action, including resolution of appeals for all land use actions within one hundred twenty (120) days of receipt of a complete application, ~~except for Type III~~ **quasi-judicial** actions. If for any reason it appears that such final action may not be completed within the one hundred twenty (120) day period, unless the applicant voluntarily extends the time period, the following procedures shall be followed regardless of other processes set forth elsewhere in this title.

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1. The city staff shall notify the City Council of the timing conflict by the ninety-fifth (95th) day. The City Council shall, in accordance with its own procedures, set a time for an emergency meeting within the one hundred twenty (120) day period;
2. Public notice shall be mailed to affected parties as specified in Chapter 17.192;
3. The City Council shall hold a public hearing on the specified date, in accordance with the provisions of Chapter 17.200 and render a decision approving or denying the request within the one hundred twenty (120) day period.

17.188.030 Consolidated review.

When an applicant applies for more than one type of land use or development permit for the same one or more contiguous parcels of land, the proceedings may be consolidated for review and decision at the applicant's request. When proceedings are consolidated, the highest level of review shall be applied to the consolidated application. Required notices may be consolidated, provided the notice shall identify each application to be decided. When more than one application is reviewed in a hearing, separate findings and decisions shall be made on each application.

Chapter 17.192 PUBLIC NOTICE REQUIREMENTS

17.192.010 Type I ~~actions~~ public notice requirements.

Not all Type I **ministerial** actions ~~require~~ **are not subject to** public notice; only ~~those that involve~~ the exercise of discretion require notice. Where written notice of a Type I **ministerial** decision is required ~~or otherwise provided it~~ **and** shall be mailed to the applicant.

17.192.020 Type II ~~actions~~ public notice requirements.

- A. Written **public** notice of ~~the initial public hearing on a~~ **pending** Type II **administrative** action shall be mailed ~~at least twenty (20) days prior to the hearing date~~ to the owners of property within one hundred (100) feet of the boundaries of the subject property **at least twenty (20) days before the City Manager or designee issues a written decision**; the City Manager at his or her discretion may mail notices to owners of property within a larger radius, where the project is likely to a wider impact (e.g., traffic, noise, parking, etc.). Applicants shall be responsible for providing a certified list of property owners within the notice area prepared by Yamhill County or a title company. The list must be current within the last thirty (30) days.
- B. Type II **administrative** actions do not require notice in a newspaper, but the city may publish such notice at the city manager's discretion. Notice for annexations shall be as set forth in Chapter 17.184.

C. Written notice of a pending Type II administrative action shall include the following:

- 1. The city case file number of the application(s), the nature of application(s) and proposed use or uses which could be authorized.**
- 2. A list of applicable standards and criteria from the Development Code and Comprehensive Plan that apply to the application(s) at issue.**
- 3. Street address or other easily understood geographical reference to the subject property.**
- 4. A statement that advises submitting written comments for consideration no later than the end of the comment period for standing to appeal the decision. The comment deadline date and time shall also be shown.**
- 5. State that failure of an issue to be raised, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals, based on that issue.**
- 6. Name of the city representative to contact and the telephone number where additional information may be obtained.**
- 7. State that a copy of the application, all documents and evidence relied upon by the applicant and application criteria are available for inspection at no cost and a copy will be available at reasonable cost.**
- 8. State that a decision by the City Manager shall be made after the comment closing date and will be mailed to the applicant and those individuals having provided written comments during the comment period.**

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17.192.030 Type III and Type IV ~~actions~~ public notice requirements.

- A. Written notice of the initial public hearing on a Type III **quasi-judicial** or Type IV **legislative** action shall be mailed at least twenty (20) days prior to the hearing date to the owners of property within one hundred (100) feet of the boundaries of the subject property, as applicable; the City Manager at his or her discretion may mail notices to owners of property within a larger radius, where the project is likely to a wider impact (e.g., traffic, noise, parking, etc.). Applicants for Type III **quasi-judicial** reviews shall be responsible for providing a certified list of property owners within the notice area prepared by Yamhill County or a title company. The list must be current within the last thirty (30) days.
- B. At least thirty-five (35) days before the date of the first hearing on an **ordinance application** that proposes to amend the comprehensive plan, **development code**, or any element thereof, or ~~to adopt~~ an **ordinance application** for any zone change, the city shall notify **the Department of Land Conservation and Development (DLCDC)** of the proposed action.
- C. At least twenty (20) days, but not more than forty (40) days, before the date of the first hearing on an **ordinance application** that proposes to amend the comprehensive plan, **development code**, or any element thereof, or ~~to adopt~~ an **ordinance application** for any zone change, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
1. Each owner whose property would be directly affected by a rezoning or a change from one comprehensive plan land use category to another, as applicable;
 2. Each property owner whose property value may be diminished if the proposed amendment is adopted because the amendment limits or prohibits a previously allowed use;
 2. Any affected governmental agency;
 3. Any person who requests notice in writing; and
 4. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175;
- ~~C.D.~~ At least ten (10) days before the scheduled public hearing date **for a Type III quasi-judicial or Type IV legislative action**, public notice shall be published in a newspaper of general circulation in the City.
- ~~D.E.~~ For each mailing and publication of notice, the city shall keep an affidavit of mailing/publication in the record.

~~17.192.040 Notice for appeals.~~

~~Notice of hearings on appeal to the City Council shall be pursuant to Section 17.192.020, and shall include written notice at least ten (10) days prior to hearing to the appellant, the applicant and any other individuals who received notice of the original decision.~~

~~17.192.050 Notice requirements.~~

- ~~A.F.~~ Public notices for Type ~~II~~ and III **quasi-judicial** and **Type IV legislative** actions shall **include the following**:
1. **Case file number of the application(s)**, ~~explain the~~ nature of the applications, and the proposed use or uses that could be authorized;

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2. Cite the applicable criteria from this title and the plan that apply to the application at issue;
3. **Set forth the A** street address or other easily understood geographical reference to the subject property;
4. State the date, time and location of the hearing;
5. **A S** **statement** that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide **statements or evidence** sufficient **specificity** to afford the decision maker an opportunity to respond to the issue precludes appeal to the land use board of appeals **based on that issue**;
6. Include the name of the city representative to contact and the telephone number where additional information may be obtained;
7. State that a copy of the application, all documents and evidence relied upon by the applicant and application criteria are available for inspection at no cost and a copy will be available at reasonable cost;
8. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost;
9. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearing.

B-G. Public notices for Type IV **legislative** actions that **potentially limit or prohibit land uses previously allowed in the affected zone or** "rezone property" **as defined in a manner as described** by ORS 227.186(9), **shall be approved in advance by the City Council and shall contain additional information as described by ORS 227.186 and shall** be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone, at least twenty (20) days, but not more than forty (40) days, before the date of the first public hearing. **The notice shall:**

1. **Include the following language in boldfaced type extending from the left hand margin to the right hand margin across the top of the face page of the notice:**

This is to notify you that the City of Carlton has proposed a land use regulation that will affect the permissible uses of your land.

2. **Include in the body of the notice:**

On (date of public hearing), the City of Carlton will hold a public hearing regarding the adoption of Ordinance Number _____. The City of Carlton has determined that adoption of this title will affect the permissible uses of your property and may reduce the value of your property.

Ordinance Number _____ is available for inspection at the Carlton City Hall located at 191 E. Main Street. A copy of Ordinance Number _____ also is available for purchase at a cost of _____.

For additional information concerning Ordinance Number _____, you may call the Carlton City Recorder 503-852-_____.

3. **If notice is pursuant to a requirement of periodic review, the body of the notice shall include in lieu of subsection (B)(2) of this section:**

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As a result of an order of the Land Conservation and Development Commission, has proposed Ordinance Number _____. The City of Carlton has determined that adoption of this title will affect the permissible uses of your property and may reduce the value of your property.

Ordinance Number _____ will become effective on _____.

Ordinance Number _____ is available for inspection at the Carlton City Hall located at 191E Main Street. A copy of Ordinance Number _____ also is available for purchase at a cost of _____.

For additional information concerning Ordinance Number _____, you may call the Carlton City Recorder 503-852-_____.

- C. ~~Notice of public hearing by the Planning Commission or City Council on any Type IV action shall be published in a newspaper of general circulation a minimum of ten (10) days prior to the date of the hearing.~~
- D. ~~Notice of a Type IV hearing shall be provided to the Oregon Department of Land Conservation and Development at least thirty five (35) days prior to the first evidentiary hearing by the city on any Type IV action.~~

Chapter 17.196 PUBLIC HEARING BEFORE THE PLANNING COMMISSION

17.196.010 General provisions.

- A. Land use actions that require a public hearing by the Planning Commission shall be initially heard by the Planning Commission within sixty (60) days of the receipt of a complete application or appeal.
- B. The Planning Commission may continue a public hearing for additional, information, testimony or for decision, to its next regular meeting or to a special meeting. In no instance, however, shall the decision be continued more than sixty (60) days beyond the initial hearing date.
- C. 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.
- D. The decisions of the Planning Commission on applications for Type II **quasi-judicial** actions shall be final unless appealed to the City Council pursuant to Chapter 17.204.
- E. The recommendations of the Planning Commission on applications for Type III **quasi-judicial** actions **that pertain to Zone Change, Annexation or Street Vacation** shall be referred to the City Council for final determination, pursuant to Chapter 17.200.
- F. An issue that may be the basis for an appeal to the land use board of appeals (LUBA) may 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 City Council or Planning Commission, and the parties, an adequate opportunity to respond to each issue.
- G. Appeal of a Type I **ministerial** action shall be heard by the Planning Commission in accordance with provisions of Chapter 17.204. Findings of the Planning Commission on such appeal shall be final ~~unless further appealed to the City Council.~~

17.196.020 Public hearing procedures.

- A. The public hearing shall be conducted under the following procedures:
 1. Open the public hearing, announce the purpose, and explain the process.
 2. A prepared statement shall be made to all in attendance that conforms to ORS 197.763 **797**(5).
 3. Ask for objections to jurisdiction.
 4. ~~Call for abstentions.~~ **Call for decision makers to declare any bias, conflicts of interests or exparte contacts.**
 5. Staff report with initial recommendation.
 6. Letters.
 7. Public agencies.
 8. Proponents' testimony.
 - a. Principal;
 - b. Others.

9. Opponents' testimony.
10. Questions of proponents and opponents from the floor and commission/council directed through chair/mayor.
11. Proponent rebuttal.
12. Staff final recommendation.
13. Close of hearing.
14. Deliberation of commission/council of findings of fact.
15. Decision.

17.196.030 Evidence.

- A. All evidence offered and not objected to may be received unless excluded by the Planning Commission on its own motion. Evidence may be received subject to a later ruling as to its admissibility.
- B. The Planning Commission may exclude irrelevant, unduly repetitious, immaterial or cumulative evidence; but erroneous admission of evidence by the commission shall not preclude action or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party. When a hearing will be expedited, any part of the evidence may be received in written form.
- C. All evidence shall be offered and made a part of the public record in the case.
- D. The Planning Commission may take notice of judicially recognizable facts, and members may take notice of general, technical or scientific facts within their specialized knowledge. Parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of the material so noticed. Parties shall be afforded an opportunity to contest the facts so noticed. **For quasi-judicial hearings,** ~~The~~ Planning Commission members **shall not introduce evidence but** may utilize their experience, technical competence and specialized knowledge in evaluation of the evidence presented.
- E. Every party is entitled to an opportunity to be heard and to present and rebut evidence.
- F. All interested persons shall be allowed to testify.

17.196.040 Record of hearing.

A verbatim record of the proceeding shall be made by written, mechanical or electronic means, which record need not be transcribed except upon review of the record.

17.196.050 Limits on oral testimony.

The Planning Commission chair may set consistent, reasonable time limits for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing.

17.196.060 Exhibits.

All exhibits received shall be marked so as to provide identification upon review. The city shall retain such exhibits.

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17.196.070 Continued hearing.

The Planning Commission may during the course of the hearing, continue a hearing to a date, time and place announced at the hearing without additional notification.

Chapter 17.200 REVIEWS AND PUBLIC HEARING BY CITY COUNCIL

17.200.010 General provisions.

- A. Type III **quasi-judicial** Reviews. The City Council shall hear all Type III **quasi-judicial** actions **that pertain to Zone Change, Annexation or Street Vacation**. The City Council action on such requests shall be the final action of the city on the request.
- B. Appeals. The City Council shall hear appeals of all Planning Commission actions conducted pursuant to Chapter 17.204. The appeal hearing shall be conducted in a manner consistent with Chapter 17.196. The action of the Planning Commission shall be final and the council shall not hear the appeal if the appeal period has lapsed.
- C. All hearings or reviews required by the City Council shall be heard within thirty (30) days of the Planning Commission's written decision or appeal request. In no instance, however, shall this period extend the date of the hearing and final action beyond one hundred twenty (120) days from the date of the initial submission of a complete application, unless voluntarily agreed to by the applicant.
- D. The decision shall be made by the City Council and written findings prepared listing findings for approval or denial, and any conditions of approval, within two weeks of the hearing by the City Council. In no case, however, shall this decision and the preparation of written findings extend beyond one hundred twenty (120) days from the date of initial submittal of a complete application, unless voluntarily agreed to by the applicant.

17.200.020 Hearing by City Council.

Actions on quasi-judicial requests shall be conducted at public hearing pursuant to the City Council's adopted rules of procedure. The City Council shall allow opportunity for all parties to be heard and may accept new evidence.

17.200.030 Review of the record and action by City Council for appeals.

- A. Review on Record. Except as set forth in Section 17.200.030(B), the City Council review of an appeal on an action by the Planning Commission shall be confined to the record of the initial proceeding. Parties may offer testimony regarding alleged errors in the Planning Commission action. The meeting shall be conducted as set forth in the City Council's adopted rules of procedures. The record of the initial proceeding shall include:
 - 1. All materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and received or considered by the Planning Commission as evidence;
 - 2. All exhibits submitted by the city staff with respect to the application;
 - 3. The transcript of the hearing; and
 - 4. The findings and action of the Planning Commission and the notice of decision.
- B. Submission of New Testimony and De Novo Hearings. The City Council may admit additional testimony and other evidence by holding a de novo hearing. Upon the decision to admit additional testimony or other evidence and to hear the entire matter de novo, the presentation of such testimony and evidence shall be governed by the procedures applicable to the presentation of such matters at the initial hearing.

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- C. City Council Action. The City Council may affirm, rescind or amend the action of the Planning Commission and may grant approval subject to conditions necessary to carry out the comprehensive plan. The City Council may also remand the matter back to the Planning Commission for additional information, subject to the agreement of the applicant to extend the 120-day review period.

Chapter 17.204 APPEAL PROVISIONS

17.204.010 Standing to Appeal and time period.

- A. **Appeal of a Type I Ministerial Decision.** The decision of the city manager shall be final for a Type I ministerial land use decision unless a notice of appeal from an appropriate aggrieved party the applicant is received by the city within ten (10) days of the date of the final written notice, or unless the City Council, on its own motion, orders review within ten (10) days of initial action. An appeal stays the proceedings in the matter appealed until the determination of the appeal. **The final appellate decision-making authority on appeal of a Type I decision shall be the Planning Commission.**
- B. **Appeal of a Type II Administrative Decision.** The decision of the Planning Commission City Manager for a Type II administrative land use decision, or the appeal of a Type I administrative decision, shall be final unless a notice of appeal from an aggrieved party is received by the city the decision is appealed by the applicant or by any person who submitted written testimony prior to mailing the notice of decision. **Appeal of a Type II administrative decision must be received by the city** within ten (10) days of the date of the final written notice, or unless the City Council, on its own motion, orders review within ten (10) days of initial action. An appeal stays the proceedings in the matter appealed until the determination of the appeal. **The final appellate decision-making authority on appeal of a Type II decision shall be the Planning Commission.**
- C. **Appeal of a Type III Quasi-Judicial Decision.** **The decision of the Planning Commission for a Type II quasi-judicial decision shall be final unless the decision is appealed by the applicant or by any person who provided either oral or written testimony to the record leading to the decision. Appeal of a Type III quasi-judicial decision must be received by the city within ten (10) days of the date of the final written notice, or unless the City Council, on its own motion, orders review within ten (10) days of initial action. An appeal stays the proceedings in the matter appealed until the determination of the appeal. The appellate decision-making authority on appeal of a Type III decision shall be the City Council.**
- D. **Type IV legislative land use decisions can be appealed to LUBA within twenty-one (21) days after the land use decision becomes final as described by OAR 661-010-0010(3).**

17.204.020 Form of appeal.

Appeal requests shall be made on forms provided by the city and shall state the alleged errors in the Planning Commission action.

17.204.030 Notice requirements.

- A. Notice of hearings by the Planning Commission on appeal requests shall be as specified in Chapter 17.192.
- B. Notice of hearings by the City Council on appeal requests shall be as specified in Chapter 17.192.

17.204.040 Supplemental application for remaining permitted uses following denial of initial application

As described in ORS 227.184, following denial of an initial application an applicant may submit a supplemental application for remaining permitted uses.

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- 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 two hundred forty (240) days after the application is deemed complete. Except that two hundred forty (240) days shall substitute for one hundred twenty (120) days, all other applicable provisions of ORS 227.178 ("The 120-Day Rule") shall apply to a supplemental application submitted under this section. See Section 17.188.010.
- 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.

17.204.050 Review of the record and action by the Planning Commission for appeals.

A. Review on Record. Planning Commission review of an appeal on an action by the City Manager shall be confined to the record of the initial proceeding. Parties may offer testimony regarding alleged errors in the City Manager decision. The record shall include:

- 1. All materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and received or considered by the City Manager as evidence;**
- 2. All exhibits submitted by the city staff with respect to the application;**
- 3. Notice of decision issued by the City Manager.**

B. Planning Commission Action on Appeal. The Planning Commission may affirm, rescind or amend the decision of the City Manager, in addition to amending conditions of approval.

Chapter 17.208 FEES

17.208.010 Purpose.

Fees are for the purpose of defraying administrative costs.

