Crook County
Community Development Department - Planning Division
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BEFORE THE CROOK COUNTY PLANNING COMMISSION
PROPOSED ZONING CODE AMENDMENTS 217-21-000909-PLNG

December 29, 2021

APPLICANT: Crook County Community Development Department

REQUEST: Crook County staff identified code language updates to:

- Bring zoning ordinances into compliance with current State statutes and regulations;
- Provide clear and objective criteria within the zoning ordinance to provide for greater understanding of requirements;
- Allow for local flexibility in interpreting code language;
- Edit code language that is incorrect;
- Delete references to outdated or removed sections.

Specifically, the proposed code amendments consist of clarifying updates and housekeeping revisions to Title 17 & 18 of the Crook County Code. The proposal includes the following:

- Revises the Agri-Tourism criteria to match state code, and provides clear direction to the public;
- Amends the criteria related to noncommercial photovoltaic energy systems, to exempt roof and ground mounted arrays from land use review, but require setback standards;
- Corrects an ORS citation within the covenant of nonremonstrance criteria;
- Corrects citations for sections which are applicable to Temporary Hardship Dwellings;
- Adds criteria in accordance with ORS 92.176;
- Modifies the Rimrock definition and criteria to match the Comprehensive Plan;
- Provides clarity on creation dates related to nonfarm dwellings;
- Directly links the quasi-judicial process to the procedures within CCC 18.172;
- Within CCC 18.172: grammatical corrections; deadline for a Planning Commission to sign a final decision; clarification on the approval period for extensions.

The Planning Commission held a work session on December 8, 2021, to discuss the proposed changes. They directed staff to make editorial changes.

I. APPLICABLE CRITERIA

Oregon Revised Statutes
Chapter 197 Comprehensive Land Use Planning
ORS 197.610 - Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development

II. FINDINGS: Oregon Revised Statute (ORS) 197.610 applies to submission of proposed comprehensive plan or land use changes to the Department of Land Conservation and Development.

Oregon Revised Statutes

Chapter 197 Comprehensive Land Use Planning

197.610 Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development; rules.

(1) Before a local government adopts a change, including additions and deletions, to an acknowledged comprehensive plan or a land use regulation, the local government shall submit the proposed change to the Director of the Department of Land Conservation and Development. The Land Conservation and Development Commission shall specify, by rule, the deadline for submitting proposed changes, but in all cases the proposed change must be submitted at least 20 days before the local government holds the first evidentiary hearing on adoption of the proposed change. The commission may not require a local government to submit the proposed change more than 35 days before the first evidentiary hearing.

FINDING: The County submitted notice to the Department of Land Conservation and Development (DLCD) on December 1, 2021. Public notice was published in the Central Oregonian on December 14, 2021.

(2) If a local government determines that emergency circumstances beyond the control of the local government require expedited review, the local government shall submit the proposed changes as soon as practicable, but may submit the proposed changes after the applicable deadline.

FINDING: The county has not determined that emergency circumstances require an expedited review, and the applicable deadlines will be met. The criterion does not apply.

(3) Submission of the proposed change must include all of the following materials:

(a) The text of the proposed change to the comprehensive plan or land use regulation implementing the plan;

(b) If a comprehensive plan map or zoning map is created or altered by the proposed change, a copy of the map that is created or altered;

(c) A brief narrative summary of the proposed change and any supplemental information that the local government believes may be useful to inform the director or members of the public of the effect of the proposed change;

(d) The date set for the first evidentiary hearing;

(e) The form of notice or a draft of the notice to be provided under ORS 197.763, if applicable; and

(f) Any staff report on the proposed change or information describing when the staff report will be available, and how a copy of the staff report can be obtained.

FINDING: The December 1, 2021 submission to DLCD included a draft staff report, a brief narrative summarizing the proposed changes, the date for the first evidentiary hearing, and a draft public notice including information regarding the availability of a final staff report.

(4) The director shall cause notice of the proposed change to the acknowledged comprehensive plan or the land use regulation to be provided to:

(a) Persons that have requested notice of changes to the acknowledged comprehensive plan of the particular local government, using electronic mail, electronic bulletin board, electronic mailing list server or similar electronic method; and

(b) Persons that are generally interested in changes to acknowledged comprehensive plans, by posting notices periodically on a public website using the Internet or a similar electronic method.

FINDING: Public notice of the proposed hearing was provided in the Central Oregonian, made available to interested parties, and posted on the Crook County Community Development website. The proposal complies.

(5) When a local government determines that the land use statutes, statewide land use planning goals and administrative rules of the commission that implement either the statutes or the goals do not apply to a proposed change to the acknowledged comprehensive plan and the land use regulations, submission of the proposed change under this section is not required.

FINDING: The local government finds that the proposed text changes are editorial in nature, are intended to make County Code consistent with State law and provide clarity to the public. The proposed changes are supportive of Goal 1 (Citizen Involvement) by clarifying intent and removing improper citations. No other statutes or goals apply.

The proposed code changes are shown in Attachment A.

III. RECOMMENDATION: The Planning Department recommends that the Planning Commission review the proposed code changes and make a recommendation to the Crook County Court to adopt the proposed Code edits or to adopt the proposed Code edits with changes.

Respectfully,

Brent Bybee, Planning Manager
Crook County Community Development Department

Attachment A: Proposed code changes

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Planning Commission Public Hearing
Text Amendments
January 5, 2022

Contents

CCC 18.16.055 Agri-Tourism

Provides clarification and clear direction for the public and staff when applying the code for Agri-Tourism.

Agri tourism is defined in 18.08.010:

- "Agri-tourism" means a common, farm-dependent activity that is incidental and subordinate to a working farm and that promotes successful agriculture and generates supplemental income for the owner. Such uses may include hay rides, corn mazes and other similar uses that are directly related to on-site agriculture. Any assembly of persons shall be for the purpose of taking part in agriculturally based activities such as animal or crop care, picking fruits or vegetables, tasting farm products or learning about farm or ranch operations. Agri-tourism may include farm-to-plate meals. Except for small, farm-themed parties, regularly occurring celebratory gatherings, weddings, parties or similar uses are not agri-tourism.

There are three types of agri-tourism permits processed under CCC 18.16.055.

In summary:

1. <u>One Event Conditional Use:</u> The permit is valid for one event each calendar year for a maximum of 72 consecutive hours, allows up to 500 attendees, and 250 vehicles parked onsite.

2. <u>Up to Six Events Limited Conditional Use</u>: The permit allows six events each calendar year held for a maximum of 72 consecutive hours per event. It is valid for two years and may be renewed.

3. <u>Up to 18 Events Conditional Use:</u> The permit allows up to 18 events each calendar year on a minimum lot size of 80 acres. Events must be incidental and subordinate to existing commercial farm use of the parcel and necessary to support commercial farm uses or in the area. It is valid for four years and may be renewed.

18.16.055 Agri-tourism and other commercial events.

The following agri-tourism and other commercial events or activities that are related to and supportive of agriculture may be established:

(1) A single agri-tourism or other commercial event or activity on a tract in a calendar year that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract, if the agri-tourism or other commercial event or activity meets any local standards that apply and:

(a) The agri-tourism or other commercial event or activity is incidental and subordinate to existing farm use on the tract;

(b) The duration of the agri-tourism or other commercial event or activity does not exceed 72 consecutive hours;

(c) The maximum attendance at the agri-tourism or other commercial event or activity does not exceed 500 people;

(d) The maximum number of motor vehicles parked at the site of the agri-tourism or other commercial event or activity does not exceed 250 vehicles;

(e) The agri-tourism or other commercial event or activity ~~complies with the standards described in CCC 18.16.020(1) and (2)~~ will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use;

(f) The agri-tourism or other commercial event or activity occurs outdoors, in temporary structures, or in existing permitted structures, subject to health and fire and life safety requirements; and

(g) The agri-tourism or other commercial event or activity complies with conditions ~~established subsections (2)(b), (d), and (g) of this section~~.

(i) Planned hours of operation;

(ii) Access, egress and parking;

(iii) A traffic management plan that identifies the projected number of vehicles and any anticipated use of public roads; and

(iv) Sanitation and solid waste.

(2) In the alternative to subsections (1) and (3) of this section, the county may authorize, through an expedited, single-event license, a single agri-tourism or other commercial event or activity on a tract in a calendar year by an expedited, single-event license that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. A decision concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015. To approve an expedited, single-event license, the governing body of a

county or its designee must determine that the proposed agri-tourism or other commercial event or activity meets any local standards that apply, and the agri-tourism or other commercial event or activity:

(a) Must be incidental and subordinate to existing farm use on the tract;

(b) May not begin before 6:00 a.m. or end after 10:00 p.m.;

(c) May not involve more than 100 attendees or 50 vehicles;

(d) May not include the artificial amplification of music or voices before 8:00 a.m. or after 8:00 p.m.;

(e) May not require or involve the construction or use of a new permanent structure in connection with the agri-tourism or other commercial event or activity;

(f) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining properties consent, in writing, to the location; and

(g) Must comply with applicable health and fire and life safety requirements.

(3) In the alternative to subsections (1) and (2) of this section, the county may authorize up to six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited use permit that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The agri-tourism or other commercial events or activities must meet any local standards that apply, and the agri-tourism or other commercial events or activities:

(a) Must be incidental and subordinate to existing farm use on the tract;

(b) May not, individually, exceed a duration of 72 consecutive hours;

(c) May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities;

(d) Must comply with the standards described in CCC **18.16.020**(1) and (2);

(e) May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area; and

(f) Must comply with: ~~the requirements of subsection (8) of this section~~.

(i) The types of agri-tourism or other commercial events or activities that are authorized during each calendar year, including the number and duration of the agri-tourism or other commercial events and activities, the anticipated daily attendance and the hours of operation;

(ii) The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism or other commercial events or activities;

(iii) The location of access and egress and parking facilities to be used in connection with the agri-tourism or other commercial events or activities;

(iv) Traffic management, including the projected number of vehicles and any anticipated use of public roads; and

(v) Sanitation and solid waste.

(g) A permit authorized by this subsection shall be valid for two calendar years. When considering an application for renewal, the county shall ensure compliance with the provisions of this subsection, any local standards that apply and conditions that apply to the permit or to the agri-tourism or other commercial events or activities authorized by the permit.

(4) In addition to subsections (1) to (3) of this section, the county may authorize agri-tourism or other commercial events or activities that occur more frequently or for a longer period or that do not otherwise comply with subsections (1) to (3) of this section if the agri-tourism or other commercial events or activities comply with any local standards that apply and the agri-tourism or other commercial events or activities:

(a) Are incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area;

(b) Comply with the requirements of subsections (3)(c), (d), (e), and (f) of this section;

(c) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size; and

(d) Do not exceed 18 events or activities in a calendar year.

(5) A holder of a permit authorized by a county under subsection (4) of this section must request review of the permit at four-year intervals. Upon receipt of a request for review, the county shall:

(a) Provide public notice and an opportunity for public comment as part of the review process; and

(b) Limit its review to events and activities authorized by the permit, conformance with conditions of approval required by the permit and the standards established by subsection (4) of this section.

(6) Temporary structures established in connection with agri-tourism or other commercial events or activities may be permitted. The temporary structures must be removed at the end of the agri-tourism or other event or activity. Alteration to the land in connection with an agri-tourism or other commercial event or activity including, but not limited to, grading, filling or paving, are not permitted.

(7) The authorizations provided by this section are in addition to other authorizations that may be provided by law, except that “outdoor mass gathering” and “other gathering,” as those terms are used in ORS **197.015**(10)(d), do not include agri-tourism or other commercial events and activities.

~~8) Conditions of Approval. Agri-tourism and other commercial events permitted under subsections (3) and (4) of this section are subject to the following standards and criteria:~~

~~(a) A permit application for an agri-tourism or other commercial event or activity shall include the following:~~

~~(i) A description of the type of agri-tourism or commercial events or activities that are proposed, including the number and duration of the events and activities, the anticipated daily attendance and the hours of operation and, for events not held at wineries or cider businesses, how the agri-tourism and other commercial events or activities will be related to and supportive of agriculture and incidental and subordinate to the existing farm use of the tract;~~

~~(ii) The types and locations of all existing and proposed temporary structures, access and egress, parking facilities, sanitation and solid waste facilities to be used in connection with the agri-tourism or other commercial events or activities;~~

~~(iii) Authorization to allow inspection of the event premises. The applicant shall provide in writing consent to allow law enforcement, public health, and fire control officers and code enforcement staff to come upon the premises for which the permit has been granted for the purposes of inspection and enforcement of the terms and conditions of the permit and the exclusive farm use zone and any other applicable laws or ordinances.~~

~~(b) Approval Criteria.~~

~~(i) The area in which the agri-tourism or other commercial events or activities are located shall be set back at least 100 feet from the property line.~~

~~(ii) No more than two agri-tourism or commercial events or activities may occur in one month.~~

~~(iii) The maximum number of people shall not exceed 500 per calendar day.~~

~~(iv) Notification of Agri-Tourism and Other Commercial Events or Activities.~~

~~(A) The property owner shall submit in writing the list of calendar days scheduled for all agri-tourism and other commercial events or activities by April 1st of the subject calendar year or within 30 days of new or renewed permits to the county's planning department and a list of all property owners within 500 feet of the subject property, as notarized by a title company.~~

~~(B) The list of calendar dates for all agri-tourism, commercial events and activities may be amended by submitting the amended list to the department at least 72 hours prior to any change in the date of approved dates.~~

~~(C) If notice pursuant to subsection (8)(b)(iv)(A) of this section is not provided, the property owner shall provide notice by registered mail to the same list above at least 10 days prior to each agri-tourism and other commercial event or activity.~~

(D) The notification shall include a contact person or persons for each agri-tourism and other commercial event or activity who shall be easily accessible and who shall remain on site at all times, including the person(s) contact information.

(v) Hours of Operation. No agri-tourism and other commercial event or activity may begin before 7:00 a.m. or end after 12:00 p.m.

(vi) Overnight camping is prohibited.

(vii) Noise Control.

(A) All noise, including the use of a sound producing device such as, but not limited to, loud speakers and public address systems, musical instruments that are amplified or unamplified, shall be in compliance with applicable state regulations.

(B) A standard sound level meter or equivalent, in good condition, that provides a weighted sound pressure level measured by use of a metering characteristic with an "A" frequency weighting network and reported as dBA shall be available on site at all times during agri-tourism and other commercial events or activities.

(viii) Transportation Management.

(A) Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips.

(B) Driveways extending from paved roads shall have a paved apron, requiring review and approval by the county road department.

(C) The parcel, lot or tract must have direct access from a public road or is accessed by an access easement or private road, whereby all underlying property owners and property owners taking access between the subject property and the public road consent in writing to the use of the road for agri-tourism and other commercial events or activities at the time of initial application.

(D) Adequate traffic control must be provided by the property owner and must include one traffic control person for each 250 persons expected or reasonably expected to be in attendance at any time. All traffic control personnel shall be certified by the state of Oregon and shall comply with the current edition of the Manual of Uniform Traffic Control Devices.

(E) Adequate off-street parking will be provided pursuant to provisions of the Chapter **18.128** CCC.

(ix) Health and Safety Compliance.

~~(A) Sanitation facilities shall include, at a minimum, portable restroom facilities and standalone handwashing stations.~~

~~(B) All permanent and temporary structures and facilities are subject to fire, health and life safety requirements, and shall comply with all requirements of the county building department and any other applicable federal, state and local laws.~~

~~(C) Compliance with the requirements of the building department shall include meeting all building occupancy classification requirements of the state of Oregon adopted building code. (Ord. 309 § 2 (Exh. C), 2019)~~

18.162 Noncommercial energy systems

18.162.010 Noncommercial wind energy systems.

All new or replacement wind energy systems that are not commercial power generating facilities shall be a permitted use in all zones. In addition to any requirements of the applicable zone, all new or replacement wind energy systems that are not commercial power generating facilities shall be subject to the following standards:

(1) Wind energy systems are subject to the setback requirements of the zone. In addition the wind energy system shall be set back at least the height of the wind energy system from all property lines. The wind energy system shall not be located closer to dwellings on adjacent property than to existing dwellings on the parcel or lot where the wind energy system is located.

(2) Roof-mounted, building-integrated, building-mounted or architectural wind energy systems may extend an additional five feet above the highest ridge of the building's roof or 15 feet above the highest cave, whichever is higher.

(3) Wind energy system towers must meet the dimensional standards for building and structure heights in the applicable zone.

(4) Wind energy systems and meteorological towers shall comply with all applicable state construction and electrical codes, and the National Electrical Code. The applicant shall obtain all necessary building and electrical permits from the Crook County building department prior to installation or alteration of the wind energy system. (Ord. 245 § 1, 2011; Ord. 229 § 1 (Exh. A), 2010)

18.162.020 Noncommercial photovoltaic energy systems

All new or replacement photovoltaic energy systems that are not commercial power generating facilities are allowed without land use review ~~shall be a permitted use~~ in all zones. Although the use is allowed without land use review~~In addition to any requirements of the applicable zone~~, all new or replacement photovoltaic energy systems that are not commercial power generating facilities shall meet ~~still be subject to~~ the following standards:

(1) Ground mounted noncommercial photovoltaic energy systems shall meet~~are subject to~~ the setback requirements for the underlying zone.

(2) All components of a noncommercial photovoltaic energy system shall comply with the height restrictions of the zone.

(3) Photovoltaic energy systems may be mounted to an approved on-site structure or established as a freestanding structure~~; provided, that the other requirements of this section are met~~.

(4) Noncommercial photovoltaic energy systems shall comply with all applicable state construction and electrical codes, and the National Electrical Code. The applicant shall obtain all necessary building and electrical permits from the Crook County building department prior to installation or alteration of the photovoltaic energy system. (Ord. 245 § 1, 2011; Ord. 229 § 1 (Exh. A), 2010)

18.108.060 Covenant of nonremonstrance

18.108.060 Covenant of nonremonstrance

The county shall require, as a condition of site plan or conditional use approval, the property owners whose lots adjoin land zoned for exclusive farm use to sign and record in the records of the Crook County clerk a covenant of nonremonstrance in favor of adjacent EFU zoned land. The covenant shall provide that the property owners will not remonstrate against farming practices, as the term is defined by ORS ~~30.390~~. **30.930**. The covenant shall be an equitable servitude and be binding on all heirs, devisees, vendees and successors in interest of the property owner. (Ord. 18 § 3.220(6), 2003)

CCC 18.16.010 -Temporary Hardship Dwelling

Chapter 18.16 EXCLUSIVE FARM USE ZONES, EFU-1 (POST-PAULINA AREA), EFU-2 (PRINEVILLE VALLEY-LONE PINE AREAS), EFU-3 (POWELL BUTTE AREA)

18.16.010 Use table

(1) Use Type

(c) "C" means the use is a conditional use. Conditional uses are permitted subject to county review, any specific standards for the use set forth in CCC **18.16.015**, the conditional use review criteria in CCC **18.16.020**, the general standards for the zone, and specific requirements applicable to the use in Chapter **18.160** CCC.

2.8	Temporary hardship dwelling.	C	Notice and Opportunity for Hearing	**18.16.015**(4) **18.16.015**(25) 18.16.020(1)(2)

CCC 17.56 Validation of a unit of land

Title 17, SUBDIVISIONS

Chapter 17.42 VALIDATION OF A UNIT OF LAND

(1) An application to validate a unit of land that was created by a sale or foreclosure that did not comply with the applicable criteria for creation of a unit of land may be submitted and reviewed as an Administrative Decision if the unit of land:

(a) Is not a lawfully established unit of land; and

(b) Could have complied with the applicable criteria for the creation of a lawfully established unit of land in effect when the unit of land was sold.

(2) Notwithstanding CCC 17.56(1)(b), an application to validate a unit of land under this section may be submitted and reviewed if the County approved a permit, as defined in ORS 215.402, for the construction or placement of a dwelling or other building on the unit of land after the sale. If the permit was approved for a dwelling, the County must also determine that the dwelling qualifies for replacement under the following criteria:

(a) Has intact exterior walls and roof structure;

(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(c) Has interior wiring for interior lights; and

(d) Has a heating system.

(3) An application for a permit as defined in ORS 215.402 or a permit under the applicable state or local building code for the continued use of a dwelling or other building on a unit of land that was not lawfully established may be submitted and reviewed if:

(a) The dwelling or other building was lawfully established prior to January 1, 2007; and

(b) The permit does not change or intensify the use of the dwelling or other building.

(4) An application to validate a unit of land under CCC 17.56 is an application for a permit, as defined in ORS 215.402. An application under CCC 17.56 is not subject to the minimum lot or parcel sizes established by the underlying zoning.

(5) A unit of land only becomes a lawfully established parcel when the County validates the unit of land under this chapter and according to that approval, the owner of the unit of land records a partition plat within 365 days of validation.