17.208.020 General provisions.

- A. Fees shall be payable at the time of application and shall be set forth by resolution of the City Council. There shall be no fee required for an application initiated by the Planning Commission or the City Council.
- B. The failure to submit the required fee with an application or notice of appeal, including return of checks unpaid or other failure of consideration, shall be a jurisdictional defect.
- C. Fees are not refundable unless the application is withdrawn prior to the notification of the hearing.
- D. The City Council may reduce or waive the fees upon showing of just cause to do so.

17.208.030 Transcript fees.

In addition to other fees for appeal requests, any person requesting a verbatim transcript shall pay a fee equal to the actual cost of the preparation of the transcript. The cost of the transcript fee shall be determined by the cost per page for the preparation of such transcripts, at an appropriate rate. The city shall estimate the cost of the transcript at the time of the filing of the appeal request and shall receive a deposit in that amount. Any person requesting a verbatim transcript shall be billed for actual costs in excess of the deposit or receive a refund for surplus deposit funds in excess of transcript fees authorized by this section.

Chapter 17.212 TYPE IV ACTIONS

17.212.010 Initiation.

Type IV **legislative proceedings** may be initiated by:

- A. Majority vote of the City Council.
- B. Majority vote of the Planning Commission.

17.212.020 Procedure for Type IV actions.

~~A. Public Hearings by Planning Commission.~~

- ~~1. A public hearing shall be held by the Planning Commission on all proposed amendments to this title and on all legislative amendments and revisions of the comprehensive plan.~~
- ~~2. The Planning Commission may continue any hearing in order to make a reasonable decision.~~

~~B. Public Hearing by City Council. Following Planning Commission action, the City Council shall hold a public hearing to consider the Planning Commission's recommendation on proposed amendments. Notice shall be as specified in Chapter 17.192.~~

A. All Type IV legislative actions require two hearings, one before the Planning Commission and one before the City Council. The public hearings shall be scheduled and notice shall be mailed to the affected property owners. Notice requirements shall comply with Section 17.192.030.

B. Staff shall prepare and have available within seven days of the scheduled hearing a written recommendation concerning the proposed action. This report shall be available at City Hall for all interested parties.

C. The public hearing before the Planning Commission shall comply with the provisions in Chapter 17.196. The Planning Commission shall make a recommendation to the City Council to adopt, adopt with modifications, adopt an alternative, or deny the Type IV action.

D. The City Council shall hold a public hearing and comply with the provisions in Chapter 17.200. The City Council shall vote to adopt, adopt with modifications, adopt an alternative, deny, or remand to the Planning Commission for rehearing and reconsideration on all or part of the Type IV action. The City Council may consider the recommendation of the Planning Commission, however, it is not bound by the Planning Commission's recommendation.

E. The City Council's decision shall be mailed to all individuals having submitted written or oral comments during the public hearing(s).

F. The decision on a Type IV action is final and effective on the date specified in the enacting ordinance.

Chapter 17.216 PERFORMANCE GUARANTEES

17.216.010 Performance guarantee.

When required, the applicant shall file a performance guarantee to insure the full and faithful performance of all terms of an improvement agreement, if any, or to ensure completion of all work for which permits are required. The guarantee shall contain an agreement between the developer and city that no building permit for any structure within the development will be issued until the city finds that all required improvements are complete, except where the Planning Commission has stipulated differently **in a final land use decision**, ~~per Section 17.188.120~~. The agreement shall provide one of the following:

- A. A surety bond executed by a surety company authorized to transact business in the State of Oregon, in a form approved by the city attorney in an amount equal to one hundred twenty (120) percent of the construction cost of required improvements, as verified by the city.
- B. A deposit with the city, or at the option of the city, a verified deposit with a responsible escrow agent or trust company, of cash or negotiable bonds in an amount equal to one hundred twenty (120) percent of the construction costs of the required improvements, together with an agreement that the deposit may be disbursed only upon city approval of disbursement. The agreement shall include a provision that the city shall allow release of the deposit in such amounts and at such times as a corresponding proportion of the required improvements are completed to the satisfaction of the city engineer following an inspection by the city engineer or the engineer's authorized representative.
- C. An irrevocable letter of credit pledging that funds equal to one hundred twenty (120) percent of the construction cost of all required improvements are available to the applicant and are guaranteed for payment for the improvements. An irrevocable letter of credit is acceptable.

17.216.020 Failure to complete improvements.

If the applicant fails to complete all improvements required by the city, the city shall estimate the cost of completing any required improvement(s). The city shall then call on the bond or deposit for the funds necessary to complete the improvement. If the amount obtained from the bond or deposit is insufficient to complete the improvement, or no bond or deposit was obtained, the city may either hold the collected funds until additional funds are available from the applicant or, the city may perform improvement on a portion of the improvement as determined reasonable. Following final inspection of the improvement, and if the bond or deposit exceeds the actual cost to the city of completing the improvement, the remainder shall be released. If collected funds were inadequate to compensate the city for all reasonable costs, then the city may pursue all legal and appropriate remedies to collect any funds due to the city. These remedies shall include placing a lien on the real property where the city paid improvement was performed. Funds payable to the city shall also be a personal debt and obligation of the owner.

17.216.030 Improvement deferral.

- A. If public improvements are required as a condition of approval of a land division action under this title, such improvements shall be the obligation of the applicant, and but may not be deferred except by specific approval by the city council or planning commission. Such approval shall not be granted where the required improvements are necessary to provide adequate access or utility

service to the proposed development, or where it will compromise the health or safety of the public, or result in violations of City or state codes.

- B. Upon approval of a variance to allow a construction deferral agreement, the improvements may be deferred on all or a portion of the public improvements specifically approved by the city council or planning commission required as a part of the condition of approval under this title, until the a stated time such as the owner applies for a building permit or certificate of occupancy, or until required by council, whichever is earlier indicated in the notice of decision. A property owner seeking deferral under this title shall sign an improvement construction deferral agreement that runs with the property, until the owner installs the required improvements or until such improvements are required to be completed by the city council or planning commission. Said construction deferral agreement shall be in a form approved by the city attorney, shall be recorded with Yamhill County, and shall be filed in the office of the city recorder. The deferral agreement shall be subject to requirements of Section 17.88.050 relating to prohibition against issuance of building permits prior to completion of said improvements.
- C. Where allowed under Section 17.88.050, In lieu of an improvement deferral agreement, the council or planning commission may approve require a non-remonstrance agreement in lieu of an improvement deferral agreement. Such a non-remonstrance agreement shall be in for approved by the city attorney, and shall be recorded with Yamhill County and would run with the property until the city installs the improvements and assesses the property owner the owner's proportionate cost of the improvements.

Chapter 17.220 REVOCATION OF DECISION

17.220.010 Compliance with conditions.

Compliance with conditions imposed by the city manager, Planning Commission or City Council in granting a permit for any land use action shall be required. Any departure from these conditions of approval and approved plans constitutes a violation of this title.

17.220.020 General provisions.

- A. The city ~~recorder~~ **manager** may initiate ~~a~~ **proceedings for** revocation of any land use permit or approval issued for failure to comply with any prescribed condition of approval. The hearing shall be conducted as a Type II **quasi-judicial** hearing and in accordance with the procedures for a Type III **quasi-judicial** hearing.
- B. Final decisions regarding comprehensive plan text or map amendments, development code text amendments or zone changes shall not be subject to revocation.



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**CITY COUNCIL REGULAR SESSION AGENDA
TUESDAY, FEBRUARY 6, 2024
VIA ZOOM & 945 WEST GRANT STREET, CARLTON OR**

The Mission of the City of Carlton is to safeguard and enhance the vitality and livability of the community by providing essential services with professionalism and integrity.

8:00 PM CITY COUNCIL REGULAR MEETING

Page

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PLEDGE OF ALLEGIANCE**
- 4. CHANGES OR ADDITIONS TO THE AGENDA**
- 5. CEREMONIES/APPOINTMENTS/ANNOUNCEMENTS**
- 6. CITIZEN COMMENTS**

This section of the agenda allows members of the public to address the City Council on any items off or on the agenda. When invited by the Mayor, members of the public shall come forward, state their name and street address, and direct all comments to the Mayor. Comments are typically limited to three (3) minutes unless additional time is allowed by the Mayor.

- A. Items NOT on Agenda
- B. Items on the Agenda

7. CONSENT AGENDA

- A. Meeting Minutes – *Approve*
 - 1. City Council – January 9, 2024 82
- B. Accounts Payable report 85
- C. Finance reports 87
- D. Current Vacation Rental statistics 93

8. ORDINANCES/RESOLUTIONS/DISCUSSION/ACTION ITEMS

- A. Market Street Sanitary Line Change Order 96
- B. CIS Park Risk Assessment Review *Guest: Margaret Ryan with CIS* 102
- C. Cycle Yamhill County presentation *Guest: Casey Kulla* 130
- D. Ordinance 2024-747; *2nd Reading* 132
- E. 2024-25 Council Goal approval 147
- F. Ordinance 2024-748; *1st Reading/2nd possible* 155
- G. Resolution 2024-352 161
- H. Participation Policy 164

9. ADJOURNMENT

The public is encouraged to join the meeting virtually using Zoom due to a lack of seating space. Please use the following directions:

To join using a computer, please use this link:
<https://us02web.zoom.us/j/89187837300?pwd=V3VuZUprUlhRWmthbWN3S3IKS1pUQT09>

To join using a phone, call: 1-253-215-8782 and enter Meeting ID: 891 8783 7300 and enter Passcode: 674123



City Council Work Session Minutes
Tuesday, January 9, 2024
Via Zoom and at 945 W Grant Street, Carlton, Oregon

WORK SESSION**6:00 PM****1. CALL TO ORDER and ROLL CALL****6:00 PM**

Mayor Linda Watkins called the meeting to order at 6:00 PM.

ROLL CALL

Members Present: Mayor Linda Watkins, Council President Shirley Ward-Mullen, Councilors Kevin Skipper (arrived at 6:59 pm), Grant Erickson, Guilherme Brandão, Carolyn Thompson-Rizer, and David Samuel Hill.

Members Absent: None.

Staff Present: City Manager Shannon Beaucaire, Assistant City Manager Christy Martinez, City Attorney Tyler Yeoman-Millette, City Recorder Aimee Amerson, City Planner Scott Whyte, City Engineer Gordon Munro, and Utility Billing Specialist Ashlee Boyd

Others Present: Susan Turrell, Anthony Stuart, Noelle Amaya, Jack Shepherd, Elizabeth Decker (JET Planning), Andrew Levine, Natalie Olivier (3J Consulting)

A. Changes to the Agenda

None.

2. WORK SESSION AGENDA ITEMS**6:02 PM****A. Draft code review of Division III (development standards) and Division IV (special uses)**

Mayor Linda Watkins introduced Elizabeth Decker of JET Planning to present her slides for Division III and Division IV development standards for the development code update project.

Division III covered street standards, off-street parking, storm drainage, utilities, site & landscaping design, land division development standards, access spacing including driveways, historic sites, & residential design standards.

Division IV covered planned unit developments, manufactured homes, manufactured dwelling parks, & vacation rental dwellings.

Councilors asked questions about cottage clusters, vacation rentals and also discussed setbacks.

3. FUTURE WORK SESSION AGENDA ITEMS

None.

4. ADJOURNMENT**7:58 PM**

The Work Session meeting adjourned at 7:58 PM.

APPROVED by the City of Carlton City Council on February 6, 2024.

ATTEST:

 Ashlee Boyd, Utility Billing Specialist

 Linda Watkins, Mayor



City Council Minutes
Tuesday, January 9, 2024
Via Zoom and at 945 W Grant Street, Carlton, Oregon

REGULAR MEETING**8:15 PM****1. CALL TO ORDER**

Mayor Linda Watkins called the regular meeting to order at 8:15 PM.

2. ROLL CALL

Members Present: Mayor Linda Watkins, Council President Shirley Ward-Mullen, Councilors Kevin Skipper, Grant Erickson, Guilherme Brandão, Carolyn Thompson-Rizer, and David Samuel Hill.

Members Absent: None

Staff Present: City Manager Shannon Beaucaire, City Attorney Tyler Yeoman-Millette, City Recorder Aimee Amerson, and Utility Billing Specialist Ashlee Boyd.

Others Present: Planning Commission Chair Anthony Stewart

3. PLEDGE OF ALLEGIANCE**8:15 PM**

The Pledge of Allegiance was performed.

4. CHANGES OR ADDITIONS TO THE AGENDA**8:15 PM**

None.

5. CERMIONIES, APPOINTMENTS, AND ANNOUNCEMENTS**8:16 PM****A. Planning Commission Re-Appointment: Commissioner Turrell**

MOTION: Ward-Mullen/Hill: to re-appoint Susan Turrell to the Planning Commission extending her service for four years, expiring on December 31, 2028. Motion Carried (7 Yes/ 0 No / 0 Absent /0 Abstain).

B. Mayor Activity Report

Mayor Linda Watkins reviewed what she has been working on over the past month with Council President Shirley Ward-Mullen and City Manager Shannon Beaucaire. She has attended meetings regarding the issue of legislature Measure 110.

Mayor Watkins also attended an Open House for Congresswoman Salinas. At the meeting, they spoke about the recent sewer main break and about the needs of the City of Carlton.

6. CITIZEN COMMENTS**8:25 PM****A. Items NOT on the Agenda**

Planning Commission Chair Anthony Stuart thanked the Councilors for their work and let them know that the Planning Commission is going to try to have a representative present at the council meetings so that it is a more cohesive team.

B. Items on the Agenda**8:28 PM**

None given.

7. CONSENT AGENDA**8:28 PM****A. Meeting Minutes – Approve**

- City Council – December 5, 2023 (Work and Regular Session)

B. Accounts Payable report**C. Finance reports****D. 2024 Budget Calendar****E. 2023 Urban Renewal Financial Report**

MOTION: Ward-Mullen/Thompson-Rizer: to approve the consent agenda including City Council meeting minutes from December 5, 2023, the accounts payable report, the financial reports, 2024 Budget Calendar, 2023 Urban Renewal Financial Report as submitted. Motion Carried (7 Yes/ 0 No / 0 Absent /0 Abstain).

8. ORDINANCES/RESOLUTIONS/DISCUSSION/ACTION ITEMS**8:30 PM****A. Election of Council President**

Council President Shirley Ward-Mullen nominated Councilor Kevin Skipper for Council President.

MOTION: Ward-Mullen/Hill: Nominated Councilor Kevin Skipper for Council President. Motion Carried (6 Yes/ 0 No / 0 Absent /1 Abstain - Skipper).

B. Resolution 2024-349; Appointing Assistant City Manager as Budget Officer for FY25

MOTION: Skipper/Erickson: to approve and authorize the Mayor to sign Resolution 2024-349 to appoint the Assistant City Manager as the Budget Officer for Fiscal Year 2025. Motion Carried (7 Yes/ 0 No / 0 Absent /0 Abstain).

C. Resolution 2024-350; Extending Worker's Compensation to Volunteers

MOTION: Thompson-Rizer/Hill: to approve and authorize the Mayor to sign Resolution 2024-350, extending Carlton's Worker's Compensation insurance coverage to volunteers of the City. Motion Carried (7 Yes/ 0 No / 0 Absent /0 Abstain).

D. Resolution 2024-351; FY 24 Budget Adjustments

MOTION: Hill/Ward-Mullen: to approve and authorize the Mayor to sign Resolution 2024-351 authorizing budget adjustments for Fiscal Year 2023-24. Motion Carried (7 Yes/ 0 No / 0 Absent /0 Abstain).

E. Ordinance 2024-747; Public Contracting Update

City Attorney Tyler Yeoman-Millette explained what changes in the public contracting had been amended and provide a red-line copy of code to see what specifically was changing.

MOTION: Ward-Mullen/Hill: Tyler Yeoman-Millette is authorized to read, by title, Ordinance 2024-747. Motion Carried (7 Yes/ 0 No / 0 Absent /0 Abstain).

MOTION: Ward-Mullen/Thompson-Rizer: Council accept the first reading of Ordinance 2024-747 amending Chapter 3.04 of the Carlton Municipal Code related to the changes in the public contracting. Motion Carried (7 Yes/ 0 No / 0 Absent /0 Abstain).

F. Community Room discussion continued

City Recorder Aimee Amerson presented the draft for the application of the community room use. New changes are outlined in red. Councilor Brandao posed a question about the recurring usage of the room. Amerson was not able to find an example of recurring usage in other cities, but noted that city use of the room will limit some recurring uses.

ADJOURNMENT**9:00 PM**

The Regular Session meeting adjourned at 9:00 PM.

APPROVED by the City of Carlton City Council on February 6, 2024.

ATTEST:

Ashlee Boyd, Utility Billing Specialist

Linda Watkins, Mayor

Accounts Payable

Checks by Date - Summary by Check Date

User: aamerson
 Printed: 1/29/2024 8:44 AM



Check No	Vendor No	Vendor Name	Check Date	Check Amount
	BlaJac	Jacob Blair	01/03/2024	5.00
	CenLin	CenturyLink	01/03/2024	627.93
	CIT	CIT First-Citizens Bank & Trust Co	01/03/2024	161.00
	CitSwe	City Sweepers, LLC.	01/03/2024	1,570.00
	Comcas	Comcast	01/03/2024	77.51
	DavAut	Davison Auto Parts	01/03/2024	144.91
	DelLan	De Lage Landen Public Finance	01/03/2024	30,401.09
	EdgAna	Edge Analytical Inc	01/03/2024	253.00
	EurFin	Eurofins Environment Testing Northwest	01/03/2024	288.75
	OnliNW	Hunter Communications	01/03/2024	491.25
	VolJak	Jake Volz	01/03/2024	800.00
	LawCom	Lawrence Company	01/03/2024	50.00
	MEInc	Moore Excavation Inc	01/03/2024	103,132.83
	NatRes	Natural Resource Mgmt. Group, Inc	01/03/2024	4,095.00
	NexCle	Nexus Commercial Cleaning LLC	01/03/2024	1,064.00
	OreChi	Oregon Assoc. Chiefs of Police	01/03/2024	300.00
	RecWes	Recology Western Oregon	01/03/2024	480.15
	Reece	Reece Complete Security Solutions	01/03/2024	7,694.43
	VerWir	Verizon Wireless	01/03/2024	775.97
	Ward J	Jill M Ward	01/03/2024	233.75
	WebHea	Webster Heating & A/C, LLC	01/03/2024	545.00
	YamCom	Yamhill Communications Agency	01/03/2024	2,433.58
Total for 1/3/2024:				155,625.15
	9985	CIS	01/05/2024	31,111.71
	9981	EFTPS	01/05/2024	13,136.44
	OreRev	Oregon Dept. of Revenue	01/05/2024	3,893.22
	9100	PERS	01/05/2024	11,981.69
	10004	Attn: Voya Institutional Plan Services VOY	01/05/2024	1,300.00
	10005	Attention: Voya Institutional Plan Services	01/05/2024	925.76
Total for 1/5/2024:				62,348.82
	SupLlc	911 Supply LLC	01/10/2024	11.90
	VinBou	Brian Richardson	01/10/2024	700.00
	CarCor	Carlton Corner Service	01/10/2024	1,145.15
	CasCol	Cascade Columbia Dist. Co.	01/10/2024	3,506.96
	CasInc	Caselle, Inc.	01/10/2024	340.00
	CIT	CIT First-Citizens Bank & Trust Co	01/10/2024	350.00
	Comcas	Comcast	01/10/2024	171.39
	EdgAna	Edge Analytical Inc	01/10/2024	525.70
	ErnHar	Ernst Irrigation	01/10/2024	50.20
	JenStr	Jensen Strategies, LLC	01/10/2024	3,145.00
	McCrom	McCrometer, Inc.	01/10/2024	267.14
	CouGov	Mid-Willamette Valley Council Of Governr	01/10/2024	3,885.75
	NewReg	News-Register	01/10/2024	187.74

Check No	Vendor No	Vendor Name	Check Date	Check Amount
OreWat		OAWU	01/10/2024	510.00
OreRevCT		Oregon Department Of Revenue	01/10/2024	125.00
PorGen		Portland General Electric	01/10/2024	4,725.88
SieSpr		Sierra Springs	01/10/2024	100.42
SpaStr		Spaniol's Striping & Signs	01/10/2024	2,928.00
TranRis		Data Solutions, Inc TransUnion Risk and A	01/10/2024	75.00
WilFar		Wilco Farmers	01/10/2024	4,666.01
FirFedCC		First Federal Card Services	01/10/2024	4,835.05
Total for 1/10/2024:				32,252.29
3JCon		3J Consulting	01/17/2024	3,256.88
AirNor		Airgas USA, LLC	01/17/2024	302.78
WesFir		AUCA Western First Aid and Safety, LLC	01/17/2024	484.54
Axon		Axon Enterprise, Inc.	01/17/2024	10,092.00
BlaJac		Jacob Blair	01/17/2024	39.99
CitSwe		City Sweepers, LLC.	01/17/2024	415.00
EdgAna		Edge Analytical Inc	01/17/2024	379.00
HawInc		Haworth Inc.	01/17/2024	297,836.40
NWLogg		NW Logging Supply	01/17/2024	25.00
CESNW		PACE	01/17/2024	1,127.24
PorGen		Portland General Electric	01/17/2024	2,998.72
ProMed		Providence Health and Services OR	01/17/2024	320.00
RitSaf		Ritz Safety	01/17/2024	400.00
Total for 1/17/2024:				317,677.55
9981		EFTPS	01/20/2024	12,908.67
OreRev		Oregon Dept. of Revenue	01/20/2024	3,851.55
9100		PERS	01/20/2024	11,948.42
10004		Attn: Voya Institutional Plan Services VOY	01/20/2024	1,300.00
10005		Attention: Voya Institutional Plan Services	01/20/2024	925.76
Total for 1/20/2024:				30,934.40
Axon		Axon Enterprise, Inc.	01/24/2024	912.00
CasCol		Cascade Columbia Dist. Co.	01/24/2024	5,645.00
Comcas		Comcast	01/24/2024	91.14
EdgAna		Edge Analytical Inc	01/24/2024	54.00
FarEle		Farnham Electric Co.	01/24/2024	845.40
Holst		Holst	01/24/2024	5,234.57
NewReg		News-Register	01/24/2024	368.24
PorGen		Portland General Electric	01/24/2024	21.92
SieSpr		Sierra Springs	01/24/2024	28.95
SolYes		Solutions Yes	01/24/2024	305.98
SprBro		Springbrook Holding Company LLC	01/24/2024	4.50
UsaBlu		USABlueBook	01/24/2024	1,285.62
WilSco		Willscot	01/24/2024	3,038.16
ZipFib		Ziply Fiber	01/24/2024	978.00
Total for 1/24/2024:				18,813.48
Report Total (81 checks):				617,651.69

General Ledger Expense vs Budget

User: aamerson
 Printed: 1/29/2024 8:35:17 AM
 Period 07 - 07
 Fiscal Year 2024



Fund	Budget	End Bal	% Available
001			
001	901,217.00	563,825.92	37.44
001	605,400.00	414,109.70	31.60
001	0.00	0.00	0.00
001	246,266.00	0.00	100.00
001	250,564.00	0.00	100.00
001	0.00	0.00	0.00
001	0.00	610,763.07	0.00
001	0.00	343,420.26	0.00
001	0.00	36,712.97	0.00
001	<u>2,003,447.00</u>	<u>1,221,529.65</u>	<u>39.03</u>
001	0.00	12,964.19	0.00
005			
005	152,548.00	22,079.93	85.53
005	0.00	85,746.14	0.00
005	0.00	48,697.86	0.00
005	0.00	0.00	0.00
005	<u>152,548.00</u>	<u>25,825.58</u>	<u>83.07</u>
005	0.00	-33,302.63	0.00
011			
011	40,530.00	28,241.88	30.32
011	134,160.00	53,285.70	60.28
011	10,000.00	0.00	100.00
011	176,473.00	0.00	100.00
011	53,800.00	0.00	100.00
011	0.00	263,621.10	0.00
011	0.00	306,021.53	0.00

Fund	Budget	End Bal	% Available
011	0.00	0.00	0.00
011	<u>414,963.00</u>	<u>165,570.89</u>	<u>60.10</u>
011	0.00	126,443.74	0.00
012			
012	533,325.00	294,297.09	44.82
012	396,600.00	225,250.13	43.20
012	104,806.00	41,007.01	60.87
012	230,573.00	0.00	100.00
012	861,802.00	0.00	100.00
012	0.00	1,111,449.53	0.00
012	0.00	283,757.74	0.00
012	0.00	49,885.37	0.00
012	<u>2,127,106.00</u>	<u>1,073,586.45</u>	<u>49.53</u>
012	0.00	-264,774.20	0.00
013			
013	465,300.00	281,876.59	39.42
013	367,300.00	199,456.27	45.70
013	14,850.00	15,200.54	-2.36
013	182,943.00	0.00	100.00
013	402,328.00	0.00	100.00
013	0.00	539,395.98	0.00
013	0.00	149,800.55	0.00
013	0.00	69.20	0.00
013	<u>1,432,721.00</u>	<u>811,931.36</u>	<u>43.33</u>
013	0.00	-74,128.27	0.00
017			
017	120,482.00	53,022.00	55.99
017	24,978,000.00	3,287,208.22	86.84
017	1,837,832.00	0.00	100.00
017	0.00	0.00	0.00
017	0.00	6,943,509.54	0.00

Fund	Budget	End Bal	% Available
017	0.00	2,200,828.58	0.00
017	0.00	0.00	0.00
017	<u>26,936,314.00</u>	<u>720,901.01</u>	<u>97.32</u>
017	0.00	-7,362,010.17	0.00
020			
020	240,000.00	998.81	99.58
020	2,380,441.00	102,349.65	95.70
020	775,000.00	0.00	100.00
020	150,000.00	0.00	100.00
020	0.00	3,357,532.47	0.00
020	0.00	3,502,858.67	0.00
020	0.00	0.00	0.00
020	<u>3,545,441.00</u>	<u>172,986.85</u>	<u>95.12</u>
020	0.00	214,964.59	0.00
024			
024	3,228.00	0.00	100.00
024	68,087.00	14,043.25	79.37
024	0.00	51,314.26	0.00
024	0.00	-1,278.81	0.00
024	0.00	0.00	0.00
024	<u>71,315.00</u>	<u>64,409.86</u>	<u>9.68</u>
024	0.00	-2,226.46	0.00
026			
026	163,854.00	0.00	100.00
026	1,071,945.00	316,639.67	70.46
026	0.00	-152,864.25	0.00
026	0.00	163,854.09	0.00
026	0.00	0.00	0.00
026	<u>1,235,799.00</u>	<u>0.00</u>	<u>100.00</u>
026	0.00	78.67	0.00
027			

Fund	Budget	End Bal	% Available
027	122,256.00	115,611.52	5.43
027	0.00	0.00	0.00
027	0.00	-65,681.21	0.00
027	0.00	16,706.75	0.00
027	0.00	0.00	0.00
027	<u>122,256.00</u>	<u>0.00</u>	<u>100.00</u>
027	0.00	-33,223.56	0.00
070			
070	6,500.00	5,468.24	15.87
070	536,477.00	9,237.50	98.28
070	160,000.00	0.00	100.00
070	65,000.00	65,000.00	0.00
070	0.00	585,054.71	0.00
070	0.00	456,826.76	0.00
070	0.00	0.00	0.00
070	<u>767,977.00</u>	<u>273,520.28</u>	<u>64.38</u>
070	0.00	65,586.59	0.00
Expense Total	38,809,887.00	6,108,209.62	84.2612

General Ledger Revenue vs Budget

User: aamerson
 Printed: 1/29/2024 8:36:03 AM
 Period 07 - 07
 Fiscal Year 2024



Account Number	Description	Budget	End Bal	% AvailUncollect
001	General			
	Revenue	2,003,447.00	1,221,529.65	39.03
001	General	2,003,447.00	1,221,529.65	39.03
005	Tourism			
	Revenue	152,548.00	25,825.58	83.07
005	Tourism	152,548.00	25,825.58	83.07
011	Street			
	Revenue	414,963.00	165,570.89	60.10
011	Street	414,963.00	165,570.89	60.10
012	Water			
	Revenue	2,127,106.00	1,073,586.45	49.53
012	Water	2,127,106.00	1,073,586.45	49.53
013	Sewer			
	Revenue	1,432,721.00	811,931.36	43.33
013	Sewer	1,432,721.00	811,931.36	43.33
017	Capital Improvement			
	Revenue	26,936,314.00	720,901.01	97.32
017	Capital Improvement	26,936,314.00	720,901.01	97.32
020	SDC's			
	Revenue	3,545,441.00	172,986.85	95.12
020	SDC's	3,545,441.00	172,986.85	95.12
024	Debt Service Pool Project			
	Revenue	71,315.00	64,409.86	9.68
024	Debt Service Pool Project	71,315.00	64,409.86	9.68
026	Debt Service			
	Revenue	1,235,799.00	0.00	100.00
026	Debt Service	1,235,799.00	0.00	100.00
027	VERF			
	Revenue	122,256.00	0.00	100.00
027	VERF	122,256.00	0.00	100.00

<u>Account Number</u>	<u>Description</u>	<u>Budget</u>	<u>End Bal</u>	<u>% AvailUncollect</u>
070	Urban Renewal			
	Revenue	767,977.00	273,520.28	64.38
070	Urban Renewal	767,977.00	273,520.28	64.38
Revenue Total		38,809,887.00	4,530,261.93	88.327

January 2024 Vacation Rental Statistics

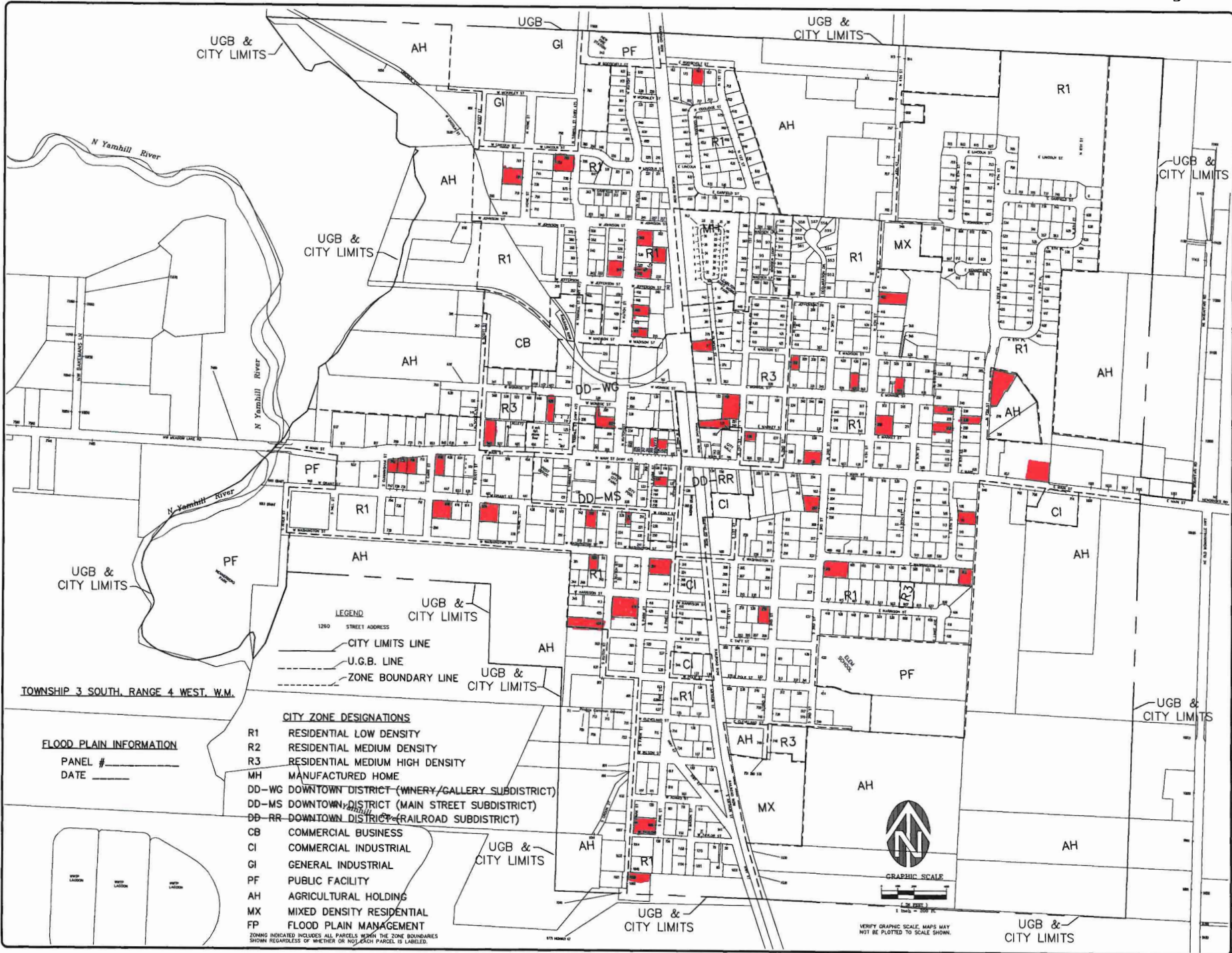
Total number of active permits/properties:	53
Total number of homes in Carlton:	870* + 74 = 944
Percent of homes that are Vacation Rentals:	5.614%

Total of units or Percent of Vacation Rentals by Zone

R-1: 39 total or 73.58%	R-2: 0
R-3: 9 total or 16.98%	Downtown: 5 or 9.433%

Please see map for visual reference of active Vacation Rental properties in the City limits. Rentals noted in Red.

(*2020 Demographic study via www.data.census.gov, accessed on 1/24/2024, plus data collected from permit submission in city building compliance files for 2021, 2022 & 2023)



- LEGEND**
- 1290 STREET ADDRESS
 - CITY LIMITS LINE
 - U.G.B. LINE
 - ZONE BOUNDARY LINE
- CITY ZONE DESIGNATIONS**
- R1 RESIDENTIAL LOW DENSITY
 - R2 RESIDENTIAL MEDIUM DENSITY
 - R3 RESIDENTIAL MEDIUM HIGH DENSITY
 - MH MANUFACTURED HOME
 - DD-WG DOWNTOWN DISTRICT (WINERY/GALLERY SUBDISTRICT)
 - DD-MS DOWNTOWN DISTRICT (MAIN STREET SUBDISTRICT)
 - DD-RR DOWNTOWN DISTRICT (RAILROAD SUBDISTRICT)
 - CB COMMERCIAL BUSINESS
 - CI COMMERCIAL INDUSTRIAL
 - GI GENERAL INDUSTRIAL
 - PF PUBLIC FACILITY
 - AH AGRICULTURAL HOLDING
 - MX MIXED DENSITY RESIDENTIAL
 - FP FLOOD PLAIN MANAGEMENT
- ZONING INDICATED INCLUDES ALL PARCELS WITHIN THE ZONE BOUNDARIES SHOWN REGARDLESS OF WHETHER OR NOT EACH PARCEL IS LABELED.

FLOOD PLAIN INFORMATION
 PANEL # _____
 DATE _____

CITY OF GRESHAM, OREGON

SCALE: 1" = 200'

HORIZ. DATE: 11-3-2013

MAP UPDATED: 11-3-2013

WE ENGINEERING & PLANNING
 2000 NE 10th Street, Suite 100, Gresham, OR 97030
 Phone: (503) 340-1111 Fax: (503) 340-1111
 Website: www.wep.com

ZONING & ADDRESS MAP

SHEET 1 OF 1
 JOB NUMBER 2674.1013.0



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To: The Mayor and Members of the City Council
From: Shannon Beaucaire, City Manager
Subject: Market Street Sanitary Line Change Order
Council Goal: Goal 1: Effective and Efficient Infrastructure
Date: February 6, 2024

Recommendation

After Council review and discussion, it is recommended that City Council consider the following motion:

It is moved that the City Council accept change order #5 and authorize the Mayor to execute all necessary documents.