(6) An application to validate a unit of land may not be approved if the unit of land was unlawfully created on or after January 1, 2007.

(7) Development or improvement of a parcel created under CCC 17.56(5) must comply with the applicable laws in effect when a complete application for the development or improvement is submitted as described in ORS 215.427(3)(a).

CCC 18.08.180 Rimrock Definition

Title 18 Zoning

Chapter 18.08 DEFINITIONS

18.08.180 R definitions

"Rimrock" means any ledge, outcropping or top, or overlying stratum of rock, which forms a face in excess of 45 degrees. Setbacks shall be measured from the closest point of covered ground area of a structure to the closest point of the identified rimrock that meets this definition, above the rim. Setbacks shall only apply to rimrock within the following geographical areas:

A. The intersection of Elliot Lane and O'Neil Highway, including Westwood Subdivision and Ochoco Wayside Viewpoint, to Stearns Ranch.
B. Rimrock that parallels Juniper Canyon and Combs Flat Road.
C. Rimrock that parallels Ochoco Creek and Ochoco Reservoir.

Chapter 18.124 SUPPLEMENTARY PROVISIONS

18.124.100 Rimrock setback requirements

A proposed structure locating on the rimrock shall be set back 200 feet from the edge of said rimrock. Please reference CCC 18.08.180 for the applicable geographic areas, and definition. (Ord. 280 § 15 (Exh. O), 2015; Ord. 18 § 4.210, 2003)

CCC 18.16.040 Nonfarm date clarification

Title 18 Zoning

Section 18.16.040 Dwelling not in conjunction with farm use.

(1) Nonfarm Dwelling. A nonfarm dwelling is subject to the following requirements:

(a) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.

(2) Nonfarm Dwelling Suitability Standards.

(a) The dwelling, including essential or accessory improvements or structures, is situated upon a lot or parcel, or, in the case of an existing lot or parcel, upon a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A new parcel or portion of an existing lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

(b) A new parcel or portion of an existing lot or parcel is not “generally unsuitable” simply because it is too small to be farmed profitably by itself. If a parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then it is not “generally unsuitable.” A new parcel or portion of an existing lot or parcel is presumed to be suitable if it is composed predominantly of Class I – VI soils. Just because a new parcel or portion of an existing lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or

(c) If the lot or parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the forest practices rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not “generally unsuitable” simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not “generally unsuitable.” If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land.

(3) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in subsections (3)(a) through (c) of this section. If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in subsections (3)(a) through (c) of this section.

(a) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;

(b) Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot of record dwellings that could be approved under CCC **18.16.035**(1) and this section, including identification of predominant soil classifications, the parcels created prior to January 1, 1993, and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS **215.263**(4), **215.263**(5), and **215.284**(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subsection; and

(c) Determine whether approval of the proposed nonfarm/lot of record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and

(4) If a single-family dwelling is established on a lot or parcel as set forth in Use 2.4 in Table 1, no additional dwelling may later be sited under the provisions of this section.

(5) The dwelling will be sited on a lot or parcel created before January 1, 1993; if the lot or parcel was created after that date, the lot or parcel must have been approved through the provisions of CCC 18.16.070(3) or (4).

(~~5~~6) All new nonfarm dwellings on existing parcels within the deer and elk winter ranges must meet the residential density limitations found in Wildlife Policy 2 of the Crook County comprehensive plan. Compliance with the residential density limitations may be demonstrated by calculating a one-mile radius (or 2,000-acre) study area. An applicant may use a different study area size or shape to demonstrate compliance with Wildlife Policy 2, provided the methodology and size of the study area are explained and are found to be consistent with the purpose of Crook County comprehensive plan Wildlife Policy 2.

(~~6~~7) All new nonfarm dwellings on existing lots or parcels proposed within the Paulina Ranches or Riverside Ranches subdivisions, which are in the county's EFU-1 zone and were created prior to January 1, 1993, shall require a minimum of 20 acres for the nonfarm dwelling.

(a) The 20-acre requirement for these subdivisions may be met either by a single lot or parcel which is at least 20 acres or through multiple, separate lots or parcels within the same subdivision in common ownership, which in the aggregate total 20 acres or more. For the purposes of this section, Riverside Ranch Unit 1 is treated as a separate subdivision and Riverside Ranch Units 2 and 3, together, are treated as a separate subdivision. The aggregation of lots or parcels for the purposes of this section must be contiguous in Paulina Ranches and Riverside Ranch Unit 1.

(b) Where multiple lots or parcels in common ownership are the basis to meet the 20-acre requirement, upon approval of a nonfarm dwelling and prior to the issuance of a building permit, the applicant/owner shall record a deed restriction with the county clerk limiting the further development of any lots or parcels used by the applicant/owner to meet the 20-acre requirement. (Ord. 326 § 3 (Att. A), 2021; Ord. 309 § 2 (Exh. C), 2019)

CCC 18.16.170 Quasi-Judicial Amendments

Title 18 Zoning

18.170.010 Quasi-judicial amendment standards.

An applicant requesting a quasi-judicial amendment must satisfy the following factors for quasi-judicial amendments:

(1) Comprehensive Plan Map Change.

(a) That the amendment complies with the Statewide Planning Goals and applicable Administrative Rules (which include OAR 660-12, the Transportation Planning Rule) adopted by the Land Conservation and Development Commission pursuant to ORS 197.240 or as revised pursuant to ORS 197.245.

(i) The applicant shall certify the proposed land use designations, densities or design standards are consistent with the function, capacity and performance standards for roads identified in the county transportation system plan.

(A) The applicant shall cite the identified comprehensive plan function, capacity and performance standard of the road used for direct access and provide findings that the proposed amendment will be consistent with the county transportation system plan.

(B) The jurisdiction providing direct access (county or ODOT) may require the applicant to submit a traffic impact analysis or traffic assessment letter consistent with the requirements of Section 7.1.7 of the Crook County transportation system plan to support the findings used to address this subsection (1)(a).

(b) That the amendment provides a reasonable opportunity to satisfy a local need for a different land use. A demonstration of need for the change may be based upon special studies or other factual information.

(c) That the particular property in question is suited to the proposed land use, and if an exception is involved, that the property in question is best suited for the use as compared to other available properties.

(d) If it appears that it is not possible to apply an appropriate goal to specific properties or situations, then the application shall set forth the proposed exception to such goal when:

(i) The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;

(ii) The land subject to the exception is irrevocably committed as described by the Land Conservation and Development Commission rule to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or

(iii) The following standards are met:

(A) Reasons justifying why the state policy embodied in the applicable goals should not apply;

(B) Areas which do not require a new exception cannot reasonably accommodate the use;

(C) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. ("Compatible," as used in this subsection, is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.)

(2) Zone Map Change.

(a) That the zone change conforms with the Crook County comprehensive plan, and the change is consistent with the plan's statement and goals.

(b) That the change in classification for the subject property is consistent with the purpose and intent of the proposed amendment.

(c) That the amendment will presently serve the public health, safety and welfare considering the following factors:

(i) The availability and efficiency of providing necessary public services and facilities.

(ii) The impacts on surrounding land use will be consistent with the specific goals and policies contained within the Crook County comprehensive plan.

(c) That there has been a change in circumstances since the property was last zoned, or a mistake was made in the zoning of the property in question. (Ord. 236 § 6 (Exh. F), 2010)

18.170.020 Notice.

(1) Notice of the hearing to enact any quasi-judicial matter will be given pursuant to the provisions of CCC 18.172.070.

(2) When applicable notice to DLCD shall be provided as required by ORS 197.610 and 197.615.

(3) When applicable notice to affected property owners shall be provided as required by ORS 215.503. (Ord. 323 § 5 (Att. A), 2021; Ord. 236 § 6 (Exh. F), 2010)

18.170.025 Authorization to approve or deny proposed amendments.

Proposed quasi-judicial amendments requested pursuant to this Chapter will be reviewed in accordance with CCC 18.172.

18.170.030 Limitations on reapplications.

No application of a property owner for an amendment to the text of the comprehensive plan, the development zoning ordinance or of this title or its zoning map shall be considered by the ~~p~~Planning ~~c~~Commission within the six-month period immediately following a previous denial on the same application. If, in the opinion of the ~~p~~Planning ~~c~~Commission, new evidence or a change of circumstances warrants it, however, the ~~p~~Planning ~~c~~Commission may permit a new application. (Ord. 236 § 6 (Exh. F), 2010)

18.170.040 Record of amendments.

The County Clerk shall maintain a recorded copy of all amendments to the comprehensive plan and land use regulation text and maps. (Ord. 236 § 6 (Exh. F), 2010)

CCC 18.16.172 Administration Provisions

Title 18 Zoning

18.172.005 Definitions.

For the purpose of this chapter, unless the context requires otherwise, the following words and phrases mean:

(1) Acceptance. Received and considered by the director to contain sufficient information and materials to begin processing in accordance with the procedures of this chapter.

(2) Appearance. Submission of testimony or evidence in the proceeding, either oral or written. A person's name appearing on a petition filed as a general statement of support or opposition to an application without additional substantive content~~and that typically contains the names of a number of other persons,~~ does not constitute an appearance. A petition or letter containing substantive content directed at the applicable approval criteria and that explains why the signers support or oppose an application shall be considered an appearance for each signer of the petition.

(3) Appellant. A person who submits to the Department a timely appeal of a decision issued by the County.

(4) Applicant. A person who applies to the Department for a decision under this chapter. An applicant must be an owner of the property, or someone authorized in writing by the property owner to make application.

(5) Approval Authority. A person or a group of persons, given authority by Crook County Code to review and make decisions upon certain applications in accordance with the procedures of this chapter. The approval authority may either be the director, the Planning Commission, hearings officer, or Crook County court as specified for application types by this chapter or otherwise specified in this chapter.

(6) Argument. The assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by a party to a decision. Argument does not include facts.

(7) De Novo. A hearing by the Approval Authority as if the action had not previously been heard and as if no decision had been rendered, except that all testimony, evidence and other material from the record of the previous ~~consideration~~ proceeding will be considered a part of the review on the record.

(8) Department. The Crook County Community Development Department.

(9) Director. The Crook County Community Development Director or the Director's designated representative.

(10) End of Business. The end of the business day is 4:00 p.m. Pacific Time.

(11) Evidence. The facts, documents, data, or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to the decision.

(12) Hearing Authority. The County Court, Planning Commission, or a hearings officer appointed by the County Court under CCC 18.172.010(2).