Background

The current sanitary sewer line that provides service to City Hall, the dentist's office, the duplex, and the single-family residence is situated on private property. However, this line is old and needs maintenance. Additionally, it would be located beneath the new Civic Center and the foundation of the new police garage. Therefore, a new sanitary sewer line will be installed along Market St. to provide future access for maintenance and operations. This new line will serve the dentist's office, duplex, and single-family residence. The service for the new Civic Center has already been redirected to E. Main St.

The improvements include 344-feet of 8" main line, 2 new manholes, replacement of four service lines, connection to the existing manhole at Second St., and abandonment of the old line.

Fiscal Impact

\$82,807.55 for a new sanitary line.

Exhibits

Change Order #5 and supporting documents.

Change Order No. 5

Date of Issuance: 02/06/2024

Effective Date:

Owner: City of Carlton

Owner's Contract No.:

Contractor: Haworth, Inc.

Contractor's Project No.:

Engineer: Tetra Tech

Engineer's Project No.: 135-13914-16001-02

Project: Carlton Civic Building

Contract Name:


The Contract is modified as follows upon execution of this Change Order:

The existing sanitary sewer serving City Hall, the dentist office, duplex and single family residence was located on private property such that it would be underneath the new civic building, and under the foundation of the new police garage. It was also old and in need of maintenance. In order to provide for future O&M and access a new sanitary sewer line will be installed along Market St. which will serve the dentist office, duplex and home. The service for the new civic building has already been redirected to E. Main St.

The improvements include 344-feet of 8" main line, 2 new manholes, replacement of four service lines, connection to the existing manhole at Second St. and abandonment of the old line.

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
<p>Original Contract Price: Seven million, two-hundred forty three thousand, one-hundred three dollars and zero cents</p> <p>\$ 7,243,103.00</p>	<p>Original Contract Times:</p> <p>Substantial Completion: <u>03/17/2024</u></p> <p>Ready for Final Payment: <u>05/16/2024</u> days or dates</p>
<p>[Decrease] from previously approved Change Orders No. <u>0</u> to No. <u>4</u> : Fifty-four thousand, seven-hundred ten dollars and three cents</p> <p>(\$54,710.03)</p>	<p>[Increase] [Decrease] from previously approved Change Orders No. <u>0</u> to No. <u>0</u> :</p> <p>Substantial Completion: <u>03/17/2024</u></p> <p>Ready for Final Payment: <u>05/16/2024</u> days or dates</p>
<p>Contract Price prior to this Change Order: Seven million, one hundred eighty-eight thousand, three hundred ninety-two dollars and ninety-seven cents</p> <p><u>\$7,188,392.97</u></p>	<p>Contract Times prior to this Change Order:</p> <p>Substantial Completion <u>03/17/2024</u></p> <p>Ready for Final Payment: <u>05/16/2024</u> days or dates</p>
<p>[Increase] of this Change Order: Eighty-two thousand, eight-hundred seven dollars and fifty-five cents</p> <p>\$82,807.55</p>	<p>[Increase] of this Change Order:</p> <p>Substantial Completion: <u>03/17/2024</u></p> <p>Ready for Final Payment: <u>05/16/2024</u> days or dates</p>

Contract Price incorporating this Change Order: Seven million, two hundred seventy-one thousand, two hundred dollars and fifty-two cents <u>\$7,271,200.52</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>03/17/2024</u> Ready for Final Payment: <u>05/16/2024</u> days or dates
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RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: <u></u> Engineer (if required)	By: _____ Owner (Authorized Signature)	By: _____ Contractor (Authorized Signature)
Title: <u>City Engineer</u>	Title _____	Title _____
Date: <u>1.26.24</u>	Date _____	Date _____

Approved by Funding Agency (if applicable)

By: _____ Date: _____

Title: _____



PCO

Project Name: Carlton Civic Building

Owner : CITY OF CARLTON
SHANNON BEAUCAIRE
191 E MAIN ST
CARLTON, ZZ 97111

Architect: Holst Architecture Inc
Mark Schmidt
123 NE 3rd Ave Suite 310
Portland , OR 97232

PCO # 45
Printed On: 01/11/2024
Created On: 01/11/2024
Job Number # 23-02C
Architect # : 19008-00

Description	Bid Amount	Status	Change Date
1 Market Street Sanitary Sewer Change Order per Plans & Specifications provided by Tetra Tech the City Engineer.	\$82,807.55	Pending	
Total: \$82,807.55			

Please find above pricing as you requested. If this is acceptable, please confirm so we may proceed with a change order.

Thank You,

Ray Duyn
Project Manager



13500 SW Hwy 99W McMinnville, OR 97128

Date: 1/3/2024

Project: Market Street Sanitary Sewer Change Order per Plans & Specifications provided by Tetra Tech the City Engineer.

1) Manhole A&B - Materials	A. \$	2,175.80
	B. \$	2,087.25
	Delivery \$	977.50
	\$	<u>5,240.55</u>
2) Pipe Materials		
(350 ft) 8 x 14 3034 PVC	\$	4,720.75
(196 ft) 6 x 14 3034 PVC	\$	1,453.60
Trailer Wire	\$	328.00
(4) 6" PVC x C.I Couplers	\$	284.00
(1) 6" 6x6 22.5 Bend	\$	44.85
(2) 8x6 GxGxG Tee Vee	\$	278.00
(2) 6" GxS 22.5 Bend	\$	85.00
	\$	<u>7,194.20</u>
3) Water Materials		
(40 ft) 1" Pex	\$	146.00
(2) 1" Comp x FIP	\$	79.00
(1) Brass Coupler	\$	25.00
(2) 1" Pex X MPT Adapter	\$	67.00
(4) Comp Rings	\$	10.80
	\$	<u>327.80</u>
4) Labor & Equipment		
Install Mainline MHC to A (345 ft)	\$	23,874.00
Install Manhole A&B	\$	6,920.00
6" Sewer Laterals (178 lf)	\$	10,800.00
Water Service Relocate	\$	1,140.00
	\$	<u>42,734.00</u>
5) Saw Cutting	\$	1,500.00
6) Shoring	\$	1,850.00
7) Core Drill Manhole - C	\$	1,000.00
8) Testing	\$	2,875.00
9) Rock - (471 Ton)	\$	11,228.00
10) Asphalt Patch - (230 ft) Trench, approx (25 ton)	\$	6,698.00
11) Grout/CDF Abandon Fill (367 ft), approx (6 cy)	\$	2,160.00
Grand Total	\$	82,807.55



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To: The Mayor and Members of the City Council
From: Aimee Amerson, City Recorder
Subject: Public Property On-Site Inspection report
Council Goal: Goal 4: Good Governance
Date: February 6, 2026

Background

In July 2023, the Oregon Court of Appeals issued a decision which essentially concluded recreational immunity for improved trails, which no longer protects public and private landowners of improved trails from lawsuits.

Because of this decision, city staff asked for perspective and advice of how Carlton's public spaces may be at risk. On December 14, 2023, Margaret Ryan with City County Insurance services, inspected public parks, paths and other right of way spaces and offered her insight and recommendations of risk mitigation options for these areas. Her observations and recommendations can be found in her On-Site Inspection report for each public space inspected.

Margaret will be present at the Council meeting to discuss her report and answer questions.

Exhibits

- CIS On-Site Inspection Report
- CIS Real-Time Risk article
- Recreational Immunity FAQ's
- CIS Discretionary Immunity article

ON-SITE INSPECTION REPORT

RMC: Margaret Ryan	Date: 12/14/2023	Member: City of Carlton
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Property Name: Various Recreation Sites	Property Address: Carlton
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On 12/14/2023 I met with City Manager Shannon Beaucaire, Planner Aimee Amerson and City Attorney Tyler Yeoman-Millette to view some recreational sites in the city. The purpose of the visit was to view paths and trails that lead to recreation areas in consideration of recent case law changes to recreational immunity in Oregon. The inspection is for Risk Management considerations for the member to consider. The member is advised to have their legal advisor review any recommendations and advise on the best course of action for the city. Risk mitigation efforts are offered to reduce risk exposures but can't be relied upon to eliminate claims and lawsuits. Due to the recent case law changes in recreational immunity, the most conservative course of action is to close all paths and trails to recreational areas. A less conservative option is for members to evaluate paths and trails and assess if they can be improved or maintained in such a way that the likelihood of injury is reduced enough to keep them open for use.

Wennerberg Park, Grant St.

Wennerberg Park has ball fields, open fields, seating, viewing areas and playground equipment. It's located off a portion of Grant St. that is used to access the park and currently temporary and permanent city offices. The North Yamhill River borders the north, south and west sides of the park. For this reason, many of the non-summer seasons small to larger portions of the park are prone to flooding. For this reason, the park is closed in the off months to driving. The park remains open for users on foot, bike, etc. The park's location does not lend itself to being an area walkable to any locations other than city offices. Most users going to this location would likely intend to use the park.

This park is overall in worn condition. The playground equipment is dated, the ground has been flooded/dried many times and is likely uneven with trip and fall hazards. There are times when the park is flooded and unsafe. There are large trees overhanging around and in the park area. The paved parking lot and driveway is nearing the end of its economic life.

Risk Mitigation Considerations

Although the use for this park would primarily be to recreate, there are many hazards throughout the park. Consider adding signs to close the trails, paths, and walkways or close the park for maximum risk reduction. An alternative would be to add signage indicating the known hazards and that users are using the park at their own risk. Sign considerations: warn of known hazards: uneven surfaces, flooding, falling limbs, trip and fall hazards, portions of the park are blocked with flooding or debris and use at your own risk.

Wennerberg Park





Wennerberg Park

Ladd Park/Upper City Park, W Grant St.

Ladd Park is in the central downtown area between Grant and Main Streets. The park has a building, pool, basketball court and open green spaces and park area. The park has an updated and well-maintained concrete to asphalt path that goes from the Grant St. side of the site to the Main St. side of the site. This location would be a pass-through corridor for people going between homes and businesses and to conduct personal business and that might not be using the park to recreate. For this reason, it would be worth prioritizing any improvements for this location.

Risk Mitigation Considerations

There is a grassy park area adjacent to Grant St. are approximately 2+/- ft. above the roadway. The grassy area can be uneven, the step-up and grassy area can be slippery when wet and might have holes or other tripping hazards. People may choose to enter the park in this area instead of walking to the paved path which would be safer for foot travel. Although it's level with the sidewalk, there is also a grassy area off Main St. that can be uneven and slippery.

- Consider adding signs with arrows to direct users to use the paved area to transverse the park, to warn users of hazards and to use at their own risk.

There are uneven areas and gaps/open areas between the basketball court and path and an area with roots lifting asphalt on the path. Consider having these areas repaired to remove tripping hazards, grind down protrusions so the path is smooth.

- At the time of the inspection, a holiday display was set up and being maintained by a vendor. This is an area that's well traveled by people of all ages during the holidays. There were unsecured cords in different areas of the grass and walkways. Consider making sure the contract with the vendor has strong indemnification language and acceptable coverage limits. For future events, include wording in the agreement that discusses the safety and maintenance expectations of the city.

There were areas of the path and sidewalk on Main St. that had moss growing, this can be slippery.

- Consider having the moss removed and have a regularly scheduled maintenance of the pathway and sidewalk to continue to monitor for safety hazards.

Sign considerations: arrows directing users to the path, potential hazards; uneven surfaces, slippery when wet, trip hazards, use at your own risk.

This report is written at a time when recreational immunity for paths is not an immediate immunity to tort liability. For that reason, because there are efforts to change the recreation immunity situation with legislation and it may be a temporary situation, for some protection, consider installing temporary signs and advising of any known hazards; uneven, trip hazards, slippery, and use at your own risk. It will also be important to continue regular maintenance and monitoring to maintain path safety.



Ladd Park

Ladd Park







Raised path from trees



Ladd Park

Hawn Creek Park, 7th St.

This park is located off N 7th St. and has a greenspace with a river to the south and west. Beyond the greenspace is developed with residential housing developments on all sides. The park has a playground area, seating, a gazebo and picnic tables and a well paved and maintained pathway from the roadway to the recreation areas. Due to its location, the primary use for this park would be to recreate.

Risk Mitigation Considerations: No repair items noted. Continue the current maintenance schedule.





JR1 Park, S 7th St.

The JR1 Park area is a small grassy green space area near residential development. There's a dog care station, picnic table and a gravel paved path. This park is off the roadway and offers few amenities. It's location would make it a destination and not a pass through location. The park is well maintained with no obvious hazards noted.

Risk Management Considerations: No repair items noted. Continue the current maintenance schedule.



JR1 Park



JR 1 Park

JR2 Park

JR2 Park is an area adjacent to new development in the JR Meadows neighborhood. There is not a central park area or any amenities at this time. This area has a gently to more steeply sloping asphalt to gravel paved path that runs between the newly developed subdivision and a greenspace with a wetlands area. There are no recreational designated areas, amenities, or equipment. The recreation aspect of this area would be walking the trail/path. This area is newer and in good condition, it was just finished to a rougher level finish in some areas. This area would likely be used as a thoroughfare from the JR1 park for dogs and between the residential developments or to Main St. and the downtown area. This park area recently transferred ownership from the developer to the city.

A portion of the path is asphalt paved and smooth. The remainder is gravel paved, has uneven areas and is near the wetlands with overhanging trees and erosion in close proximity to the path.

Risk Management Considerations

Without extensive updating and regular maintenance, this park/path will have tripping hazards and unlevel areas. Although there is some lighting, the path runs above and below grade and for that reason can be darker in some areas. During dusk/dark hours and fall/winter weather, foot and bike/similar travel would have exposure to injury, especially if it were wet and slippery or dark.

This report is written at a time when recreational immunity for paths is not an immediate immunity to tort liability. For that reason, for maximum risk reduction: consider signs that state the park/trail is closed and use is at the risk of the user.

Because there are efforts to change the recreation immunity situation with legislation and it may be a temporary situation, for some protection, consider installing temporary signs with the higher restriction of advising users that the path is closed and advising of any known hazards; uneven, trip hazards, loose rocks, slippery, and that the use is at the risk of the user.

An alternative approach would be to add permanent signs with warnings of known hazards and letting users know to use the path with caution and that they are using the area at their own risk. If the city does not have maintenance and updates for the trail funded, this warning might be best for the long term.

Additional Considerations

At the time of the inspection, we discussed this property being transferred to the city from the builder. There is an open, set-back area (see photos) where there is room for park amenities to be installed. However, this area will take considerable investment to make it safe and useable and it's near the area of the wetlands that's eroding. In addition, because it's below grade and near the wetlands, it will need to be well lit for safety and additional paving of the path would benefit both path users and first responders.

JR2 Park

JR 2 Park







JR 2 Park Wetlands



JR 2 Park/path



Real-Time Risk



TIMELY NEWS AND TIPS TO HELP REDUCE RISK

November 2023

OREGON'S HIGHER COURTS END RECREATIONAL IMMUNITY FOR IMPROVED TRAILS

By Kirk Mylander, CIS General Counsel

On July 6, the Oregon Court of Appeals issued an opinion effectively ending recreational immunity for improved trails. Public and private landowners of improved trails are no longer protected from lawsuits. ([Fields v. City of Newport](#)).

Nicole Fields Falls While Walking With a Friend and their Dogs

In *Fields v. Newport* a woman was walking with her friend and their dogs on the beach. She walked away from the beach on an improved trail which was owned and maintained by the city of Newport. The woman came to a wooden footbridge that was wet. She slipped and fell, then filed a lawsuit against the City.

Ms. Fields' suit alleged the City was negligent in maintaining the bridge and not putting up warning signs. Newport responded that it was immune from suit because Fields was using the Ocean to Bay Trail for a recreational purpose, walking with a friend and their dogs while they talked and socialized.

• Oregon's recreational
 • immunity provided liability
 • protection to landowners
 • who open their property
 • for recreational activities,
 • shielding them from certain
 • lawsuits and claims related
 • to injuries or accidents that
 • occur on their land.

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Real-Time Risk

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The Trial Court Applied Recreational Immunity, Protecting Newport

The trial court agreed with the City, ruling that recreational immunity protects landowners from a lawsuit when they open their property to the public for recreational purposes without a fee. Because of recreational immunity the trial court granted summary judgment, which ended the case early in favor of Newport .

The trial court determined “there are no genuine issues of material fact in dispute” and that under state law, the plaintiff was “using the trail for recreational purposes” by “walking her dog on a trail to the beach with a friend,” and thus the City was entitled to recreational immunity from any liability.

Plaintiff Fields appealed the trial court’s ruling, arguing that the trial court could not conclude that her “**principal purpose**” (as required under state law) in walking on the trail was recreational as long as she claimed that the subjective intent in her mind was something else.

The Oregon Court of Appeals Strikes Down Recreational Immunity

The Oregon Court of Appeals decided that there is a factual dispute between Plaintiff Fields and the City as to whether her use of the trail was recreational, or whether her primary purpose was instead for “accessing the beach.” In other words, the Court of Appeals held that the trial court needed to hold a jury trial to determine whether the plaintiff’s principal purpose on the trail was accessing the beach, or to recreate while using the trail with a friend and their dogs while they “socialized.”

Either way, recreational immunity no longer stops a case at the beginning (an “immunity” from suit), because any plaintiff can claim their “principal purpose” was not to recreate.

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Real-Time Risk

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Local Governments Requested that the Oregon Supreme Court Restore Recreational Immunity — But the Court Refused to Hear the Case

The City of Newport asked the Oregon Supreme Court to overrule the Court of Appeals and restore recreational immunity. Other members of the local government community in Oregon also asked the Oregon Supreme Court to review the *Fields* case and reverse the Court of Appeals. The City of Medford, the League of Oregon Cities, the Association of Oregon Counties, the Special Districts Association of Oregon, and the Oregon Recreation and Park Association all joined Newport in asking the Oregon Supreme Court to reverse the Court of Appeals:

“A decision from the Oregon Supreme Court is necessary here. The Court of Appeals created an exception that swallows the rule by finding a question of fact exists on whether socializing with a friend, walking dogs, and enjoying a scenic trail to access the beach is recreational or not.”

The City asked the Supreme Court to reverse the Court of Appeals because of the damage the Court of Appeals opinion will have on the public’s access to recreational land. If the Court of Appeals opinion were to stand, the City argued, then “Landowners must decide if making their land available for recreational purposes is worth the risk of effectively losing access to the immunity by having to litigate through trial whatever subjective beliefs an injured plaintiff asserts their principal purpose was.”

Unfortunately, that is where things stand today. On Oct. 5, 2023, the Oregon Supreme Court officially declined to review the Court of Appeals’ decision in *Fields*. This action, called “review denied” functions as a de facto endorsement by the Oregon Supreme Court of the Oregon Court of Appeals’ decision striking down recreational immunity.

At the heart of the dispute is whether a trial court can decide at the beginning of a case whether or not a plaintiff’s “primary purpose” when entering land was recreational or not recreational.

Subjective Intent is Too Subjective for Recreational Immunity to Function as the Legislature Intended

The Court of Appeals did not base its decision on what *Fields* was actually doing on the City of Newport’s trail. Instead, the Court of Appeals turned to a dictionary for assistance with the word “walking.”

The Court of Appeals found that walking with a dog could sometimes be a recreational activity, but was not necessarily always a recreational activity. The Court of Appeals said that even when walking and socializing, *Fields*’ “principal purpose” could have been “to go to and from the beach” which the Court did not consider to be recreational.



*The Oregon Supreme Court Building,
Gary Halvorson/Oregon State Archives*



Real-Time Risk

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If, the Court reasoned, Fields was thinking that her “principal purpose” was to “access” the beach where she would begin to “recreate” with her dog and her friend, then recreational immunity does not protect the City (or any landowner). The key, according to the Oregon Court of Appeals, is the plaintiff’s subjective intent ***not her objective activities at the time***.

Unless the Legislature steps in, from now on when a person using the city’s path claims that their subjective intent was not primarily to recreate, then recreational immunity does not apply at the beginning of a suit. Instead, the municipality (or private landowner) will have to defend the lawsuit all the way through a jury trial, so the jury can decide what the plaintiff was thinking about their “primary intent.”

Legally, this transforms recreational “immunity” from a legal rule that stops a lawsuit at the outset, and turns it into a defense that a city, county, school district, or private landowner can only try to use at trial. Recreational immunity is no longer a true immunity.

Is Anything Left of Recreational Immunity?

The protection from lawsuits that landowners relied on in deciding to open their land to the public is now likely gone for all trails. It may be gone for any property that someone can claim they “were just passing through”.

The Oregon Court of Appeals and Oregon Supreme Court have repeatedly issued rulings that have the effect of striking down some, or all, of the Legislature’s recreational immunity statute. The good news, though, is that the Oregon Legislature has repeatedly stood behind Oregon’s policy of encouraging private and public landowners to open their property to the public for recreational activities like hiking, mountain biking, kayaking, hunting, fishing, rock climbing, and accessing the beautiful coastline.

Once again, the League of Oregon Cities and the Association of Oregon Counties are ready to bring a bill to the Legislature in 2024 to restore recreational immunity. But the support of individuals and local governments is needed. The people of Oregon who enjoy recreational access to a wide range of properties, especially including trails to access climbing areas, the coast, rivers, streams and lakes, need to contact their local legislator and their local city or county officials to express their desire to restore recreational immunity.

Your CIS risk management consultant is available to assist you as you plan, evaluate, and mitigate the heightened risk as a result of the *Fields v. City of Newport* ruling.

For more information, visit CIS’ Recreational Immunity FAQ at cisoregon.org/Reclmmunity.



Real-Time Risk

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RECOMMENDATIONS FOR CITIES AND COUNTIES

1. **Improved trails that are used to access a recreational area should be closed.** This especially includes trails, walkways and stairs used to access bodies of water, such as the ocean, lakes, rivers, streams and reservoirs.
2. **Consider closing unimproved trails,** because the subjective intent of the user can now nullify recreational immunity, which means if someone is injured on an unimproved trail, the city or county may find itself facing a costly jury trial to determine the injured person's intent in using the trail.
3. **Speak with your City Attorney or County Counsel** about how *Fields v. Newport* could negatively affect your other recreational offerings to the public. For instance, someone who trips in a park can now say their primary purpose in using the park was not recreation, but rather they were simply passing through the park to access some other area in your jurisdiction.
4. **Download and utilize this audit** for property you decide to leave open because it is not conducive to a claim from someone "just passing through", to ensure your facility is protected as much as possible from liability claims.
 - a. Consider requiring people to sign a form affirming they are using the property only for recreational purposes if your organization can afford to post someone at that location (at a skate park, for example).
5. **Contact your legislator** and any of the following organizations you are affiliated with: the League of Oregon Cities, the Association of Oregon Counties, the Special Districts Association of Oregon, or the Oregon Recreation and Park Association; express your desire to keep property free and open to everyone in Oregon for recreational activities.

If you have any questions, please contact your Risk Management Consultant:

Northwest Oregon Coast and Columbia River Gorge

Margaret Ryan
mryan@cisoregon.org

Willamette Valley and Central Coast

Katie Durfee
kdurfee@cisoregon.org

Southern and Central Oregon

Laurie Olson
lolson@cisoregon.org

Eastern Oregon

Lisa Masters
lmasters@cisoregon.org





Recreational Immunity FAQ

MEMBERS QUESTIONS AND CIS ANSWERS ABOUT THE RECENT CHANGES TO RECREATIONAL IMMUNITY

2023 Changes to Recreational Immunity & Liability

Q: What happened to the recreational immunity defense regarding paths and trails, and what are the legal implications?

On July 6, the Oregon Court of Appeals issued an opinion in the *Fields v. City of Newport* case, effectively ending recreational immunity for improved trails and striking it down as an “immunity” that protects public and private landowners from lawsuits. The City of Newport asked the Oregon Supreme Court to overrule the Court of Appeals and restore the portions of recreational immunity that were lost. On October 5, 2023, the Oregon Supreme Court officially declined to review the Court of Appeals’ decision in *Fields*. This action, called “review denied” functions as a de facto endorsement by the Oregon Supreme Court of the Oregon Court of Appeals’ decision striking down recreational immunity for paths to recreational areas. Read more about this case in our Nov. 2023 issue of Real-Time Risk (<https://www.cisoregon.org/dl/Xuc7ZVcp>).

Q: What does the change with recreational immunity mean to local government?

Unless the Legislature steps in, from now on when a person suing the city claims that their subjective intent was not primarily to recreate, then recreational immunity does not apply at the beginning of a suit. Instead, the municipality (or private landowner) will have to defend the lawsuit all the way through a jury trial so the jury can decide what the plaintiff was thinking about their “primary intent.”

We encourage our members to reach out to their legislators and ask that they step in and restore this protection.

Q: Why is CIS recommending local government close trails? This will be unpopular and seems impossible.

CIS understands this recommendation will not be popular. Weighing many factors and with a focus on the solvency of the trust and our members, this recommendation was determined to be the best course of action.

The tasks required to close access ways to recreation areas might seem daunting. Once the Oregon Supreme Court’s decision was made, it was determined that less aggressive measures would fail to meet the goal of protecting the trust and our members.

We suggest our members use all avenues of communication to alert the community of changes with their paths and trails. Social media messaging will reach a broad community audience. Update entity website information about parks and trails with any changes you are making. Prioritize the installation of signs based on factors such as areas of higher risk, with the heaviest volume of users and where signs will have optimal visibility.

Discretionary Immunity

Q: We expect a lot of pushback if we close paths and trails; this is a last resort. Is there any way discretionary immunity can close the gap?

No, these are two distinctly different forms of protection, and discretionary immunity will not take the place of recreational immunity. Nevertheless, having your entity shore up its discretionary immunity position is always a prudent decision and may provide some shelter from liability claims. For effective use of discretionary immunity, we recommend an asset inventory, audit, a prioritized maintenance plan, activation of that plan, and periodic update and review of these steps. You can get started with the CIS Discretionary Maintenance Plan and Audit (<https://www.cisoregon.org/dl/x0tk2W4V>).

Q: If the council doesn't explicitly approve a planned course of action, does discretionary immunity apply?

Discretionary immunity applies most clearly to a course of action, such as a street or park maintenance plan, when a governing body votes to approve or adopt the plan. However, discretionary immunity can also apply to a policy decision made by a department head — especially when there's documented evidence that the department head is expressly authorized to make those policy decisions. If putting together a park maintenance plan is within the job duties of a public works director, for instance, then discretionary immunity should apply to any claim that the city or county should have adopted a different maintenance plan with different priorities.

Q: Any suggestions for how to get policymakers to understand the importance of approving deferred maintenance in a plan when they're concerned about the political message it may send?

We recommend educating your elected officials on this subject. It's understandable that elected officials are concerned about "the optics" of a maintenance plan that acknowledges there is not enough money to perform all the maintenance a city or county would like to get done. However, this plan could also be used to educate voters about where the maintenance dollars are being spent and demonstrate that additional revenues would be put to good use — keeping the community safe. There are positive "optics" to that message as well.

Maintenance, Inspection, and Documentation

Q: What constitutes an improvement? A bench? Cutting weeds?

CIS recommends leaving natural areas alone. If an entity has made an improvement, such as a bench, it should be inspected and maintained. Weed control and insect control are not protected by recreational immunity; the member should follow their written programs.

Q: What if the improvements were not done by the member but rather by the general public?

If the member did not make the improvements and there is no expectation that the member will maintain the improvements, then there is no duty to inspect or maintain. Except with the recent change to paths and trails, recreational immunity should apply.

Q: We contract the bulk of our maintenance. The parks department oversees the contract. How does this affect our liability?

If you contract your maintenance and that contract has solid hold harmless, indemnity, and insurance provisions, this would be an excellent way to transfer your risk.

Q: When we do inspections of equipment (playgrounds, swings, walkways, etc.), do we need to list everything and show what's good or bad, or can we list the equipment or structures that need maintenance?

The more documentation the better. It would be preferable to list each piece of equipment in the park, facility, or structure and the key maintenance parts. As a best practice, each piece of equipment or part is inspected. Those parts not passing are repaired or closed until repairs are made. We recommend inspection of each risk point on a routine basis.

Q: Our maintenance staff does not want to inspect or document in fear of being named in a lawsuit. Will not documenting inspection or maintenance avoid employees from being named in lawsuits?

The reality is employees will be named in lawsuits regardless of whether issues are documented or not. In a lawsuit, depositions will be taken of supervisors and employees. Any known and undocumented maintenance will make the case less defensible. The best defense is to show a pattern of documented inspection and repair to demonstrate a reasonable maintenance program.

If the city/county is insured with CIS, then even though the city is legally obligated to defend its employee, CIS will cover the cost of that defense.

Q: Must we enforce rules on signs?

You are not required to have enforcement staff to ensure sign compliance. A best practice is to have elected officials make a policy decision not to attempt to enforce sign warnings to provide discretionary immunity defense.

CIS Coverage

Q: What kind of defense will CIS provide if the employee is found to be negligent?

The CIS Liability Coverage Document provides defense coverage and pays any judgments for an employee's negligence. The Oregon Tort Claims Act requires public entities to defend and indemnify employees for the employee's negligence while acting in the course and scope of employment.

Q: Will contributions increase because of the loss of recreational immunity on paths and trails?

CIS is evaluating this exposure, and no decisions on rate increases have been made. The Board will make decisions regarding future increases, and it will likely depend on the frequency and severity of claims.

Additional Information

Recreational Immunity for Parks, Best Practices and Signage

Recreational immunity is still a defense for parks and other recreation areas. It's best practice to have warning signs and an inspection and maintenance plan for parks. Having an inspection and maintenance plan approved provides a defense of discretionary immunity.

Appropriate signage is a best practice. Some phrases to consider:

- Oregon law (ORS 105) provides the landowner is not liable for injury, death, or property damage that arises out of the use of the land for recreational purposes (known as "recreational use immunity").
- Falls at this location could result in severe injury or death
- Rough surface
- Watch for falling rock
- Water is stagnant and not tested for hazardous conditions
- No lifeguard present
- Possible dangerous conditions
- Entering a free recreational area
- Enter at your own risk — be warned of potential injury or death
- List possible dangerous conditions

Additional language for signs:

Until further notice, all paths, walkways, stairs, and any other improved or unimproved access ways to recreation areas are closed. Use of these areas is not permitted, and anyone using these areas does so at their own risk. (Include a note where the recreator can find additional information.)

Additional information to post on your entity's website and/or on social media:

Oregon law (ORS 105 (https://oregon.public.law/statutes/ors_105.682), known as recreational immunity) provides that a landowner is not liable for injury, death, or property damage when their land is used for recreational purposes at no charge. This statute provides some protection to owners of recreational land. Recent Court of Appeals and Oregon Supreme Court decisions have struck down some of the Legislature's recreational immunity statutes. Faced with the loss of this protection, recreational landowners have been forced to make difficult decisions. After seeking advice from professionals and considering different options, the (entity) has deemed it necessary to close paths and all other access ways to recreational areas. (Entity) resources are not available to physically close and block all access to recreational areas and enforce this notice. All users of (entity) must follow all posted rules.

We encourage everyone to contact their state representative (<https://www.house.gov/representatives/find-your-representative#:~:text=If%20you%20know%20who%20your,the%20U.S.%20House%20switchboard%20operator.>) and encourage legislative changes to restore recreational immunity.



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MAIN

PO Box 1469
Lake Oswego OR 97035
Phone: 503.763.3800
Toll Free: 800.922.2684
Fax: 503.763.3900

CLAIMS

PO Box 1469
Lake Oswego OR 97035
Phone: 503.763.3875
Fax: 503.763.3901
Email: claimspl@cisoregon.org (<mailto:claimspl@cisoregon.org>)

PRE-LOSS LEGAL DEPARTMENT

Phone: 503.763.3848
Toll Free: 800.922.2684 ext. 7
Email: PreLoss@cisoregon.org (<mailto:PreLoss@cisoregon.org>)

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News, Updates and Emerging Risk Management Issues
of Interest to CIS Members

April 2012

Discretionary Immunity: Making it Work for Your Entity

Mark Rauch, CIS General Counsel and
Scott Moss, CIS P/C Trust Manager

Spring is budget time in Oregon, and budget time is a good time to make policy choices that can provide an important defense against liability: discretionary immunity. Discretionary immunity can be an especially important tool in tough economic times when local governments are simply unable to fund or staff important maintenance and other projects that might reduce exposure to risk.

Whenever a public body becomes aware of a hazard or condition that could potentially cause harm, there is arguably a duty to remedy the problem or face liability for resulting injuries. Often, in fact, the “notice” of such hazards comes by way of written safety recommendations from CIS risk management consultants. But the entity may lack the funds to fix the problem or may have other needs to which they give a higher priority. If the problem is not fixed and there is an injury and claim, the safety recommendation (possibly now in the hands of the injured party’s attorney through

[READ MORE ...](#)

DISCRETIONARY IMMUNITY

In order for discretionary immunity to apply, **four key elements** must be present:

- 1. Choice**
- 2. Policy**
- 3. Authority**
- 4. Why & How**

Questions?

Ask your CIS Risk Management Consultant.

CIS

503-763-3800 800-922-2684

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a public record or litigation discovery request) could actually aggravate the liability picture. Does that mean we should avoid making recommendations for fear they won't be complied with promptly? Not necessarily. Again, the best approach when circumstances don't allow immediate implementation of the recommendations might be steps to implement discretionary immunity.

For example, (and these are actual facts from a CIS claim in which a city was found liable for the damage) a small city, with a small budget, has a sanitary sewer system that was installed about 80 years ago. The system has a 4 inch main. The city does a reasonable job of ongoing maintenance of its sewer lines, but is well aware the lines are both undersized and in poor condition. As a result, the lines tend to become plugged. The city's "policy" and practice has been to repair the system as it breaks down. However, there is no evidence that this "policy" been formally adopted by action of the city council. The city lacks the funds to upgrade the system. When the line becomes plugged through normal and foreseeable usage and backs up into houses causing damage, is the city liable? Under these facts, probably yes. But they likely could have avoided liability with a few simple (and cost free) steps to establish discretionary immunity.

What is "discretionary immunity"?

Public bodies historically were immune from liability altogether under the legal doctrine of "sovereign immunity" ("The King can do no wrong"). Oregon, like most states, has waived much of its sovereign immunity by passing a "Tort Claims Act" (OTCA),

which provides the means and method for pursuing tort claims against public bodies. The OTCA also sets important conditions and limitations on public body liability, such as the 180-day notice requirement, caps on liability, and certain immunities, including discretionary immunity. Specifically, public bodies are immune from liability for:

"Any claim based upon the performance of or the failure to exercise or perform a discretionary function or duty, whether or not the discretion is abused." ORS 30.265(c).

In practice this immunity has not proved to be as sweeping as it might sound. Courts have been fairly strict in their interpretation, as was pointed out in a recent Local Focus Legal Briefs column regarding the decision in the case of *Smith v. Bend Metropolitan Park and Recreation District*. Nonetheless, the immunity is available and the published court decisions provide good counsel on what needs to be in place for the immunity to apply ... and it need not be that difficult in most cases.

Practical steps to make it work.

While there is no clear set of instructions guaranteed to establish discretionary immunity, the case law provides guidance on key elements that should be considered.

The Oregon Tort Claims Act (ORS Chapter 30) allows public agencies to be subject to actions or suits for its torts (broadly defined as acts that cause harm). ORS 30.265 provides that public agencies, their officials and employees are immune from tort liability



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for “any claim based upon the performance of or the failure to exercise or perform a discretionary function or duty, whether or not the discretion is abused.” This provision, known as “discretionary immunity”, is a commonly used affirmative defense to tort claims for public entities.

In order to apply discretionary immunity four key elements must be present:

- Choice
- Policy
- Authority
- Why and How

Choice – The decision maker must have considered a variety of options and judge the merits of each option including factors such as safety, budget, time, scope, impact, etc.

Policy – The decision must be part of a plan or policy, not a routine, daily operational decision.

Authority – The decision maker must be a policy maker or have been delegated authority from a policy maker.