(13) Land Use Decision. A final decision or determination made by a Crook County approval authority that concerns the adoption, amendment, or application of the statewide planning goals, a comprehensive plan provision, a land use regulation, or a new land use regulation where the decision requires the interpretation or exercise of policy or legal judgment.

(14) Land Use Regulation. Any Crook County zoning ordinance, land division ordinance adopted under ORS 92.044 to 92.046, or similar general ordinance establishing standards for implementing the Crook County comprehensive plan.

(15) Legislative. An action or decision involving the creation, adoption, or amendment of a law, rule, or a map when a large amount of properties are involved, as opposed to the application of an existing law or rule to a particular use or property.

~~(16) Ministerial. An action or decision based on clear and objective standards and criteria where no discretion by the Approval Authority is required.~~

(16) Owner. A person on the title to real property as shown on the latest assessment records in the office of the Crook County tax assessor. Owner also includes a person whose name does not appear in the latest tax assessment records, but who presents to the county a recorded copy of a deed or contract of sale signed by the owner of record as shown in the Crook County tax assessor's records.

(17) Party. With respect to actions under this chapter, the following persons or entities are defined as parties:

(a) The applicant;

(b) Any owner of the subject property that is the subject of the decision under consideration in accordance with this chapter; and

(c) A person who makes an appearance before the Approval Authority or Hearing Authority.

(18) Permit. A discretionary approval of a proposed development of land under ORS 215 or county legislation or regulation adopted in accordance with ORS 215.

(19) Planning Commission. The Planning Commission of Crook County, Oregon.

(20) Quasi-Judicial. A land use action or decision that requires discretion or judgment in applying the standards or criteria of this code to an application for approval of a development or land use proposal. (Ord. 317 § 6, 2020)

18.172.010 Quasi-judicial hearing authority.

(1) The County Court hereby designates that the Hearing Authority to conduct hearings in a quasi-judicial capacity in order to make land use decisions is the Planning Commission

(2) Whenever the County Court determines it necessary, the court may appoint a hearings officer to have the same authority and powers as the Planning Commission.

(3) The County Court may appoint agents to issue ~~zoning~~ permits and to otherwise assist the Director in the processing of applications.

(4) "Quasi-judicial" zone changes or plan amendments generally refer to a plan amendment or zone change directly affecting individual property owners and involve the application of existing policy to a specific factual setting. (The distinction between legislative and quasi-judicial actions must ultimately be made on a case-by-case basis with reference to case law on the subject.) (Ord. 317 § 6, 2020; Ord. 18 § 9.010, 2003)

18.172.015 Authority to make land use decisions.

(1) Except for comprehensive plan amendments and zone changes, and other instances where a public hearing is required by state law or by other ordinance provision, the Director may make any land use decision by issuing an administrative determination either with prior notice or without prior notice, in accordance with ORS 215.416(11) and CCC 18.172.060(1). The Director may refer any application for a land use decision to the Planning Commission for a hearing.

(2) The Planning Commission shall annually establish a list of the types of land use applications the Planning Commission will review in a public hearing. The list shall be approved by the last meeting in January. The Director shall, to the extent practicable, follow the decision of the Planning Commission. The Director's choice between making an administrative decision or submitting an application to the Planning Commission for a public hearing shall not be an appealable decision. (Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010)

18.172.020 Application.

(1) The applicant shall make application to the Director upon forms provided by the county.

(2) An application is deemed to be complete when, in the judgment of the Director, all ~~application issues~~ applicable approval criteria have been adequately addressed in the application and supplemental materials provided by the applicant, and all applicable fees have been paid to the County.

(3) If an application is incomplete, the Director shall, within 30 days of receipt of the application, notify the applicant in writing of exactly what information is missing. The applicant may amend the original application or submit a new application supplying the missing information.

(4) If the Director deems an application incomplete, the applicant shall have 180 days from the date of notice from the Director to supply the missing information.

(5) If the applicant submits the missing information within the 180-day period specified in subsection (4) of this section, the application shall be deemed complete upon receipt of the missing information.

(6) For lands located within the urban growth boundary and for applications for mineral aggregate extraction, the Approval Authority shall act upon a completed application within 120 calendar days of the filing of a completed application. For all other permit applications, the ~~hearing~~ Approval Authority shall act upon a

completed application within 150 calendar days of filing of a completed application. Such time limitations can be extended with the consent of the applicant. (Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 231 § 1 (Exh. A), 2010; Ord. 216 § 2, 2009; Ord. 18 § 9.020, 2003)

18.172.025 Consolidated review of applications.

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 shall be consolidated for review and decision. When proceedings are consolidated, required notices may be consolidated, provided the notice shall identify each application to be decided. When more than one application is reviewed in a hearing, separate findings and decisions shall be made on each application. (Ord. 317 § 6, 2020; Ord. 303 § 1 (Exh. C), 2017)

18.172.030 ~~Health department~~ Sanitarian approval.

No ~~zoning~~ permit shall be issued for any use or structure which will have an individual sanitary subsurface disposal system until written approval is obtained by the applicant for said system from the County Sanitarian ~~ation department~~. (Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 18 § 9.030, 2003)

18.172.040 Form of petitions, applications and appeals.

Petitions, applications and appeals provided for in this title shall be made on forms prescribed by the County. Applications shall be accompanied by plans and specifications, drawn to scale, showing actual shape and dimensions of the lot to be built upon; the sizes and locations on the lot of all existing and proposed structures; the intended use of each structure; the number of families, if any, to be accommodated thereon; the relationship of the property to the surrounding area; and such other information as is needed to determine conformance with this title. (Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 18 § 9.040, 2003)

18.172.050 Filing fees.

All fees described in this section shall hereafter be set annually as determined by the County Court.

(1) All fees for permits, variances, zone map amendments, comprehensive plan amendments, zone text amendments, appeals, and any other necessary review or permits pursuant to this title shall be set annually as determined by the County Court.

(2) Acceptance and filing ~~Filing~~ of an application is not considered complete until all applicable fee(s) are paid to the county.

(3) Refunds.

(a) If the applicant withdraws a land use application prior to the mailing of the notice on the matter, the applicant may apply to the ~~planning~~ Department for a refund of a fee paid for that action.

(b) If the applicant withdraws a land use application before the seventh working day prior to the commencement of the first hearing on the matter or prior to the action of the Director, the applicant may apply to the ~~planning~~ Department for a partial refund of a fee paid for that action.

(c) No refunds or partial refunds shall be granted by the Director if the applicant withdraws a land use application on or after the seventh working day prior to the commencement of the first public hearing on the matter or after action of the Director.

(d) The Director shall within five working days of receiving an application for a refund or a partial refund make a determination whether to grant the refund or partial refund. If the Director makes a determination to grant a refund or a partial refund, the director shall make the appropriate refund or partial refund of that fee to the applicant within 30 days.

(e) The applicant may file with the County Court an appeal of a determination by the Director to deny a refund or a partial refund of a land use application fee. The County Court may grant a refund or a partial refund of a land use application fee upon good cause shown by the applicant.

(f) For purposes of this subsection, "partial refund" shall mean the filing fee less notice and reasonable staff costs.

(4) Fees charged for processing permits shall be no more than the actual or average cost of providing that service. (Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 155 § 1, 2005; Ord. 18 § 9.050, 2003)

18.172.060 Director Decisions and Extensions.

(1) Administrative Decisions.

(a) Subject to ORS 215.416(11), the Director shall have the authority to make an administrative determination on a land use application as set forth in specific zones in this title.

(b) After receiving a complete application for an administrative determination, the Director shall make a determination and, if approved, issue a permit to the applicant in accordance with the requirements of ORS 215.427.

(c) The Director shall cause a written notice of administrative determination and of the appeal procedure to be given to the applicant and to those persons who would have had a right to notice under this title if a hearing had been scheduled or who are adversely affected or aggrieved by the administrative determination. Such notice shall be given in accordance with the requirements of ORS 215.416(11).

(2) Approval Period and Extensions.

(a) A request for an extension to a land use approval shall be handled administratively by the Director without public notice or hearing~~,~~ and is not subject to appeal as a land use decision.

(b) A land use approval is void two years after the date the ~~discretionary~~ decision becomes final if the use approved in the permit is not initiated within that time period, except as provided in 18.172.060(2)(c) below or as otherwise provided under applicable ordinance provisions.

(c) The approval period for conditional use permits issued under CCC 18.160 and the following dwellings in the Exclusive Farm Use zones (CCC 18.16, EFU and CCC 18.112, EFU-JA) and Forest Use Zone (CCC 18.28, F-1) is four (4) years:

i. Nonfarm dwelling

ii. Lot of Record Dwelling

iii. Large Tract Dwelling

iv. Template Dwelling

v. Alteration, restoration or replacement of a lawfully established dwelling in the Forest Use Zone.

vi. Caretaker residences for public parks and public fish hatcheries.

(d) Except for the dwellings listed in 18.172.060(2)(c), the Director shall grant up to four extensions to a land use approval regardless of whether the applicable criteria have changed (except where state law precludes), if:

(i) An applicant makes a written request for an extension of the development approval period; and

(ii) The request, along with the appropriate fee, is submitted to the county prior to the expiration of the approval period.

(e) Notwithstanding CCC 18.160.070, the Director shall grant one 2-year extension for a dwelling permit described in CCC.172.060(2)(c) above if the applicant submits the information required by CCC 18.172.060(2)(d)(i) and (ii) above. The Director may grant up to five additional 1-year extensions for a dwelling permit described in CCC 18.172.060(2)(c) above if:

(i) The applicant makes a written request for the additional extension prior to the expiration of an extension.

(ii) The applicable residential development statute has not been amended following approval of the permit.

(iii) An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the county, which may require that the applicant comply with the amended rule or land use regulation.

(f) For all temporary uses granted under Title 18, the Director shall grant one 6-month extension.

(g) Approval of a modification to a land use approval pursuant to CCC 18.172.100 shall be treated as a new final decision for purposes of calculating the expiry provisions of subsection (2)(b) and (d) of this section and CCC 18.172.100(2). (Ord. 323 § 6 (Att. A), 2021; Ord. 321 § 4, 2020; Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 216 § 2, 2009; Ord. 18 § 9.060, 2003)

18.172.070 Notice of public hearing.

(1) A hearing shall be held only after notice to the applicant and any other person required by law to be given notice.

(2) Notice of the hearing to approve any quasi-judicial land use matter shall be provided:

(a) to the applicant, and;

(b) to the owners of record of property on the most recent tax assessment roll ~~in accordance with ORS 197.763(2).~~ of property located:

(i) Within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary;

(ii) Within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or

(iii) Within 750 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone.

(3) Notice shall also be given to the following persons or agencies:

(a) Any person, agency, or organization that may be designated by this title;

(b) Any other person, agency, or organization that may be designated by the County Court or its agencies;

(c) An owner of a "public use airport"~~n airport,~~as defined by ~~the Department of Transportation as a "public use airport" in accordance with applicable state law~~ state law;

(d) ~~(On a zone change application.) A tenant of a mobile home or manufactured dwelling park as defined by state law in accordance with applicable state law;~~The tenants of a mobile home or manufactured dwelling park when the application is for rezoning all or part of such park.

(e) Transportation agencies whose facilities are impacted by the proposed action or jurisdictions affected by the transportation impacts of future development resulting from the proposal.

(4) Notice of any quasi-judicial matter shall be mailed ~~in accordance with the requirements of ORS 197.763(3)(f)~~ at least:

(a) Twenty calendar days before the evidentiary hearing; or

(b) If two or more hearings are allowed, 10 calendar days before the first evidentiary hearing.

(5) The notice shall~~contain at least the following information~~:

(a) ~~An explanation of~~ Explain the nature of the application and the proposed use or uses which could be authorized;

(b) ~~A listing of~~ List the applicable criteria from this title and the comprehensive plan that apply to the application at issue;

(c) ~~A statement setting~~ Set forth the street address or other easily understood geographical reference to the subject property;

(d)~~ The~~State the date, time and location of the hearing;

(e) ~~A statement~~ State that the failure ~~of an issue to be raised~~ to raise an issue in a hearing, in person or by letter, or failure to provide 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;

(f) Include the name of ~~a local government representative~~ the Director or assigned representative to contact and the telephone number where additional information may be obtained; ~~The telephone number of the director and that the director is the person to contact for additional information;~~

(g) ~~A statement~~ State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;

(h) ~~A statement~~ State that a copy of the staff report will be available for inspection at no cost at least seven calendar days prior to the hearing and will be provided at reasonable cost; and

(i) ~~A~~ Include a general explanation of the requirements for submission of testimony and the procedures for conduct of hearings.

(6) The failure of a property owner, airport owner or tenant of a mobile home or manufactured dwelling park to receive notice shall not invalidate such proceedings if the Director, commission or court can demonstrate by affidavit that such notice was given.

(7) For the purpose of personal notification, the records of the county assessor's office shall be used.

(8) These notice requirements by mail shall not restrict the giving of notice by other means, including posting, newspaper publication, radio, television, electronic mail or the county website.

(9) Notice may be posted in a conspicuous manner in any of the following three locations:

(a) Crook County Courthouse;

(b) City of Prineville City Hall; and

(c) The United States Post Office located in Prineville, Oregon. (Ord. 317 § 6, 2020; Ord. 303 § 1 (Exh. C), 2017; Ord. 236 § 5 (Exh. E), 2010; Ord. 18 § 9.070, 2003)

18.172.080 Members of the Planning Commission.

(1) Members of the Planning Commission.

(a) The Planning Commission shall consist of seven members appointed by the County Court for four-year terms, or until their respective successors are appointed and qualified.

(b) Any vacancy on the Planning Commission shall be appointed by the County Court for the unexpired term.

(c) Members of the Planning Commission shall serve without compensation. However, the Director may authorize mileage reimbursement at the standard county rate for Planning Commission members who must travel from outlying areas of the county to attend Planning Commission meetings.

(d) Members of the Planning Commission shall, ~~as much as possible,~~ be residents of the various geographic areas of the county. The various geographic areas are depicted in the map of citizen planning areas in the Crook County comprehensive plan. The County Court may deviate from these areas to the extent practicable needed to obtain a full seven-member Planning Commission from the applicant pool available. An objection to an applicant by the majority of the County Court may be the basis for deviating from the geographic areas in the citizen planning areas.

(e) No more than two members shall be engaged principally in buying, selling or developing real estate for profit as individuals or be members of any partnership, or officers or employees of any corporation, that is engaged principally in buying, selling or developing real estate for profit.

(f) No more than two voting members shall be engaged in the same kind of business, trade or profession.

(g) A member may have his or her term of appointment terminated by the County Court if a change in occupation results in more than two members being engaged in the same kind of business, trade or profession.

(h) A member's term of appointment ~~may~~ shall be terminated by the County Court, after a determination that the member has unexcused absences from 20 percent or more of the scheduled commission meetings or if they exhibit personal or business conduct which raises questions concerning their bias or objectivity in fulfilling the duties of a commissioner.

(i) During the temporary absence or disability of a member of the Planning Commission, the chair shall select a commissioner pro tem to serve during the absence or disability of the absent member. At the

chair's request, a commissioner pro tem shall be selected from a list of one or more commissioners pro tem and be appointed by the County Court.

(2) Chairperson and Vice-Chairperson. The Planning Commission shall elect a chairperson and a vice-chairperson. The election shall be held annually at the first regularly scheduled meeting in January of each year, or at a later regularly scheduled meeting if necessary.

(3) The Department shall keep an accurate record of all commission proceedings.

(4) Procedures.

(a) The Planning Commission shall meet at least once a month, at such time and places as may be fixed by the Planning Commission or the ~~planning department~~ Department.

(b) A member of the Planning Commission shall not participate in any proceeding or action in which any of the following has a direct or substantial financial interest: the member or his or her spouse, sibling, child, parent, parent-in-law, partner, or any business in which he or she has a financial interest, or by which he or she is employed or has been employed within the previous two years, or any business with which he or she is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the meeting of the commission where the action is being taken.

(c) A quorum of the Planning Commission shall be Planning Commission members. A majority of the quorum voting in favor of a motion shall be sufficient to adopt that motion.

(5) Recommendation to County Court. All recommendations and suggestions made to the County Court by the Planning Commission shall be in writing.

(6) Advisory Committees.

(a) The Planning Commission will serve as the county's citizen involvement committee for land use issues. For the purpose of obtaining citizen participation in, and to assist in coordinating, land use planning for all lands situated within the county, the Planning Commission may establish advisory committees on land use planning for each geographic area considered to be a reasonable land use planning unit. Each such committee shall be composed of residents of the area concerned.

(b) The Planning Commission may also establish advisory committees on specific planning issues such as economics, housing, transportation, solid waste, natural resource management, open space, and recreation.

(c) The Planning Commission shall consult with each advisory committee established under subsections (6)(a) and (b) of this section in the preparation, adoption, revision, and implementation of a comprehensive plan and other plans for the county. The commission shall furnish each such committee with technical and other assistance.

(7) Finances. The Planning Commission may employ consultants to advise on county problems, and pay for their services, and for such other expenses as the commission may lawfully incur, including the necessary disbursements incurred by its members in the performances of their duties as members of the commission, out of funds at the disposal of the commission as authorized by the County Court.

(8) Powers. The Planning Commission shall have all of the powers which are now or hereafter granted to it by the ordinances of this county or by the general laws of the state of Oregon. The commission shall make recommendations regarding subdivisions of land and land use to the County Court, to public officials, and to individuals, and may make recommendations regarding location of thoroughfares, public buildings, parks, and other public facilities, and regarding any other matter related to the planning and development of the county. The commission may make studies, hold hearings, and prepare reports and recommendations on its own initiative or at the request of the County Court.

(9) Expenditures. The Planning Commission shall have no authority to make expenditures on behalf of the county, or to obligate the county for the payment of any sums of money, except as herein provided, and then only after the County Court shall have first authorized such expenditures by appropriate resolution, which resolution shall provide administrative method by which such funds shall be drawn and expended. (Ord. 321 § 4, 2020; Ord. 317 § 6, 2020; Ord. 298 § 1 (Exh. A), 2016; Ord. 266 § 2, 2013; Ord. 236 § 5 (Exh. E), 2010; Ord. 212 § 2, 2009; Ord. 18 § 9.080, 2003)

18.172.081 Public hearings and order of proceedings.

(1) Staff Report. At least seven days prior to a public hearing, the Director will provide a staff report to the Hearing Authority and parties to the application, and make it available to the public upon request. If the report is not provided by such time, the hearing will be held as scheduled, but any party may at the hearing or in writing prior to the hearing request a continuance of the hearing to a date certain that is at least seven days after the date the staff report is provided. The granting of a continuance under these circumstances will be at the discretion of the Hearing Authority.

(2) Personal Conduct.

(a) No person may be disorderly, abusive, or disruptive of the orderly conduct of the hearing.

(b) No person may testify without first receiving recognition from the Hearing Authority and stating their full name and address.

(c) No person may present irrelevant, immaterial, or unduly repetitious testimony or evidence.

(d) Audience demonstrations such as applause, cheering, and display of signs, or other conduct disruptive of the hearing are not permitted. Any such conduct may be cause for immediate suspension of the hearing or removal of the offender from the hearing.

(3) Limitations on Oral Presentations. The Hearing Authority may set reasonable time limits on oral testimony.

(4) Appearing. Any interested person may appear either orally before the close of a public hearing or in writing before the close of the written record, except that for an on-the-record hearing, persons who may appear are limited to those described at CCC 18.172.110(6). Any person who has appeared in the manner prescribed in CCC 18.172.110(6) will be considered a party to the proceeding.

(5) Disclosure of Ex Parte Contacts.

(a) Any member of a Hearing Authority for a quasi-judicial application must reasonably attempt to avoid ex parte contact. As used in this section, ex parte contact is communication directly or indirectly with any party or their representative outside of the hearing in connection with any issue involved in a pending hearing except upon notice and opportunity for all parties to participate. Should a Hearing Authority member engage in ex parte contact, that member must:

(i) Publicly announce for the record at the hearing the substance, circumstances, and parties to such communication;

(ii) Announce that other parties are entitled to rebut the substance of the ex parte communication during the hearing; and

(iii) State whether they are capable of rendering a fair and impartial decision.

(b) If the Hearing Authority or member thereof is unable to render a fair and impartial decision, or recommendation in the case of the Planning Commission, they must recuse themselves from the proceedings.

(c) Communication between the Director and the Hearing Authority or a member thereof is not considered an ex parte contact.

(6) Disclosure of Personal Knowledge. If any member of a Hearing Authority uses personal knowledge acquired outside of the hearing process in rendering a decision, they must state the substance of the knowledge on the record.

(7) Site Visit. For the purposes of this section, a site visit by any member of a Hearing Authority will be deemed to be personal knowledge. If a site visit has been conducted, the Hearing Authority member must disclose their observations gained from the site visit.