Why and How – The decision maker must do more than make the decision, they must document why they made the decision and how they made the decision.

An easy way for entities to get the full benefit of discretionary immunity is to practice the **R-I-S-K** model of decision making:

RECOGNIZE who has decision-making authority: Ask which policy maker has the authority to make

this decision. Have they formally delegated that authority? Those with proper policy-making decision authority should make the decision.

IDENTIFY alternatives and foreseeable consequences of the decision:

- What are the alternatives?
- Who is impacted by this decision?
- What is the scope/design/system?
- What is the schedule?
- What other interests are competing for resources?
- What is the cost/budget?
- What are the risks? (to people, property, reputation, financial, operational, etc)
- What are the benefits?

STRUCTURE the decision-making process. A decision making system should be in place. The system should have documented authority from the elected officials, to top management, to managers and supervisors. Decision makers should be trained on the scope of their authority, the importance of identifying options and risk, and on documenting the how and why of the decision made.

KEEP RECORDS. Decision makers must keep records of the alternatives considered, the analysis of each alternative, why and how the decision was made, and by what authority they made the decision.

A decision making risk matrix can be found under “Discretionary Immunity” in the Risk Management Library on the CIS website, www.cisoregon.org.



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To: The Mayor and Members of the City Council
From: Aimee Amerson, City Recorder
Subject: Cycle Yamhill County
Council Goal: Goal 5: Financial Stability
Date: February 6, 2026

Background

The Bike Yamhill County organization has a project 8 miles outside the City of Carlton off of Panther Creek Road. While the project is located outside the city limits of Carlton, it will bring in bicycle enthusiasts to our city which will support our businesses and enhance our economic development.

Here to present details and answer questions on the project is Casey Kulla, member of the Bike Yamhill County team. Info can also be found on their website here:

<https://cycleyamhillcounty.com/panther-creek-mtb-park>



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To: The Mayor and Members of the City Council
From: Tyler C. Yeoman-Millette, City Attorney
Subject: Updates to Municipal Code regarding Public Contracting
Date: February 6, 2024

Recommendation

After review and discussion, it is recommended that Council consider the following motions:

1. It is moved that the City Council authorize the 2nd reading of Ordinance 2024-747, an ordinance amending Chapter 3.04 of the Carlton Municipal Code relating to public contracting, by title only.
2. It is moved that the City Council accept the 2nd reading of Ordinance 2024-747, an ordinance amending Chapter 3.04 of the Carlton Municipal Code relating to public contracting.

Background and Discussion

During the 2023 Legislative Session, the Oregon Legislature passed SB 1047, which modified certain provisions of the Oregon Public Contracting Code, found at ORS Chapters 279, 279A, 279B, and 279C. One of the primary purposes of this bill was to increase the contract value thresholds which set the maximum values for following less formal contracting procedures. Specifically, SB 1047 amended ORS 279B.065 to allow local jurisdictions to utilize *any* process to award contracts valued at \$25,000 or less, and to utilize the intermediate procurement process (which entails acquiring at least three informal bids or quotes) for contracts valued at up to \$250,000. Prior to the passage of SB 1047, these thresholds were \$10,000 and \$150,000, respectively. Increasing these thresholds allows the City to more efficiently award contracts within these specified contract values.

While reviewing the Carlton Municipal Code's provisions relating to public contracting to determine what amendments, if any, were necessary following the passage of SB 1047, it was determined that some provisions of CMC 3.04 were many years of out date, and other provisions were able to be amended to provide better specificity and clarity. Additionally, going through these code provisions allowed us to ensure that the appropriate provisions of the recently-adopted purchasing policy were referenced and incorporated into CMC Chapter 3.04.

Attached for review and discussion is Ordinance 2024-747, which will adopt the updated public contracting code provisions upon passage. The first reading of this Ordinance occurred at the Council's January 9, 2024, meeting, and the Ordinance was accepted by the Council. The second, and final, reading of the Ordinance will occur at the Council's February 6, 2024, meeting, and if accepted, will go into effect on the thirtieth day following the adoption of the Ordinance.

Exhibit

1. Ordinance 2024-747, including revised Carlton Municipal Code Chapter 3.04.

ORDINANCE 2024-747

AN ORDINANCE AMENDING CHAPTER 3.04 OF THE CARLTON MUNICIPAL CODE RELATING TO PUBLIC CONTRACTING

WHEREAS, during the 2023 legislative session, important provisions of the Oregon Public Contracting Code, ORS Chapters 279, 279A, 279B, and 279C, were amended to allow less formal processes for awarding public contracts; and

WHEREAS, the Carlton Municipal Code Chapter 3.04, relating to public contracting, has become outdated and requires amending to align with the recent changes to the Oregon Public Contracting Code; and

WHEREAS, further changes to CMC Chapter 3.04 are necessary to streamline the public contracting process and to clarify certain provisions of Carlton’s public contracting process; and

WHEREAS, the City Council desires to amend CMC Chapter 3.04, in its entirety, to adopt updated public contracting provisions for the City, as outlined in the attached Exhibit A.

NOW THEREFORE, BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF CARLTON, OREGON, as follows:

Section 1. Carlton Municipal Code Chapter 3.04, relating to public contracting, is hereby amended in its entirety, as outlined in the attached Exhibit A.

Section 2. This ordinance shall be effective on the thirtieth day following its passage by the Carlton City Council.

ADOPTED by the City Council of the City of Carlton, Oregon, on _____ 2024, by the following votes:

AYES: _____
NAYS: _____
ABSENT: _____
ABSTAIN: _____

Linda Watkins, Mayor

ATTEST:

Aimee Amerson, City Recorder

3.04.010 Contract review board.

The Carlton city council is designated as the local contract review board under the Oregon Public Contracting Code. The contract review board may, from time to time, delegate its powers and responsibilities consistent with the Oregon Public Contracting Code and the Model Rules. The city manager ("manager") or his or her designated purchasing agent, and the city finance department are designated as Carlton's "contracting agency" for purposes of contracting powers and duties assigned to Carlton as a "contracting agency" under the Oregon Public Contracting Code or the Model Rules.

3.04.020 Definitions.

Except as specifically provided herein, public contracts shall be let by Carlton according to the Oregon Public Contracting Code, including the Model Rules adopted by the Oregon Attorney General as they now exist and as they may be amended in the future. Definitions provided by the Oregon Public Contracting Code or the Model Rules shall apply to Carlton procurements, except as may be specifically provided herein.

3.04.030 Competitive procurement exemptions.

The following classes of public contracts are hereby exempted from requiring competitive sealed bids or competitive sealed proposals:

- A. Any public contract exempted by the Oregon Public Contracting Code or Model Rules;
- B. Public contracts, other than public improvement contracts, that do not exceed twenty-five thousand dollars (\$25,000), when the small procurement provisions of ORS 279B are followed.
- C. Public contracts, other than public improvement contracts, that do not exceed two-hundred fifty-thousand dollars (\$250,000), when the intermediate procurement provisions of ORS 279B are followed.
- D. Change orders or contract amendments that are reasonably related to the scope of work under the original contract, up to fifty thousand dollars (\$50,000.00). Change orders or other amendments that increase the initial price of the contract by more than fifty thousand dollars (\$50,000.00) must be separately approved by the contract review board.
- E. Purchases through federal programs, pursuant to ORS 279A.180.
- F. An emergency contract, provided that the contracting agency adheres to the requirements of the Oregon Public Contracting Code and the Model Rules relating to emergency procurement.
- G. Any other contract (including sole source and brand name specification contracts) where the public interest would be promoted by exempting the contract from the competitive

bidding process, provided that the contract review board adheres to the Public Contracting Code and the Model Rules in making the exemption.

3.04.040 Notice of contracts.

Notice of public improvement contracts may be published electronically where the contracting agency finds that such publication is likely to be cost effective, as provided in ORS 279C.360.

3.04.050 Public Improvement Contracts

- A. Public improvement contracts estimated by the contracting agency not to exceed one-hundred thousand dollars (\$100,000.00) may be let by competitive quote under the following procedures:
 - 1. The contracting agency shall informally solicit at least three price quotes from prospective contractors. If three prospective contractors are not available, then fewer quotes may be solicited, and the contracting agency shall maintain records of the attempts to obtain quotes.
 - 2. The contracting agency shall award the contract to the prospective contractor whose quote will best serve the interests of Carlton, taking into account price and other applicable factors, such as experience, specific expertise, availability, project understanding, contractor capacity, and contractor responsibility. If the contract is not awarded on the basis of the lowest price, the contracting agency shall make a written record of the basis for the award.
 - 3. A procurement may not be artificially divided or fragmented to qualify for the informal contract award procedures provided by this section.
- B. Public improvement contracts in excess of one-hundred thousand dollars (\$100,000.00) shall be let in accordance with the provisions of ORS 279C.

3.04.060 Personal services contracts.

Personal services contracts (other than personal services contracts for city officers, or architectural or engineering services), are subject to the rules established by this section:

- A. Personal service contracts will be used to retain the services of independent contractors, other than architects or engineers. Nothing in this section shall apply to the employment of regular city employees.
- B. Unless otherwise approved by the Carlton city manager, all personal service contracts shall require the contractor to defend, indemnify, and hold harmless the city, its officers, agents and employees against and from any and all claims or demands for damages of any kind arising out of or connected in any way with the contractor's performance

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- thereunder and shall include a waiver of contractor's right to ORS 30.285 and ORS 30.287 indemnification and defense.
- C. Unless otherwise approved by the Carlton city manager, city personal service contracts shall contain a provision requiring the person or entity providing the service to obtain and maintain liability insurance coverage in at least the amount of the city's tort liability limits, naming the city as an additional named insured, during the life of the contract.
 - D. All Carlton personal service contracts shall contain all contract provisions mandated by state law. These provisions may be incorporated in the personal service contract by reference to state law, unless state law provides otherwise. The Carlton city attorney's office will prepare model contract provisions for use in city personal service contracts.
 - E. The following procedure shall be observed in the selection of personal service contractors:
 - 1. For personal service contracts involving an anticipated fee of fifty-thousand dollars (\$50,000) or less per annum, the Carlton city manager or his or her designated officer may negotiate and recommend to the contract review board a contract for such services with any qualified contractor of his or her selection.
 - 2. For personal service contracts involving an anticipated fee of more than fifty-thousand dollars (\$50,000) per annum, the Carlton city manager or his or her designated officer shall solicit at least three prospective contractors who shall appear to have at least minimum qualifications for the proposed assignment, notify each prospective contractor in reasonable detail of the proposed assignment, and determine the prospective contractor's interest and ability to perform the proposed assignment.
 - 3. The Carlton city manager or his or her designated officer may arrange for any or all interested prospective contractors to be interviewed for the assignment by an appropriate city employee or by an interview committee.
 - 4. Following a review of the qualifications and interview, where conducted, of the interested prospective contractors, the Carlton city manager or his or her designated officer shall select the prospective contractor, and a personal service contract to the contract review board.
 - F. The above provisions regarding selection procedures do not apply to amendments, modifications or supplements to executed personal service contracts.
 - G. The following criteria shall be considered in the evaluation and selection of a personal service contractor:
 - 1. Specialized experience in the type of work to be performed.
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2. Capacity and capability to perform the work, including any specialized services within the time limitations for the work.
 3. Educational and professional record, including past record of performance on contracts with governmental agencies and private parties with respect to cost control, quality of work, ability to meet schedules, and contract administration, where applicable; and
 4. Availability to perform the assignment and familiarity with the area in which the specific work is located, including knowledge of design or techniques peculiar to it, where applicable.
 5. Any other factors relevant to the particular contract.
- H. The selection procedures described in this section may be waived by the Carlton city manager, at his or her discretion where an emergency exists that could not have been reasonably foreseen and requires such prompt approval by the contract review board execution of a contract to remedy the situation that there is not sufficient time to permit utilization of the selection procedures.
- I. Nothing contained in this section shall preclude the city from complying with provisions of federal or state law that require the city to utilize a different selection or contracting procedure.

3.04.070 Disposition of surplus personal property.

Disposition of surplus personal property may be made, at the discretion of the Carlton city manager or his or her designee, under provisions of the Oregon Public Contracting Code, or the Model Rules, or under the provisions of this section:

- A. From time to time and after personal property owned by Carlton is determined by the Carlton city manager or his or her designee to be surplus to the needs of the city, the city may sell the property at public auction. Carlton may utilize a contracting firm, approved by the contract review board, for disposition of the property on terms and conditions contained in a contract approved by the contract review board. Carlton shall give notice of the public auction by posting notice of the means by which the property will be disposed of on the Carlton internet website, or by advertisement in a newspaper of general circulation.
- B. Auction sales may be conducted entirely on the internet. Sale shall be for cash to the highest bidder. All proceeds of the sale shall be paid to Carlton's general fund, subject to the terms and conditions of the contract (if any) approved by the contract review board between Carlton and a firm selected to conduct the auction.
- C. All personal property sold pursuant to this section shall be sold as-is without any warranty, either express or implied, of any kind, including but not limited to warranties

of title or fitness for any purpose. Upon receiving payment for the personal property from the successful bidder, the person or company conducting the auction shall execute an appropriate bill of sale, which shall recite that the sale is without warranty, as provided in this subsection.

3.04.080 Bids exceed budget.

If bids are solicited for a public improvement contract, and all bids exceed the budget for the project, the contracting agency may, prior to contract award, negotiate for a price within the project budget under the following procedures:

- A. Negotiations will begin with the lowest, responsive and responsible bidder. If negotiations are not successful, then the contracting agency may begin negotiations with the second lowest responsive, responsible bidder, and so on.
- B. Negotiations may include the inclusion of value engineering and other options to attempt to bring the project cost within the budgeted amount.
- C. A contract may not be awarded under this section if the scope of the project is significantly changed from the description in the original bid documents.
- D. The contracting agency will adhere to the provisions of ORS 279C.340 in applying this section.

3.04.090 Purchasing policies.

The contracting agency may adopt appropriate purchasing policies dealing with ethics, environmental considerations and the like, subject to review and modification by the contract review board.

3.04.100 Conflicts of interest.

No member, officer, or employee of the city of Carlton, or its designees or agents, no member of the governing body of the city of Carlton, and no other public official of the city of Carlton who exercise any function or responsibility with respect to a public contract during his or her tenure or for one year thereafter, shall have any direct financial interest in work performed in connection with a public contract. No member, officer, or employee of the city of Carlton, or its designees or agents, no member of the governing body of the city of Carlton, and no other public official of the city of Carlton, or any business in which they may have an interest or by which they may be employed, shall enter into a procurement, public improvement or service contract with the city of Carlton while such person holds such public office or position, or for one year thereafter.

3.04.110 Conflicting provisions.

In the event of a conflict between any provision of the Oregon Public Contracting Code or the Model Rules and the Carlton Municipal Code, the provisions of the Oregon Public Contracting Code or the Model Rules shall control.

Redlines - Chapter 3.04 PUBLIC CONTRACTS AND CONTRACT REVIEW BOARD

3.04.010 Contract review board.

The Carlton city council is designated as the local contract review board under the ~~State of~~ Oregon Public Contracting Code. The contract review board may, from time to time, delegate its powers and responsibilities consistent with the Oregon Public Contracting Code and the Model Rules. The city manager ("manager") or his or her designated purchasing agent, and the city finance department are designated as Carlton's "contracting agency" for purposes of contracting powers and duties assigned to Carlton as a "contracting agency" under the ~~State of~~ Oregon Public Contracting Code or the Model Rules.

3.04.020 Definitions.

Except as specifically provided herein, public contracts shall be let by Carlton according to the ~~State of~~ Oregon Public Contracting Code, including the Model Rules adopted by the Oregon Attorney General as they now exist and as they may be amended in the future. Definitions provided by the ~~State of~~ Oregon Public Contracting Code or the Model Rules shall apply to Carlton procurements, except as may be specifically provided herein.

3.04.030 Competitive procurement exemptions.

The following classes of public contracts are hereby exempted from ~~requiring competitive sealed bids or competitive sealed proposals~~competitive procurement:

- A. Any contract exempted by the ~~State of~~ Oregon Public Contracting Code or Model Rules;
- B. Public contracts, other than public improvement contracts, that do not exceed twenty-five thousand dollars (\$25,000), when the small procurement provisions of ORS 279B are followed.
- C. Public contracts, other than public improvement contracts, that do not exceed two-hundred fifty-thousand dollars (\$250,000), when the intermediate procurement provisions of ORS 279B are followed.
- D. Change orders or contract amendments that are reasonably related to the scope of work under the original contract, up to ~~twenty-five-fifty~~ thousand dollars (\$~~25~~50,000.00). Change orders or other amendments that increase the initial price of the contract by more than ~~twenty-five-fifty~~ thousand dollars (\$~~25~~50,000.00) must be separately approved by the contract review board.
- ~~E.~~ Purchases through federal programs, pursuant to ORS 279A.180.
- ~~F.~~ An emergency contract, provided that the contracting agency adheres to the requirements of ~~ORS 279B.080 or 279C.335(5) and the Model Rules~~the Oregon Public Contracting Code and the Model Rules relating to emergency procurement.

~~EG.~~ Any other contract (including sole source and brand name specification contracts) where the public interest would be promoted by exempting the contract from the competitive bidding process, provided that the contract review board adheres to the Public Contracting Code and the Model Rules in making the exemption.

3.04.040 Notice of contracts.

Notice of public improvement contracts may be published electronically where the contracting agency finds that such publication is likely to be cost effective, as provided in ORS 279C.360.

3.04.050 ~~Contracts not exceeding fifty thousand dollars~~ Public Improvement Contracts.

A. Public improvement contracts estimated by the contracting agency not to exceed ~~fifty-one-hundred~~ hundred thousand dollars (~~\$5100,000.00~~) may be let by competitive quote under the following procedures:

1. The contracting agency shall informally solicit at least three price quotes from prospective contractors. If three prospective contractors are not available, then fewer quotes may be solicited, and the contracting agency shall maintain records of the attempts to obtain quotes.
2. The contracting agency shall award the contract to the prospective contractor whose quote will best serve the interests of Carlton, taking into account price and other applicable factors, such as experience, specific expertise, availability, project understanding, contractor capacity, and contractor responsibility. If the contract is not awarded on the basis of the lowest price, the contracting agency shall make a written record of the basis for the award.
3. A procurement may not be artificially divided or fragmented to qualify for the informal contract award procedures provided by this section.