(8) Challenge for Bias, Prejudgment, or Personal Interest. Prior to or at the commencement of a hearing, any party may challenge the qualification of any member of the Hearing Authority for bias, prejudgment, or personal interest. The challenge must be made on the record and be documented with specific reasons supported by facts. Should qualifications be challenged, that member must either recuse themselves from the proceedings or make a statement on the record that they can make a fair and impartial decision and will hear and rule on the matter.

(9) Potential Conflicts of Interest. No member of the Hearing Authority may participate in a hearing or a decision upon an application when the effect of the decision would be to the private pecuniary benefit or detriment of

the member or the member's relative or any business in which the member or a relative of the member is associated unless the pecuniary benefit arises out of:

(a) An interest or membership in a particular business, industry occupation or other class required by law as a prerequisite to the holding by the member of the office or position;

(b) The decision, or recommendation in the case of the Planning Commission, would affect to the same degree a class consisting of an industry, occupation or other group in which the member or the member's relative or business with which the member or the member's relative is associated, is a member or is engaged; or

(c) The decision, or recommendation in the case of the Planning Commission, would affect to the same degree a class consisting of an industry, occupation or other group in which the member or the member's relative or business with which the member or the member's relative is associated, is a member or is engaged.

(10) Qualification of a Member Absent at a Prior Hearing. If a member of the Hearing Authority was absent from a prior public hearing on the same matter which is under consideration, that member will be qualified to vote on the matter if the member has reviewed the record of the matter in its entirety and announces prior to participation that this has been done. If the member does not review the record in its entirety, that member must not vote and must abstain from the proceedings.

(11) Hearing Authority's Jurisdiction. In the conduct of a public hearing, the Hearing Authority will have the jurisdiction to:

(a) Regulate the course, sequence and decorum of the hearing.

(b) Decide procedural requirements or similar matters consistent with this chapter.

(c) Rule on offers of proof and relevancy of evidence and testimony and exclude repetitious, immaterial, or cumulative evidence.

(d) Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation and rebuttal testimony.

(e) Take such other action appropriate for conduct of the hearing.

(f) Grant, deny, or, in appropriate cases, attach such conditions to the matter being heard to the extent allowed by applicable law and that may be necessary to comply with the applicable approval criteria or, in appropriate cases, formulate a recommendation for the court.

(g) Continue the hearing to a date certain as provided at subsection (16) of this section.

(h) Allow the applicant to withdraw and cancel the application. Subsequent to the cancellation of the application, if the applicant wishes to proceed with the same or different proposal requiring a land use

application, a new application may be submitted and the new application must be processed in compliance with all the provisions of this chapter.

(12) Hearing Procedures. At the commencement of a hearing, the Hearing Authority must state to those in attendance ~~all of~~ the following information and instructions:

(a) Date of the hearing;

(b) Department file number;

(c) Nature, purpose, and type of the hearing;

(d) When applicable, the parties that may participate in the hearing and/or issues to which the hearing is limited;

(e) Identification of the address and assessor's map and tax lot number of, or other easily understood geographical reference to, the subject property, if applicable;

(f) Order of the proceedings, including reasonable time limits on oral presentations by parties;

(g) For a quasi-judicial application, a statement disclosing any pre-hearing ex parte contacts;

(h) A statement disclosing any personal knowledge, bias, prejudgment, or personal interest on the part of the Hearing Authority;

(i) Call for any challenges to the Hearing Authority's qualifications to hear the matter. Any such challenges must be stated at the commencement of the hearing, and the Hearing Authority must decide whether they can proceed with the hearing as provided in subsection (9) of this section;

(j) List of the applicable approval standards and criteria for the application;

(k) Statement that testimony, arguments, and evidence must be directed toward applicable approval standards and criteria, or other standards and criteria in the Crook County land use regulations or comprehensive plan that the person testifying believes to apply to the decision;

(l) Statement that failure to raise an issue accompanied by statements or evidence with sufficient detail to give the Hearing Authority and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue;

(m) Statement that the failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the Hearing Authority to respond to the issue precludes an action for damages in circuit court;

(n) Statement that prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments, or testimony regarding the application. The Hearing Authority must grant the request by either continuing the public hearing or leaving the record open for additional written evidence, arguments, or testimony in accordance with subsection (16) of this section; and

(o) Statement that the decision of the approval authority may be appealed in accordance with CCC 18.172.110.

(13) Order of Proceeding. In the conduct of a public hearing other than an on-the-record hearing, the following order of procedure will generally be followed. However, the Hearing Authority may modify the order of proceeding.

(a) The Director will present the staff report;

(b) Allow agency comments;

(c) The applicant will be heard first;

(d) Allow persons in favor of the proposal to be heard;

(e) Allow persons neutral to the proposal to be heard;

(f) Allow persons opposed to the proposal to be heard;

(g) Allow applicant opportunity to respond or address any presented material;

(h) Allow the Director to present any further comments or information in response to the testimony and evidence;

(i) Allow applicant to waive or maintain their seven-day final argument;

(j) Conclude or continue the public hearing;

(k) Present motion for deliberations or set time and date certain.

(14) Questions. The Hearing Authority at any point during the hearing may ask questions of the Director or parties.

Questions by parties, interested persons, or the Director may be allowed by the Hearing Authority at their discretion.

Questions must be directed to the Hearing Authority; questions posed directly to the Director or any party are not allowed.

The Hearing Authority may allow questions to be answered by the Director or a party if a question pertains to them. They will be given a reasonable amount of time to respond solely to the question.

(15) Presenting and Receiving Evidence. No oral testimony will be accepted after the close of the hearing. Written testimony may be received after the close of the hearing only in accordance with subsections (167) ~~through~~ and (189) of this section.

(16) Continuances and Leaving the Record Open.

(a) Grounds.

(i) Prior to the date set for an initial hearing, an applicant shall receive a continuance upon any request. If a continuance request is made after the published or mailed notice has been provided by the County, the Hearing Authority shall take evidence at that scheduled hearing date from any party wishing to testify at that time after notifying those present of the continuance.

(ii) Any party is entitled to a continuance of the initial evidentiary hearing or to have the record left open in such a proceeding in the following instances:

(A) Where additional documents or evidence are submitted by any party; or

(B) Upon a party's request made prior to the close of the hearing for time to present additional evidence or testimony.

For the purposes of subsection (16)(a)(ii)(A) of this section, "additional documents or evidence" shall mean documents or evidence containing new facts or analysis that are submitted after notice of the hearing.

(iii) The grant of a continuance or record extension in any other circumstance shall be at the discretion of the Hearing Authority ~~body~~.

(b) Except for continuance requests made under subsection (16)(a)(i) of this section, the choice between granting a continuance or leaving the record open shall be at the discretion of the ~~hearings~~ Hearing ~~body~~ Authority. After a choice has been made between leaving the record open and granting a continuance, the hearing shall be governed thereafter by the provisions that relate to the path chosen.

(c) Continuances.

(i) If the ~~hearings~~ Hearing ~~body~~ Authority grants a continuance of the initial hearing, the hearing shall be continued to a date, time, and place certain at least seven days from the date of the initial hearing.

(ii) An opportunity shall be provided at the continued hearing for persons to rebut new evidence and testimony received at the continued hearing.

(iii) If new written evidence is submitted at the continued initial hearing, any person may request prior to the conclusion of the continued hearing that the record be left open for at least seven days to allow submittal of additional written evidence or testimony. Such additional written evidence or testimony shall be limited to evidence or testimony that rebuts the new written evidence or testimony.

(iv) If the hearing is other than initial hearing, any continuances are at the discretion of the ~~hearings~~ Hearing ~~body~~ Authority.

(d) Leaving the Record Open.

(i) If at the conclusion of the initial hearing the hearings body leaves the record open for additional written evidence or testimony, the record shall be left open for at least 14 additional days, allowing at least the first seven days for submittal of new written evidence or testimony and at least seven additional days for response to the evidence received while the record was held open. Written evidence or testimony submitted during the period the record is held open shall be limited to evidence or testimony that rebuts previously submitted evidence or testimony.

(e) A continuance or leaving the record open that is granted under this section shall be subject to the 150-day time limit unless the continuance or extension is requested or otherwise agreed to by the applicant. When the record is left open or a continuance is granted after a request by an applicant, the time period during which the 150-day clock is suspended shall include the time period made available to the applicant and any time period given to parties to respond to the applicant's submittal.

(17) Rescheduling. In the event that a noticed public hearing must be rescheduled due to an emergency situation, the rescheduling of the meeting will constitute sufficient notice of a public hearing provided the following minimum procedures are observed:

(a) Notice is posted on the door of the building in which the hearing is scheduled advising of the cancellation and the date, time, and place for the rescheduled meeting or that new notice will be sent indicating that new date, time, and place.

(b) Reasonable attempts are made prior to the scheduled hearing to announce the cancellation and rescheduling by direct communication to applicants and known interested parties and through available news media to the general public.

(18) Reopening the Record. When the Hearing Authority reopens the record to admit new evidence, arguments, or testimony, the Hearing Authority must allow people who previously participated in the hearing to request the hearing record be reopened, as necessary, to present evidence concerning the newly presented facts. Upon announcement by the Hearing Authority of their intention to take notice of such facts in its deliberations, any person may raise new issues which relate to the new evidence, arguments, testimony, or standards and criteria which apply to the matter at issue.

(19) Conclusion of Hearing.

(a) After the close of the hearing record, the Hearing Authority may either make a decision and state findings which may incorporate findings proposed by any party or the Director, or take the matter under advisement for a decision to be made at a later date.

(b) The Hearing Authority may request proposed findings and conclusions from any party at the hearing. The Hearing Authority, before adopting findings and conclusions, may circulate them in draft form to parties for written comment.

(c) The decision and findings must be completed in writing and signed by the Hearing Authority within ~~10 days~~ 30 days of the closing of the record for the last hearing. A longer period of time may be taken to

complete the findings and decision if the applicant provides written consent to an extension to any applicable timelines in which the county must process the application for an amount of time that is equal to the amount of additional time it takes to prepare the findings.

(20) Record of the Hearing. The Hearing Authority will consider only facts and arguments in the hearing record; except that it may consider laws and legal rulings not in the hearing record (e.g., local, state, or federal regulations; previous department decisions; or case law).

(a) The hearing record will include all of the following information:

(i) All oral and written evidence submitted to the Hearing Authority;

(ii) All materials submitted by the Director to the Hearing Authority regarding the application;

(iii) A recording of the hearing;

(iv) The final written decision; and

(v) Copies of all notices given as required by this chapter and correspondence regarding the application that the Director mailed or received.