~~D. A public improvement contract let under this section may be amended by change order.~~

~~EB-~~ Public improvement contracts in excess of ~~fifty-one-hundred~~ thousand dollars (~~\$5100,000.00~~) shall be let in accordance with the provisions of ORS 279C.

3.04.060 Personal services contracts.

Personal services contracts (other than personal services contracts for city officers, or architectural or engineering services), are subject to the rules established by this section:

- A. Personal service contracts will be used to retain the services of independent contractors, other than architects or engineers. Nothing in this section shall apply to the employment of regular city employees.
- B. Unless otherwise approved by the Carlton city manager, all personal service contracts shall require the contractor to defend, indemnify, and hold harmless the city, its officers,

-
- agents and employees against and from any and all claims or demands for damages of any kind arising out of or connected in any way with the contractor's performance thereunder and shall include a waiver of contractor's right to ORS 30.285 and ORS 30.287 indemnification and defense.
- C. Unless otherwise approved by the Carlton city manager, city personal service contracts shall contain a provision requiring the person or entity providing the service to obtain and maintain liability insurance coverage in at least the amount of the city's tort liability limits, naming the city as an additional named insured, during the life of the contract.
- D. All Carlton personal service contracts shall contain all contract provisions mandated by state law. These provisions may be incorporated in the personal service contract by reference to state law, unless state law provides otherwise. The Carlton city attorney's office will prepare model contract provisions for use in city personal service contracts.
- E. The following procedure shall be observed in the selection of personal service contractors:
1. For personal service contracts involving an anticipated fee of ~~ten-fifty~~ thousand dollars (\$~~150,000~~) or less per annum, the Carlton city manager or his or her designated officer may negotiate and recommend to the contract review board a contract for such services with any qualified contractor of his or her selection.
 2. For personal service contracts involving an anticipated fee of more than ~~ten-fifty~~ thousand dollars (\$~~150,000~~) per annum, the Carlton city manager or his or her designated officer shall solicit at least three prospective contractors who shall appear to have at least minimum qualifications for the proposed assignment, notify each prospective contractor in reasonable detail of the proposed assignment, and determine the prospective contractor's interest and ability to perform the proposed assignment.
 3. The Carlton city manager or his or her designated officer may arrange for any or all interested prospective contractors to be interviewed for the assignment by an appropriate city employee or by an interview committee.
 4. Following a review of the qualifications and interview, where conducted, of the interested prospective contractors, the Carlton city manager or his or her designated officer shall select the prospective contractor, and a personal service contract to the contract review board.
- F. The above provisions regarding selection procedures do not apply to amendments, modifications or supplements to executed personal service contracts.
- G. The following criteria shall be considered in the evaluation and selection of a personal service contractor:
-

1. Specialized experience in the type of work to be performed.
 2. Capacity and capability to perform the work, including any specialized services within the time limitations for the work.
 3. Educational and professional record, including past record of performance on contracts with governmental agencies and private parties with respect to cost control, quality of work, ability to meet schedules, and contract administration, where applicable; and
 4. Availability to perform the assignment and familiarity with the area in which the specific work is located, including knowledge of design or techniques peculiar to it, where applicable.
 5. Any other factors relevant to the particular contract.
- H. The selection procedures described in this section may be waived by the Carlton city manager, at his or her discretion where an emergency exists that could not have been reasonably foreseen and requires such prompt approval by the contract review board execution of a contract to remedy the situation that there is not sufficient time to permit utilization of the selection procedures.
- I. Nothing contained in this section shall preclude the city from complying with provisions of federal or state law that require the city to utilize a different selection or contracting procedure.

3.04.070 Disposition of surplus personal property.

Disposition of surplus personal property may be made, at the discretion of the Carlton city manager or his or her designee, under provisions of the ~~State of Oregon~~ Public Contracting Code, or the Model Rules, or under the provisions of this section:

- A. From time to time and after personal property owned by Carlton is determined by the Carlton city manager or his or her designee to be surplus to the needs of the city, the city may sell the property at public auction. Carlton may utilize a contracting firm, approved by the contract review board, for disposition of the property on terms and conditions contained in a contract approved by the contract review board. Carlton shall give notice of the public auction by posting notice of the means by which the property will be disposed of on the Carlton internet website, or by advertisement in a newspaper of general circulation.
- B. Auction sales may be conducted entirely on the internet. Sale shall be for cash to the highest bidder. All proceeds of the sale shall be paid to Carlton's general fund, subject to the terms and conditions of the contract (if any) approved by the contract review board between Carlton and a firm selected to conduct the auction.

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- C. All personal property sold pursuant to this section shall be sold as-is without any warranty, either express or implied, of any kind, including but not limited to warranties of title or fitness for any purpose. Upon receiving payment for the personal property from the successful bidder, the person or company conducting the auction shall execute an appropriate bill of sale, which shall recite that the sale is without warranty, as provided in this subsection.

3.04.080 Bids exceed budget.

If bids are solicited for a public improvement contract, and all bids exceed the budget for the project, the contracting agency may, prior to contract award, negotiate for a price within the project budget under the following procedures:

- A. Negotiations will begin with the lowest, responsive and responsible bidder. If negotiations are not successful, then the contracting agency may begin negotiations with the second lowest responsive, responsible bidder, and so on.
- B. Negotiations may include the inclusion of value engineering and other options to attempt to bring the project cost within the budgeted amount.
- C. A contract may not be awarded under this section if the scope of the project is significantly changed from the description in the original bid documents.
- D. The contracting agency will adhere to the provisions of ORS 279C.340 in applying this section.

3.04.090 Purchasing policies.

The contracting agency may adopt appropriate purchasing policies dealing with ethics, environmental considerations and the like, subject to review and modification by the contract review board.

3.04.100 Conflicts of interest.

No member, officer, or employee of the city of Carlton, or its designees or agents, no member of the governing body of the city of Carlton, and no other public official of the city of Carlton who exercise any function or responsibility with respect to a public contract during his or her tenure or for one year thereafter, shall have any direct financial interest in work performed in connection with a public contract. No member, officer, or employee of the city of Carlton, or its designees or agents, no member of the governing body of the city of Carlton, and no other public official of the city of Carlton, or any business in which they may have an interest or by which they may be employed, shall enter into a procurement, public improvement or service contract with the city of Carlton while such person holds such public office or position, or for one year thereafter.

3.04.110 Conflicting provisions.

In the event of a conflict between any provision of the ~~State of~~ Oregon Public Contracting Code or the Model Rules and ~~Resolution~~the Carlton Municipal Code, the provisions of the ~~State of~~ Oregon Contracting Code or the Model Rules shall control.



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To: The Mayor and Members of the City Council
From: Shannon Beaucaire, City Manager
Subject: 2024-25 Council Goals
Council Goal: Goal 4: Good Governance
Date: February 6, 2024

Recommendation

After review and discussion, it is recommended that Council consider the following motion:

It is moved that the City Council adopt the 2024-25 Council goals.

Background

At the January 20, 2024 Council goal-setting meeting, the Council discussed the attached goals for the upcoming year.

Alternatives

Do not adopt.

Fiscal Impact

None.

Exhibits

1. 2024-25 Council Goals

CARLTON CITY COUNCIL**2024 GOAL SETTING RETREAT****UPDATED GOALS & PRIORITY PROJECTS FOR 2024-25**

At the January 20, 2024 Carlton City Council goal setting retreat, the Council agreed on revisions and additions as updates from the 2023-24 goals. Changes are presented in red text. They also identified four City projects as high priority for 2024-25.

GOAL REVISIONS / ADDITIONS**GOAL 1: EFFECTIVE & EFFICIENT INFRASTRUCTURE**

1. Revise Action 1.4, to read: "Conduct a **wastewater utility** rate study and **consider provide** recommended rate adjustments."
2. Revise Action 1.6 to read: "~~Develop and implement a plan to~~ Promote, educate, train, and engage community members in public safety activities and emergency planning."
3. Revise Action 1.8 to combine with 1.9, to read: "Continue participation in discussions related to the Highway 47 realignment and advocate for City interests, to provide physical enhancements, ~~and~~ traffic management in the downtown area, **and support businesses and residents during Highway 47 construction.**"
4. **Renumber Action 1.10 to Action 1.9**

GOAL 2: HOUSING AND LIVABILITY

[No revisions were offered.]

GOAL 3: CITIZEN INVOLVEMENT

1. Revise Action 3.4 to read: "Provide leadership development and other volunteer opportunities for community members **including youth.**"

GOAL 4: GOOD GOVERNANCE

1. Revise Action 4.4 to read: "Investigate opportunities to coordinate with regional partners to provide mutually beneficial community **facilities resources.**"

GOAL 5: FINANCIAL SUSTAINABILITY

1. Revise the goal description to read: “Continue to enhance the physical character of Carlton through **responsible** policies and programs that foster an attractive and **stable** environment for businesses, organizations, and residents to continue meeting the public service expectations.”
2. Replace text of 5.1 to read: “**Investigate strategies to attract businesses and promote economic development.**”
3. Add a new **Action 5.3** that reads: “**Investigate opportunities to minimize utility rate impacts on community members.**”

2024-25 PRIORITY PROJECTS

The City Council identified the following four City projects as having the highest priority for 2024-25. These projects are listed in ranked order include:

1. Completion and utilization of the new Civic Center
2. Wastewater system improvements
3. Completion of the Comprehensive Plan and Development Code updates
4. Completion of the Transportation System Plan (TSP) as the next step to informing Highway 47 planning and, in the meantime, maintain a working relationship with the Oregon Department of Transportation (ODOT)



COUNCIL GOALS TABLE KEY

- | | | |
|------------------------|---|--|
| Priority: | * Identified as a priority project | ** Identified as a high priority project |
| Project Type: | LT, long term ST, short term | OG, ongoing |
| Master Plan: | WMP, water WWMP, wastewater | PMP, parks |
| Project Status: | NS, not started IP, in-progress OH, on-hold | R, removed C, completed |

Goal 1: Effective & Efficient Infrastructure

A continuing commitment to periodic assessment, improvement, and ongoing maintenance of public infrastructure and facilities that are essential to Carlton's livability.

Plans Associated with Goal 1:

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. <i>Comprehensive Plan: Goal 8 – Recreation; Goal 11 – Public facilities & services; Goal 12- Transportation; Goal 13- Energy</i> 2. <i>Wastewater Master Plan</i> | <ol style="list-style-type: none"> 3. <i>Emergency Operations Plan</i> 4. <i>Water Master Plan</i> 5. <i>Transportation System Plan</i> 6. <i>Parks Master Plan</i> |
|---|---|

Strategic Actions & Status

Strategic Actions & Status		TYPE	STATUS
ACTION 1.1	Continue to implement the five-year replacement plan, including identifying funding strategies, for streets, water, and sewer assets. (Wastewater System Improvements)**	OG	IP
ACTION 1.2	Identify options, working with partners such as Yamhill Regional Water Authority, for a future water supply plan.	OG	IP
ACTION 1.3	Update City Transportation System Plan.**	ST	IP
ACTION 1.4	Conduct a utility rate study and provide recommended rate adjustments.*	ST	IP
ACTION 1.5	Update and maintain the City's emergency management plan.	LT	IP
ACTION 1.6	Promote, educate, train, and engage community members in public safety activities and emergency planning.*	OG	IP
ACTION 1.7	Implement the plan to provide a functional and safe Civic Center.**	ST	IP
ACTION 1.8	Continue participation in discussions related to the Highway 47 realignment and advocate for City interests, to provide physical enhancements, traffic management in the downtown area and support businesses and residents during Highway 47 construction.**	OG	IP
ACTION 1.9	Begin to develop a five-year replacement/expansion plan with benchmarks for sidewalks and to increase accessibility for residents and businesses. *	OG	OH

Goal 2: Housing & Livability

Establish policies and opportunities for quality and a diversity of housing options that maintain community character while making living in Carlton attainable for a wide range of individuals and income levels.

Plans Associated with Goal 2:

1. *Comprehensive Plan: Goals 2-7 – Land Use Planning, Natural Resources & Natural Hazards*
2. *Goal 10- Housing*

Strategic Actions & Status

Strategic Actions & Status		TYPE	STATUS
ACTION 2.1	Continue to update the City's Comprehensive Plan.**	ST	IP
ACTION 2.2	Continue to update the City's Development Code.**	ST	IP
ACTION 2.3	Incorporate housing policy approaches that promote increased supply, diversity, affordability, and homeownership opportunities wherever practicable in current and future updates of the Comprehensive Plan and/or Development Code. **	ST	IP w/2.1&2.2



Mayor & City Council

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 Phone: (503) 852-7575
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**2024-25 Council Goals
 With Work Plan**

ACTION 2.4	Develop policies for managing vacation/rental properties that are conducive to maintaining community livability. **	ST	IP w/2.1&2.2
ACTION 2.5	Investigate costs and benefits of adding a Historic District as part of the current Comprehensive Plan and Development Code update.*	ST	IP w/2.1&2.2
ACTION 2.6	Identify opportunities to maintain and promote greenspace wherever practicable in current and future updates of the Development Code.**	ST	IP w/2.1&2.2

Goal 3: Citizen Involvement

Continue to identify, implement, and promote strategies and tools that expand community education and involvement in City government activities and decision-making.

Plans associated with Goal 3:

1. *Comprehensive Plan Goal 1 – Citizen Involvement*

Strategic Actions & Status

		TYPE	STATUS
ACTION 3.1	Establish a comprehensive system of public communication with routine updates and multiple distribution venues (e.g., website, newsletter, and social media platforms).*	OG	IP
ACTION 3.2	Explore options to display upcoming City events and other timely information on or in front of Civic Center.	ST	C w/1.7
ACTION 3.3	Develop approaches to promote community involvement in City decision-making.	OG	IP
ACTION 3.4	Provide leadership development and other volunteer opportunities for community members including youth.	OG	IP

Goal 4: Good Governance

To be responsive, approachable, welcoming, fair, and accountable internally and externally. Facilitate on-going conversation that captures all the considerations involved in ensuring interests are addressed and reflected in city policy initiatives.

Strategic Actions & Status

		TYPE	STATUS
ACTION 4.1	Identify and provide education and training opportunities for City Council, advisory boards/commissions, and staff.	OG	IP
ACTION 4.2	Investigate opportunities to coordinate with regional partners to provide mutually beneficial community resources. *	OG	IP

Goal 5: Financial Sustainability

Continue to enhance the physical character of Carlton through responsible policies and programs that foster an attractive and stable environment for businesses, organizations, and residents to continue meeting the public service expectations.

Plans Associated with Goal 5:

- | | |
|---|---|
| 1. <i>Comprehensive Plan Goal 9 – Economy of the City</i> | 3. <i>Carlton “Sight Seers” Community Vision & Strategic Plan</i> |
| 2. <i>Comprehensive Plan Goal 14 – Urbanization</i> | 4. <i>Economic Development Marketing</i> |

Strategic Actions & Status

		TYPE	STATUS
ACTION 5.1	Investigate strategies to attract businesses and promote economic development.	LT	OH
ACTION 5.2	Investigate strategies to acquire, manage, and maintain level of service park lands, greenspace, and trailways.	LT	NS
ACTION 5.3	Investigate opportunities to minimize utility rate impacts on community members.	LT	NS

The Mission of the City of Carlton is to safeguard and enhance the vitality and livability of the community by providing essential services with professionalism and integrity.



Goal 1: 2024 Projects in Process

1. Wastewater Headworks – estimated completion Spring 2024 – includes paving parking stalls for park use WWMP T1; Funding: *County ARPA Funds* (Design \$112,500); (Construction \$325,000); *Capital Improvement Funds* (Design \$37,500); (Construction \$325,000)
2. Carlton Civic Building – estimated completion Summer 2024
3. Wastewater Treatment Plant Improvements
WWMP T2A-T10; Funds must be obligated by Dec 2024 & completed Sept 2026
Project includes potential water reuse system to increase longevity of water source & resiliency
Funding: *State of OR ARPA Grant* \$5.8 mil; *Capital Improvement Funds* \$1 mil
4. Transportation System Plan Update
Work to be completed by December 2025
Funding: *State TGM Grant (ODOT)* \$210,000; *City funds* \$21,000
5. Wastewater Collection System Improvements – Grant & W. Main Street Mainlines
WWMP T1; Funds must be obligated by 2026 & completed 2030
Funding: **Grant Street Design:** County ARPA Funds \$112,500; *Capital Improvement Funds* \$37,500; **Construction:** *Federal Funding (EPA)* \$2.2 million; *City required match* \$440,000
6. W. Main St Improvements
Funds must be obligated by 2026 & completed 2030
Funding: *SCA Funds* \$100,000; *Federal Funding (DOT)* \$1.5 million;
City required match \$172,000
7. Water Security: Working with YRWA, MW&L, and City of Hillsboro. MW&L emergency agreement followed by planning for water supplementation.
8. Main Street Utilities and Improvements. Planning with PGE and team on utility improvements (water/sewer) and undergrounding utilities with associated Ladd Park improvements
9. OR47 Work. Planning work on next steps for the realignment process
10. Implementation of the Carlton Walkability Sidewalk Program
11. Initial discussions and development with property owner(s) on additional public parking opportunities
12. Emergency Management: work with State on Firewise Community Status & County on Hazard Mitigation Plan Update
13. Stormwater Master Plan
14. State Required: 1) OHA Water Services Report (due 10/16/2024) & 2) Water Conservation & Management Plan (due 7/16/2024)



Goal 2: 2024 Projects in Process

1. Comprehensive Plan & Development Code Updates
2. Incorporation of Housing Approaches into code update
3. Incorporation of Vacation rental policies into code update
4. Incorporation of Greenspace promotion into code update
5. Planning for Historic preservation discussion for future code update

Goal 3: 2024 Projects in Process

1. It is an ongoing commitment to continue to look for approaches to promote community involvement in City decision-making and Provide leadership development and other volunteer opportunities for community members

Goal 4: 2024 Projects in Process

1. Continued coordination with Hampton Lumber on creating pollinator plants on right of ways rather than mowed grass
2. Updates to City Policies to match new state requirements throughout the year
3. Employee cross-training for Public Works and Administration teams

Goal 5: 2024 Projects in Process

1. Continued attendance at CBA meetings to identify opportunities to share resources as appropriate
2. Attendance at economic development and tourism conferences
3. Coordination with Yamhill County economic development
4. Consideration of staffing levels and addition of new personnel, with budget constraints & in consideration of Council goals (economic development, code, administrative responsibilities, project implementation, public safety, etc.)
5. Exploration of emerging technologies to assist when additional personnel may not be feasible
6. Exploration of partnerships to maintain level of service of parks/greenspace/trails
7. Continued exploration of rail corridor partnership with Yamhill County
8. Council discussion of City Service Fees (e.g. stormwater, street & sidewalk, trees, low-income assistance)
9. Work with Tourism Committee, State and Local entities to develop tourism as a part of economic development



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To: The Mayor and Members of the City Council
From: Tyler C. Yeoman-Millette, City Attorney
Subject: Opt-in to statutory liability limitation
Date: February 6, 2024

Recommendation

After review and discussion, it is recommended that Council consider the following motions:

1. It is moved that the City Council authorize the reading of Ordinance 2024-748, an ordinance establishing Chapter 12.13 of the Carlton municipal code, limiting liability for use of certain recreational property, and declaring an emergency, by title only.
2. It is moved that the City Council accept the 1st reading of Ordinance 2024-748, an ordinance establishing Chapter 12.13 of the Carlton municipal code, limiting liability for use of certain recreational property, and declaring an emergency.
3. [*Only applicable if Ordinance is passed unanimously upon 1st reading*] It is moved that the City Council authorize the 2nd reading of Ordinance 2024-748, an ordinance establishing Chapter 12.13 of the Carlton municipal code, limiting liability for use of certain recreational property, and declaring an emergency, by title only.
4. It is moved that the City Council accept the 2nd reading of Ordinance 2024-748, an ordinance establishing Chapter 12.13 of the Carlton municipal code, limiting liability for use of certain recreational property, and declaring an emergency.

Background

At the November City Council meeting, the Council was provided an update on the recent Court of Appeals decision in *Fields v. Newport*, which severely curtails the recreational immunity protections afforded to local jurisdictions. Through the process of working with the City's Risk Management Consultant to perform an audit of the City's recreational areas, City staff were provided information on an additional form of statutory immunity that would serve to limit the City's liability exposure relating to certain recreational properties.

This liability limitation is provided for in ORS 105.668 and applies to trails and other non-vehicular paths established in the City's right of way and/or in public easements. Unlike the recreational immunity statute, the liability limitation of ORS 105.668 explicitly includes not only the local jurisdiction itself, but also the individual employees and agents of the local jurisdiction, the owner of land which abuts the public easement or unimproved right of way, and any nonprofit and its volunteers who assist in constructing and maintaining any trail in the City's right of way or public easement.

The liability limitation provided for in ORS 105.668 requires local jurisdictions with fewer than 500,000 residents to affirmatively opt-in for the liability limitation to apply, which is accomplished by Ordinance 2024-748. Because of the potential liability exposure the City faces following the *Fields* case, it is recommended that the City Council adopt this ordinance in one meeting, and that the Council declare an emergency so that the ordinance can be effective immediately upon passage.

As a reminder to the Council, an ordinance can be passed with two readings at the same Council meeting, so long as the full text of the ordinance was available the public at least one week prior to the meeting, and the Council unanimously passes the ordinance on its first reading. This is separate from the declaration of an emergency, which allows the Council to shorten or eliminate the waiting period between passage of the ordinance and its effective date.

Exhibit

1. Ordinance 2024-748 (*which includes the proposed Chapter 12.13 of the Carlton Municipal Code*)

ORDINANCE 2024-748

AN ORDINANCE ESTABLISHING CHAPTER 12.13 OF THE CARLTON MUNICIPAL CODE LIMITING LIABILITY FOR USE OF CERTAIN RECREATIONAL PROPERTY AND DECLARING AN EMERGENCY

WHEREAS, ongoing litigation relating to recreational immunity has severely limited the statutory protections afforded to local jurisdictions, including the City of Carlton; and

WHEREAS, due to the uncertainty of a potential legislative resolution to this concern, the City, in conjunction with its insurance provider, has begun taking steps necessary to protect the City from potential liability relating to recreational locations, including trails; and

WHEREAS, the statutory liability limitation contained in ORS 105.668 automatically applies to cities with a population greater than 500,000 but requires smaller municipalities to affirmatively adopt the liability limitation to be afforded such protections; and

WHEREAS, the City Attorney has worked with City staff to prepare proposed language for a new chapter of the Carlton Municipal Code to adopt the liability protections established in ORS 105.668, which apply to trails and other non-vehicular paths within the City's right of way; and

WHEREAS, the proposed Chapter 12.13 of the Carlton Municipal Code is attached hereto as Exhibit A; and

WHEREAS, due to the recent caselaw developments relating to the applicability of recreational immunity to local jurisdictions, and the potential liability exposure to the City of Carlton, the City Council believes that a state of emergency exists and this Ordinance should become effective immediately upon passage.

NOW THEREFORE, BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF CARLTON, OREGON, as follows:

Section 1. Carlton Municipal Code Chapter 12.13, entitled "Liability Limitation Resulting From Use Of Trails In A Public Easement Or Unimproved Right-Of-Way Under ORS 105.668", is hereby established, as outlined in the attached Exhibit A.

Section 2. This Ordinance, being necessary for the immediate preservation of public peace, health, and safety of the City of Carlton, an emergency is declared to exist, and this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

ADOPTED by the City Council of the City of Carlton, Oregon, on February 6, 2024, by the following votes:

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAIN: _____

Linda Watkins, Mayor

ATTEST:

Aimee Amerson, City Recorder

Chapter 12.13 LIABILITY LIMITATION RESULTING FROM USE OF TRAILS IN A PUBLIC EASEMENT OR UNIMPROVED RIGHT-OF-WAY UNDER ORS 105.668

12.13.010 Definitions.

As used in this chapter, the following definitions apply:

A. **Public easement** means a platted or dedicated easement for public access that is accessible by a user on foot, horseback, bicycle or other similar conveyance, but does not include a platted or dedicated public access easement over private streets.

B. **Structures** means improvements in a trail, including, but not limited to, stairs and bridges, that are accessible by a user on foot, horseback, bicycle or other nonmotorized vehicle or conveyance.

C. **Trail** means a travel way for pedestrians and bicycles that is separate from automobiles, and includes a multi-use path or multi-use trail, but does not include a bike lane, shoulder bikeway, or shared roadway.

D. **Unimproved right-of-way** means a platted or dedicated public right-of-way over which a street, road or highway has not been constructed to the standards and specifications of the City with jurisdiction over the public right-of-way and for which the City has not expressly accepted responsibility for maintenance, but does not include a platted private street.

12.13.020 Liability Limited.

A. A personal injury or property damage resulting from use of a trail that is in a public easement or an unimproved right-of-way, or from use of structures in a public easement or unimproved right-of-way, by a user on foot, on a horse, on a bicycle or other nonmotorized vehicle or conveyance does not give rise to a private claim or right of action based on negligence against:

1. The City of Carlton;
2. The City of Carlton's officers, employees or agents to the extent the officers, employees or agents are entitled to defense and indemnification under ORS [30.285](#);
3. The owner of land abutting the public easement or unimproved right-of-way; or
4. A nonprofit corporation and its volunteers for the construction and maintenance of the trail or the structures in a public easement or unimproved right-of-way.

B. The immunity granted by this section from a private claim or right of action based on negligence does not grant immunity from liability:

1. Except as provided in subsection A(2) of this section, to a person that receives compensation for providing assistance, services or advice in relation to conduct that leads to a personal injury or property damage;
2. For personal injury or property damage resulting from gross negligence or from reckless, wanton or intentional misconduct; or
3. For an activity for which a person is strictly liable without regard to fault.



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Memorandum

To: The Mayor and Members of the City Council
From: Christy Martinez, Assistant City Manager
Subject: Resolution No. 2024-352 – Designating Certain Individuals to Transact Business with First Federal
Council Goal: Goal 5: Financial Sustainability
Date: February 6, 2024

Recommendation

It is MOVED that the City Council approve and authorize the Mayor to sign Resolution No. 2024-352 designating specific individuals to transact business with First Federal Savings and Loan.

Background

This is a housekeeping item for the City to designate specific individuals to transact business with First Federal Savings and Loan. This is necessary to add Council President Kevin Skipper as an authorized signer.

Fiscal Impact

There is no fiscal impact.

Attachments

1. Resolution No. 2024-352 – Designating Certain Individuals to Transact Business with First Federal Savings and Loan



RESOLUTION NO. 2024-352

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLTON DESIGNATING CERTAIN INDIVIDUALS TO TRANSACT BUSINESS WITH FIRST FEDERAL SAVINGS AND LOAN

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CARLTON, OREGON, AS FOLLOWS:

The following individuals, by signature acknowledgment, are authorized by the City Council of the City of Carlton, Tax ID Number 93-6002133, to transact business with First Federal Savings and Loan, including depositing, withdrawing, investing, opening, closing, and/or reinvesting by direct deposit or wire funds transfers in person or as per telephone or email instructions. These individuals will be authorized until official revocations, in writing, are provided.

1. Linda Watkins, Mayor
2. Kevin Skipper, Council President
3. Shannon Beaucaire, City Manager
4. Christy Martinez, Assistant City Manager
5. Shirley Ward-Mullen, Councilor

First Federal Savings and Loan will use signature evidence as provided for all account identification. All other signature authorizations established before this date are hereby revoked.

ADOPTED by the City Council of the City of Carlton, Oregon, on the 6th day of February 2024, by the following votes:

AYES:

NAYES:

ABSENT:

ABSTAIN:

APPROVED and signed by the Mayor on this 6th day of February 2024.

Linda Watkins, Mayor

ATTEST: _____
Aimee Amerson, City Recorder



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To: The Mayor and Members of the City Council
From: Aimee Amerson, City Recorder
Subject: Participation policy
Council Goal: Goal 3: Citizen Involvement
Date: February 6, 2024

Recommendation

After review and discussion, it is recommended that the City Council consider the following motions:

It is MOVED that the City Council approve the 2024 Participation policy and procedures.

It is MOVED that Citizen Comment be moved to the end of the agenda.

Background

The state of Oregon has passed legislation which requires all public meetings to be available for virtual public attendance and participation. The City currently uses the Zoom platform to meet the virtual meeting regulations, but there are no current procedures or policy in place to guide the use of the public for comments, staff, and city officials prior and during the meetings. The draft regulation policy for review includes a combination of actions taken by other cities to guide virtual attendance at meetings while allowing for public comments given in a respectful and valuable manner.

Additionally, staff will discuss and review with the City Council moving Citizen Comment on the agenda.

Fiscal Impact

None.

Exhibit

1. Draft Participation policy

COUNCIL/BOARD/COMMISSION PARTICIPATION REGULATIONS

PURPOSE

The need and advantages of holding electronic meetings is acknowledged and necessary. This policy is intended to provide guidance when holding and participating in these meetings.

DEFINITIONS

Electronic meeting: An electronic or e-meeting is any meeting that takes place in an online and/or telephonic environment or that allows for a hybrid of in-person and online and/or telephonic participation. An electronic meeting is a web-based meeting or conference format that allows people to see and/or hear each other. Participants talk in real time and may make presentations with visual aids such as charts and graphs.

SCOPE

This policy provides for the use of electronic means for council meetings, commission meetings, committee meetings, board meetings and any other public meetings hosted by the City.

Electronic meetings may be used to hold meetings subject to due notice requirements for any such meeting being met (or waived by unanimous consent in special circumstances). A member of a board, commission, committee, or council who wishes to participate electronically in a hybrid meeting must notify the chair of the meeting of their intention to participate electronically at least 24 hours in advance, unless the circumstances require notification less than 24 hours prior to the meeting.

Members of boards, commissions, committees, or councils who wish to participate in electronic meetings must keep their video camera on during the meeting to be considered present. A loss of meeting connectivity, where the member is unable to participate electronically, means that particular members has left the meeting. A member who has left the meeting is no longer able to participate in discussion nor vote on agenda items. Additionally, a member leaving a meeting may affect the ability of a board, commission, committee, or council to maintain a quorum.

While boards, commissions, committees, or councils are meeting in-person, it is expected that every member will make reasonable efforts to attend meetings in person. A member is limited to participating electronically in a hybrid meeting to four (4) times per calendar year. This limitation may be extended by the Chairperson of the meeting or by a majority vote of the board, commission, committee, or council.

All rules pertaining to in-person meetings apply equally to electronic meetings, for example, notice, pre-meeting packet requirements, quorum, minute taking, voting, confidentiality requirements, etc.

All meeting participants must ensure they understand this type of meeting becomes part of the public record. Any statements made are understood that they are "on the record." Meeting participants agree that they will maintain a level of professionalism and any meeting backdrops will be in good taste.

All provisions and policies related to in-person meetings and conflict of interest will apply equally for all electronic meetings.

At no time will meeting participants record any portion of the meeting. The only exception to this is any recording made by the Recorder or other approved public officer for the purpose of minute taking or sharing for civic engagement purposes.

Subject to any conditions or limitations provided for under this policy or any other applicable regulations or guidelines, a member, board or committee member who participates in a meeting through electronic means shall be deemed to be present at the meeting and will be recorded as in attendance at and part of the quorum of the meeting.

ELECTRONIC MEETING PROCEDURE

- The City Manager, Assistant City Manager, Department Head, or a member of the department that is developing the meeting agenda will serve as the technology lead for each electronic meeting. This includes establishing and distributing electronic meeting URLs, assisting the city recorder with proper meeting notice as well as making sure the meeting is recorded (in audio and/or video form) for future preservation and documentation. The technology lead for any electronic meeting may delegate any or all of the responsibilities under this section.
- The Head or Chair of the Committee will be the chair of the meeting.
- Any technology employed will, to the maximum extent feasible, enable every member of a council, commission, committee, or board to hear and be heard by all other participants in the meeting.
- The Chair will ensure that declarations of conflict of interest are heard by all present and that those participating have an opportunity to verbally declare any conflict.
- Participants will identify themselves before speaking or by using the software's technology to put their first and last name on the screen to assist the recording secretary in recording the minutes.
- Those participating in an electronic meeting shall notify the Chair of their departure (either temporary or permanent) from the meeting, before absenting themselves, to ensure a quorum is maintained.
- Voting at electronic meetings shall be carried out as follows for all meetings and for all votes to ensure that accurate records of votes are maintained:
 - When a vote is called, following a clear and concise set of motions, the chair of the meeting will ask for either a voice vote or a roll call vote.
 - If a particular action item requires a roll call vote, the recorder or secretary of the meeting will call upon each individual member, asking members for a verbal of "yes/no" or "yea/nay" vote. Either is acceptable.
 - Following the vote, the recorder/secretary will announce the total votes for each side.
 - The chair will then announce the number of votes cast in favor or against the motion and whether motion carries.
- To avoid as much disruption as possible and to support seamless dialogue and debate, all virtual participants will keep their electronic devices on mute unless speaking. The City reserves the right to mute any virtual participant who is causing a disruption to the meeting or otherwise is failing to abide by this policy.
- Any open chat windows in the technology must be used only to resolve technological problems – it may not be used for side discussions, lobbying other members and participants or voicing support for motions on the floor.

- The Zoom software shall serve as the electronic meeting software of choice, allowing for proper recording and archiving to take place in a like method for all city meetings.

This policy will become effective upon approval by the City Council. The intention of this policy is for all governing bodies, the City Council and Planning Commission, to be afforded the opportunity to participate in electronic meetings, including hybrid meetings, immediately. Other boards, commissions, and committees will be able to participate in electronic meetings when the equipment is installed and available and the staff liaison has been properly trained in the use of the electronic meeting technology.

AUDIENCE PARTICIPATION INSTRUCTIONS AND REGULATIONS

The Carlton City Council welcomes and encourages participation by citizens at all our meetings, except for Executive Sessions, which, by state law, are closed to the public. To allow Council to attend to the business on the agenda in a timely fashion, we ask that anyone wishing to address the Council follow these simple guidelines.

Comments may be provided in one of three ways:

- In person during the meeting in the Council Chambers, Carlton City Hall, 191 E Main Street.
- Email by sending an email by 12:00 p.m. the day of the meeting to aamerson@ci.carlton.or.us
- Virtually during the meeting. Contact the City Recorder by phone (503) 852-7575 or email aamerson@ci.carlton.or.us by 12:00 p.m. the day of the meeting to get a link to the meeting.

When providing comments in person, each speaker must provide their name, address, phone number and which item on the agenda they wish to speak on the Audience Participation Sign-in Sheet.

When providing comments virtually or by email, each speaker must provide their name, address, phone number and which item on the agenda they wish to speak in an email to aamerson@ci.carlton.or.us.

When participating virtually, log or call in prior to the start of the meeting using the link or phone number provided.

- When accessing the meeting through the ZOOM link, click "Join Webinar" to join the meeting as an attendee.
- When accessing the meeting through the phone, call the number provided.
- All attendees will be held in a "waiting room" until admitted to the meeting.

Persons addressing the Council must state their name and city of residence for the record. All remarks shall be directed to the entire City Council. The Council reserves the right to delay any action requested until they are fully informed on the matter.

PROVIDING COMMENTS

For each item in which speakers have requested to speak, the order will be as follows:

1. Speakers who attend in person will be called up to speak by the Mayor in the order in which they signed up.
2. Speakers on Zoom (video or phone only) will be called on to speak by the Mayor in the order in which they signed up.
3. Emailed comments to be read by the Mayor.

The Mayor and City Council reserve the right to respond to audience comments after the audience participation portion of the meeting has been closed.

This policy was originally adopted by the Carlton City Council on _____, during a regular council meeting.