(b) All exhibits presented will be kept as part of the record and marked to show the identity of the person offering the exhibit. Exhibits will be numbered in the order presented and will be dated.

(21) Decision and Findings Mailing. Upon a written decision adopting findings being signed by the Approval Authority, the Director will mail/email to the applicant and all parties a copy of the decision and findings, or, if the decision and findings exceed five pages, the Director will mail/email notice of the decision. (Ord. 323 § 6 (Att. A), 2021; Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 18 § 9.081, 2003)

18.172.090 Land use decisions.

(1) Written approval or denial of an application for a use allowed by this title shall be based upon and accompanied by a brief statement that:

(a) Explains the criteria and standards considered relevant to the decision;

(b) States the facts relied upon in rendering the decision; and

(c) Explains the justification for the decision based upon the criteria, standards and facts set forth.

(2) Following the signing of the land use decision made by the Hearing Authority ~~commission~~, the Director shall cause to be issued a written notice of final decision which describes the decision of the Hearing Authority, the date of the final decision and the applicable appeal period.

(3) The date the land use decision becomes final shall be the date the decision is reduced to writing and signed by the ~~commission~~ Hearing Authority or, if the ~~commission~~ Hearing Authority so orders, its designee.

(4) The written notice of final decision shall be issued to:

(a) All parties to the proceeding;

(b) All persons who testified at the public hearing and those who submitted written testimony; and

(c) All persons entitled to receive a notice of disposition by other provisions of this title.

(5) Subject to CCC 18.172.110, a permit shall not be effective or issued by the county until 12 calendar days after the final decision. (Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 18 § 9.090, 2003)

18.172.100 Revocation or modification of permit.

(1) The Hearing Authority may revoke or modify any permit granted under the provisions of this title on any one or more of the following grounds:

(a) For fraud, concealment, or misrepresentation or on the basis of wrong information supplied on the application, or given at a public hearing which materially relates to the reasons on which the permit was granted.

(b) The use for which such permit was granted is not being exercised within the time limit set forth by the commission or this title.

(c) The use for which such permit was granted has ceased to exist or has been suspended for one year or more.

(d) The permit granted is being or recently has been exercised contrary to the terms or conditions of such approval.

(e) The proposed modification will result in a change to the original proposal sought by the permittee or permittee's successor and meets the applicable standards specified in subsection (3) of this section.

(2) Any modified permit granted pursuant to this title shall become null and void if not exercised within the time period specified in such permit, or, if no time period is specified in the modified permit, ~~within two years from the date of approval of said modified permit~~ subject to CCC 18.172.060. Appeals to higher state authorities challenging a modified permit approval shall toll the running of the periods provided in this section.

(3) The ~~commission~~ Hearing Authority shall hold a public hearing on any proposed revocation or modification requested by the ~~commission~~ Hearing Authority or the permittee after giving written notice to the permittee and other affected persons as set forth in this title. The ~~commission~~ Hearing Authority shall hold a public hearing on any proposed revocation or modification after giving written notice to the permittee and other affected persons as set forth in this title. The hearing on the decision, which is subject to revocation or modification, is subject only to either the standards, criteria and conditions that were applicable when the original permit was issued or in effect at the time of the revocation or modification, whichever is less restrictive. The ~~commission~~

Hearing Authority shall render its decision within 45 calendar days after the conclusion of the hearing. (Ord. 323 § 6 (Att. A), 2021; Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 18 § 9.100, 2003)

18.172.110 Appeals.

(1) Every land use decision relating to the provisions of this title made by the Director, Planning Commission, hearing officer ~~or other official of Crook County~~ is subject to review when appealed within 12 calendar days of the date the decision was mailed in accordance with state statutes and the following provisions.

(2) The filing of an appeal in accordance with the provisions of this section initiates the appeal process and stays the order of the decision appealed. The process shall include appropriate public notice, a public hearing, and the preparation of findings by that authority which either affirms, amends, or reverses the decision appealed.

(3) All hearings of appeal from an administrative determination shall be de novo.

(4) All hearings of appeal from a Planning Commission final decision shall be based on the record made before the Planning Commission.

(5) A final decision not to adopt a legislative matter is not appealable.

(6) Appeals may be filed only by the following parties:

(a) The applicant or the authorized agent of the applicant; or

(b) Any person or county official testifying at the public hearing or who provided written comments may appeal a decision.

(7) The appellate body may review a lower determination or decision upon its own motion by issuing a written order to that effect on the lower body within 10 working days of the date the determination or decision becomes final. The appellate body must cause notice to be given to the parties involved within three working days of the appellate body's order to review.

(8) Appellate Body.

(a) The appellate body for appeals from administrative determinations of the Director shall be the Planning Commission.

(b) The appellate body for appeals from final decisions of the Planning Commission shall be the County Court, unless the County Court orders the appeal be sent directly to the Oregon Land Use Board of Appeals as the final decision of the county.

(c) Appeals from decisions of the County Court shall be in conformance with the applicable ORS provisions.

(9) Filing Requirements.

(a) Appeals shall be complete and the appellate body shall have jurisdiction to hear the matter appealed if all the following occur:

(i) The appeal shall be in writing on the form prescribed by the Director and shall contain:

(A) Name and address of the appellant(s);

(B) Reference to the application title and case number, if any.

(ii) A statement of the nature of the decision:

(A) A statement of the specific grounds for the appeal, setting forth the error(s) and the basis of the error(s) sought to be reviewed; and

(B) A statement as to the appellant's standing to appeal as an affected party.

(iii) Proper filing fee in accordance with CCC 18.172.050.

(iv) Written notice of appeal must be filed within 12 calendar days of the decision, no later than the End of Business on the 12th day, with the appropriate person.

(A) To the Planning Commission from an administrative determination by the ~~planning department~~ Director;

(B) To the County Court for appeals from final decisions by the Planning Commission.

(10) Notice and Hearing of the Appeal.

(a) If the Director determines that the facts stated in the notice of appeal meet the requirement for a hearing, a time and date shall be set for such hearing to be held not later than 60 calendar days after receipt of the notice of appeal.

(b) If the appeal is dismissed, the reasons will be provided in writing how the application has not met the requirements for an appeal. Upon dismissal, the appealed decision is final.

(c) If the appellate body is the County Court, the County Court may order the appeal sent directly to the Land Use Board of Appeals as the final decision of the county without an appeal hearing.

(d) For an appeal of a Planning Commission decision to the County Court, at least 10 calendar days prior to the appeal hearing, the Hearing Authority shall give notice of time, place and the particular nature of the appeal. Notice shall be published in the newspaper and be sent by mail to the appellant(s), to the applicant (if different) and those persons who testified at the subject hearing where a hearing was held and affected parties in accordance with this section.

(e) For an appeal of an administrative decision to the Planning Commission, the notice requirements of CCC 18.172.070 shall apply.

(11) Transcript. The appellant shall provide a copy of the transcript of the relevant portions of the Planning Commission proceedings appealed from to the ~~county planning department~~ Department seven calendar days before the hearing date set by the County Court.

(12) Scope and Standard of Review of Appeal.

(a) On the Record Review. The appeal is not a new hearing; it is a review of the decision below. Subject to the exception in subsection (12)(a)(vi) of this section, the review of the final decision shall be confined to the record of the proceedings below, which shall include, if applicable:

(i) All materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and received by the Planning Commission as evidence.

(ii) All materials submitted by Crook County staff with respect to the application.

(iii) The transcript of the relevant portions of the Planning Commission hearing.

(iv) The written final decision of the Planning Commission and the petition of appeal.

(v) Argument (without introduction of new or additional evidence) by the applicant, appellants or their ~~legal representative~~ agents.

(vi) The appellate body may, at its option, admit additional testimony and other evidence from an interested party or party of record to supplement the record of prior proceedings. The record may be supplemented by order of the appellate body or upon written motion by a party. The written motion shall set forth with particularity the basis for such request and the nature of the evidence sought to be introduced. Prior to supplementing the record, the appellate body shall provide an opportunity for all parties to be heard on the matter. The appellate body may grant the motion upon a finding that the supplement is necessary to take into consideration the inconvenience of locating the evidence at the time of initial hearing, with such inconvenience not being the result of negligence or dilatory act by the moving party.

(b) Standard of Review on Appeal. The burden of proof in a hearing shall be as allocated by applicable law. The burden shall remain with the applicant to show that relevant criteria were met for an application throughout the local appeal process. For an appeal on the record, an appellant shall have the burden to articulate reasons why the initial decision is in error.

(13) Appellate Decisions. Following hearing the appeal, the appellate body may affirm, overrule, or modify the decision and shall set forth findings showing compliance with applicable standards and criteria. The appellate body may also remand the decision with instructions to the Planning Commission, hearing officer or Director who made the original decision to consider additional facts, issues or criteria not previously addressed.

(14) A decision made on remand is a new decision and may be appealed as described in subsections (1) through (13) of this section. (Ord. 321 § 4, 2020; Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 231 § 1 (Exh. A), 2010; Ord. 18 § 9.110, 2003)

18.172.120 Remand by the County Court.

When a decision is remanded by the appellate body pursuant to CCC 18.172.110(13), the following procedures shall apply:

(1) Notice of the hearing shall be provided in accordance with CCC 18.172.110(10)(b).

(2) Participants at the remand hearing shall be limited to Crook County staff, the applicant and the appellant(s) from the prior appeal. The hearings body may elect, in its discretion, to expand those who may participate in the remand hearing upon its own motion.

(3) The remand hearing shall be limited solely to the issues identified in the remand order from the appellate body.

(4) The remand hearing shall be limited to new evidence and testimony regarding the issues in subsection (3) of this section. (Ord. 317 § 6, 2020)

18.172.130 Remand by the Land Use Board of Appeals.

When a final decision of the County Court or other land use decision is remanded by the Land Use Board of Appeals:

(1) A remand hearing shall be held when:

(a) Requested by the applicant or appellant in writing, and upon payment of the applicable fee, if any, in accordance with ORS 215.435.

(b) The County Court on its own motion initiates a remand hearing.

(2) Remand Procedures.

(a) Notice of a remand hearing shall be as provided by CCC 18.172.110(10)(b).

(b) The remand hearing shall be limited to staff, the applicant and appellants from the prior LUBA appeal. However, the County Court may expand those who may participate in the remand hearing upon the County Court's own motion.

(c) The remand hearing shall be limited solely to issues remanded in the final decision of the Land Use Board of Appeals unless the County Court expands the issues on remand upon the County Court's own motion.

(d) The remand hearing shall be limited to new evidence and testimony regarding the issues in subsection (2)(c) of this section. (Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010)

Declaratory Ruling

Title 18 Zoning

18.174 DECLARATORY RULING

18.174.05 Availability of Declaratory Ruling.

(1) Subject to the other provisions of this section, there shall be available for the County's comprehensive plans, the County's Land Division Ordinance (Title 17) and Crook County Zoning Ordinance (Title 18), a process for:

(a) Interpreting a provision of a comprehensive plan or ordinance (and other documents incorporated by reference) in which there is doubt or a dispute as to its meaning or application;

(b) Interpreting a provision or limitation in a land use permit issued by the County or quasi-judicial plan amendment or zone change (except those quasi-judicial land use actions involving property that has since been annexed into the City of Prineville) in which there is doubt or a dispute as to its meaning or application;

(c) Determining whether an approval has been initiated or considering the revocation of a previously issued land use permit, quasi-judicial plan amendment or zone change;

(d) Determining the validity and scope of a nonconforming use;

(e) Determining other similar status situations under a comprehensive plan, zoning ordinance or land division ordinance that do not constitute the approval or denial of an application for a permit; and

(f) Verifying whether a lot or parcel was lawfully established

Such a determination or interpretation shall be known as a "declaratory ruling" and shall be processed in accordance with this section. In all cases, as part of making a determination or interpretation the Director shall have the authority to declare the rights and obligations of persons affected by the ruling.

(2) A declaratory ruling shall be available only in instances involving a fact-specific controversy and to resolve and determine the particular rights and obligations of particular parties to the controversy. Declaratory proceedings shall not be used to grant an advisory opinion. Declaratory proceedings shall not be used as a substitute for seeking an amendment of general applicability to a legislative enactment.

(3) Declaratory rulings shall not be used as a substitute for an appeal of a decision in a land use action or for a modification of an approval. In the case of a ruling on a land use action a declaratory ruling shall not be available until six months after a decision in the land use action is final.

(4) The Director may refuse to accept an application for a declaratory ruling if:

(a) The Director determines that the question presented can be decided in conjunction with approving or denying a pending land use action application or if in the Director's judgment the requested determination should be made as part of a decision on an application for a quasi-judicial plan amendment or zone change or a land use permit not yet filed; or

(b) The Director determines that there is an enforcement case pending in district or circuit court in which the same issue necessarily will be decided as to the applicant and the applicant failed to file the request for a declaratory ruling within two weeks after being cited or served with a complaint.

The Director determination to not accept or deny an application under this section shall be the County's final decision.

18.174.10 Persons who may apply.

(1) CCC 18.172.005(4) notwithstanding, the following persons may initiate a declaratory ruling under this section:

(a) The owner of a property requesting a declaratory ruling relating to the use of the owner's property;

(b) In cases where the request is to interpret a previously issued quasi-judicial plan amendment, zone change or land use permit, the holder of the permit; or

(c) In all cases arising under CCC 18.XXX.010, the Director.

No other person shall be entitled to initiate a declaratory ruling.

(2) A request for a declaratory ruling shall be initiated by filing an application with the planning department and, except for applications initiated by the Director, shall be accompanied by such fees as have been set by the Planning Department. Each application for a declaratory ruling shall include the precise question on which a ruling is sought. The application shall set forth whatever facts are relevant and necessary for making the determination and such other information as may be required by the Planning Department.

18.174.015 Procedures

Except as set forth in this section or in applicable provisions of a zoning ordinance, the procedures for making declaratory rulings shall be the same as set forth in 18.172.015 for land use actions. Where the Planning Department is the applicant, the Planning Department shall bear the same burden that applicants generally bear in pursuing a land use action.

18.174.20 Effect of declaratory ruling.

(1) A declaratory ruling shall be conclusive on the subject of the ruling and bind the parties declaratory ruling as to the determination made.

(2) Parties to a declaratory ruling shall not be entitled to reapply for a declaratory ruling on the same question.

18.174.025 Interpretation

Interpretations made under 18.XXX shall not have the effect of amending the interpreted language in the applicable comprehensive plan or ordinance. Interpretation shall be made only of language that is ambiguous either on its face or in its application. Any interpretation of a provision of the comprehensive plan or other land use ordinance shall consider applicable provisions of the comprehensive plan and the purpose and intent of the ordinance as applied to the particular section in question.

CCC 18.116 Destination Resort Overlay

Title 18 Zoning

18.116.040 Standards

A destination resort shall meet the following standards:

(1) Development shall be located on a tract that contains at least 160 acres.

(2) Development shall not be located on high value farmland.

(3) Development shall include meeting rooms, restaurants with seating for at least 100 persons, and a minimum of 150 separate rentable units for overnight lodging, oriented toward the needs of visitors rather than area residents. However, the rentable units may be phased in as follows:

(a) A total of 150 units of overnight lodging shall be provided as follows:

(i) At least 75 units of overnight lodging, not including any individually owned homes, lots or units, shall be constructed or guaranteed prior to the closure of sale of individual lots or units through an agreement and security provided to the county in accordance with CCC 17.40.080 and 17.40.090.

(ii) The remainder shall be provided as individually owned lots or units subject to deed restrictions that limit their use to overnight lodging units. The deed restrictions may be rescinded when the resort has constructed 150 units of permanent overnight lodging as required by this subsection.

(b) The number of units approved for residential sale shall not be more than two units for each unit of permanent overnight lodging provided under subsection (3)(a)(i) of this section; provided, however, after an applicant has constructed its first 150 permanent overnight lodging units, the county may approve a final development plan modification to increase the ratio of units approved for residential sale to units of permanent overnight lodging from two to one to two and one-half to one.

(c) The development approval shall provide for the construction of other required overnight lodging units within five years of the initial lot sales.

(d) In a phased development, after completing construction of the initial 150 units of overnight lodging units described in subsection (a) of this section, in lieu of fully constructing required overnight lodging units, an applicant may request at the time it submits a tentative plan application to guaranty construction of any overnight lodging units required per subsection (b) of this section if the following requirements are met:

(i) The applicant shall provide an agreement and security in amount equal to or greater than 130% of the anticipated costs to construct the overnight lodging units to the county in accordance with CCC 17.40.080 and 17.40.090;

(ii) Such agreement and security shall have a maximum term of four (4) years and must require construction of the required overnight lodging units to be complete (as evidenced by a certificate of occupancy issued by the Crook County Building Department) prior to the expiration of such term; and

(iii) The applicant must demonstrate to the hearing authority's satisfaction that the need to provide a guaranty is the result of factors outside the applicant's control (e.g., a lack of necessary construction materials or shortage of necessary labor to complete construction). Routine development costs changes, labor disputes, competition from other entities, or events that are the inherent risks of business do not qualify.

(4) Prior to closure of sale of individual lots or units, all required developed recreational facilities, key facilities intended to serve the entire development, and visitor-oriented accommodations shall be either fully constructed or guaranteed by providing an agreement and security in accordance with CCC 17.40.080 and 17.40.090. In phased developments, developed recreational facilities, ~~and other~~ key facilities intended to serve a particular phase, and required visitor-oriented accommodations shall be either fully constructed prior to sales in that phase or guaranteed by providing an agreement and security in accordance with CCC 17.40.080, ~~and~~ 17.40.090, and, if applicable, 18.116.040(3)(d). Nothing in this subsection shall be interpreted to require the construction of all approved phases of a destination resort; provided, that the destination resort as developed complies with the minimum development requirements of subsections (3), (5), and (7) of this section.

(5) At least $7,000,000 shall be spent on improvements for on-site developed recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities, and roads. Not less than one-third of this amount shall be spent on developed recreational facilities. Spending required under this subsection is stated in 1993 dollars. The spending required shall be adjusted to the year in which calculations are made in accordance with the United States Consumer Price Index.

(6) Commercial uses are limited to those listed in CCC 18.116.070(8). Such uses must be internal to the resort, and are limited to the types and levels of use necessary to meet the needs of visitors to the resort. Industrial uses of any kind are not permitted.

(7) At least 50 percent of the site shall be dedicated to permanent open space, excluding yards, streets, and parking areas.

(8) If the site includes a resource site designated on the county's Goal 5 inventories as significant, the resource site shall be protected in accordance with the adopted Goal 5 management plan for the site. Sites designated for protection pursuant to Goal 5 shall also be preserved by design techniques, open space designation, or a conservation easement sufficient to protect the resource values of the resource site. Any conservation easement created pursuant to this subsection shall be recorded with the property records of the tract on which the destination resort is sited prior to development of the phase of which the resource site is a part.

(9) Riparian vegetation within 100 feet of natural lakes, rivers, streams and designated significant wetlands shall be retained as set forth in CCC 18.124.090.

(10) The dimensional standards otherwise applicable to lots and structures in underlying zones pursuant to Chapters 18.16 through 18.112 and 18.120 through 18.140 CCC shall not apply within destination resorts. The planning commission shall establish appropriate dimensional standards during final development plan review.

(11) Except where more restrictive minimum setbacks are called for, the minimum setback from exterior property lines, excluding public or private roadways through the resort, for all development (including structures and site-obscuring fences of over three feet in height but excepting existing buildings and uses) shall be as follows:

(a) Two hundred fifty feet for commercial development listed in CCC 18.116.070, including all associated parking areas;

(b) One hundred feet for visitor-oriented accommodations other than single-family residences, including all associated parking areas;

(c) Twenty-five feet for above-grade development other than that listed in subsections (11)(a) and (b) of this section;

(d) Twenty-five feet for internal roads;

(e) Twenty-five feet for golf courses and playing fields;

(f) Twenty-five feet for jogging trails, nature trails and bike paths where they abut private developed lots, and no setback where they abut public roads and public lands;

(g) The setbacks of this section shall not apply to entry roadways, landscaping, utilities and signs.

(12) Alterations and nonresidential uses within the 100-year flood plain and alterations and all uses on slopes exceeding 25 percent are allowed only if the applicant submits and the planning commission approves a geotechnical report that demonstrates adequate soil stability and implements mitigation measures designed to mitigate adverse environmental effects. Such alterations and uses include, but are not limited to:

(a) Minor drainage improvements which do not significantly impact important natural features of the site;

(b) Roads, bridges, and utilities where there are no feasible alternative locations on the site; and

(c) Outdoor recreational facilities, including golf courses, bike paths, trails, boardwalks, picnic tables, temporary open sided shelters, boating facilities, ski lifts, and runs. (Ord. 296 § 8 (Exh. F), 2016; Ord. 247 § 1, 2011; Ord. 18 § 12.040, 2003)