



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

8/17/2009

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Fairview Plan Amendment
DLCD File Number 001-08

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, August 28, 2009

This amendment was submitted to DLCD for review prior to adoption. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Lindsey Nesbitt, City of Fairview
Gloria Gardiner, DLCD Urban Planning Specialist
Jennifer Donnelly, DLCD Regional Representative

<paa> YA/

FORM 2 Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

DATE
DEPT OF
AUG 10 2009
LAND CONSERVATION
AND DEVELOPMENT Use Only

Jurisdiction: City of Fairview Local file number: 08-31-ZC

Date of Adoption: 8/5/2009 Date Mailed: 8/7/2009

Date original Notice of Proposed Amendment was mailed to DLCD: 10/24/2008

Comprehensive Plan Text Amendment

Land Use Regulation Amendment

New Land Use Regulation

Comprehensive Plan Map Amendment

Zoning Map Amendment

Other: _____

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Amendment to Chapter 400 - Administration of Land Use and Development Review. Current regulations do not provide a clear appeal process for Minor Quasi Judicial decisions. The code modifications will provide an appeal process for these types of decisions. The modifications will also create a process to allow staff level approval of minor modifications to land use decisions, subject to criteria. The changes will also reformat and restructure the regulations.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

"SAME"

Plan Map Changed from: _____ to: _____

Zone Map Changed from: _____ to: _____

Location: Citywide Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable Statewide Planning Goals: Goal 1 Citizen Involvement, Goal 2 Land Use Planni

Was and Exception Adopted? YES NO

DLCD File No.: DLCD: 001-08 (17221) [15667]

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (45) days prior to first evidentiary hearing? **Yes** **No**

If no, do the statewide planning goals apply? **Yes** **No**

If no, did Emergency Circumstances require immediate adoption? **Yes** **No**

Affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Lindsey Nesbitt** Phone: **(503) 674-6230** Extension: _____
Address: **1300 NE Village Street** City: **Fairview**
Zip Code + 4: **97024-3817** Email Address: **nesbittl@ci.fairview.or.u**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. **Send this Form and TWO (2) Copies of the Adopted Amendment to:**

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE
(6-2009)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAIRVIEW, FAIRVIEW, OREGON REPEALING PART OF THE FAIRVIEW MUNICIPAL CODE CONCERNING THE ADMINISTRATION OF LAND USE AND DEVELOPMENT REVIEW, ADOPTING NEW LAND USE AND DEVELOPMENT REVIEW PROVISIONS AND AMENDING THE TEMPORARY USE PERMIT REVIEW PROCESS.

WHEREAS, a public hearing was held by the Planning Commission on June 23, 2009 and by the City Council on August 5, 2009, and

WHEREAS, public notice was provided in accordance with Fairview Municipal Code and ORS 227.186, and

WHEREAS, Chapter 19.400 et seq. specifies all application requirements and procedures for obtaining permits required by the Fairview Municipal Code and establishes standard decision making procedures that enable the city, applicants, and the public to reasonably review applications and participate in the decision making process, and

WHEREAS, Fairview Municipal Code Chapter 19.400 et seq. does not provide a clear and objective appeal procedure for Type III (Quasi-Judicial) decisions, and

WHEREAS, the amendments provide a clear and objective process for all land use decision types, and

WHEREAS, the current regulations are out of date and cite old development code sections,

WHEREAS, the amendments correct the inconsistencies and out of date regulations, and

WHEREAS, the regulations are lengthy and repetitive, and

WHEREAS, the amendments restructure Chapter 19.400 et seq. to provide an organized approach that follows the land use process, and

WHEREAS, the regulations require a cumbersome modification process allowing minor changes to already approved plans, and

WHEREAS, the amendments include new code language allowing minor modifications to be reviewed and decided as a Type I procedure, and requiring major modifications to be reviewed by the original decision maker, and.

WHEREAS, temporary uses and structures are currently reviewed through the Type II process requiring a 14-day comment period and a 14-day appeal period. Modifications change the review procedure for Temporary Uses to the Type I process.

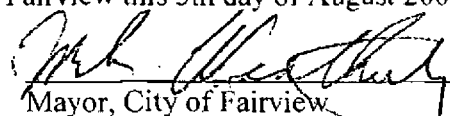
NOW, THEREFORE; the Fairview Municipal Code is amended as follows:

- Section 1 The following sections are repealed¹:
- 19.400 Administration of Land Use and Development Review.
 - 19.412 Description of Permit Procedures.
 - Table 19.412 Summary of Development Decisions/Permits by Type of Decision Making Procedure.
 - 19.413 Type I Procedures (Ministerial).
 - 19.414 Type II Procedures (Administrative).
 - 19.415 Type III Procedures (Quasi-Judicial).
 - 19.416 Type IV Procedures (Legislative).
 - 19.417 General Provisions.
 - 19.460 Modifications to Approved Plans and Conditions of Approval.
- Section 2 Chapter 19.400 et seq., Administration of Land Use and Development Review is amended as shown in Attachment 1.
- Section 3 Section 19.490 Temporary Uses is amended as follows:
- 19.490.100(A) Seasonal and Special Events. These types of uses occur only once in a calendar year and for no longer a period than 90 days. ~~Using the Type II procedure under Chapter 19.414 FMC~~ Using a Type I procedure under Chapter 19.414.010, the city shall approve, approve with conditions or deny a temporary use permit based on findings.
 - 19.490.100(B) Temporary Sales Office or Model Home. ~~Using a Type II procedure under Chapter 19.414 FMC~~ Using a Type I procedure under Chapter 19.414.010, the city may approve, approve with conditions or deny an application for the use of any real property within the city as a temporary sales office, offices for the purpose of facilitating the sale of real property, or model home in any subdivision or tract of land within the city.
 - 19.490.100(C) Temporary Building. ~~Using a Type II procedure, as governed by Chapter 19.414 FMC~~ Using a Type I procedure under Chapter 19.414.010, the city may approve, approve with conditions or deny an application for a temporary trailer or prefabricated building for use on any real commercial or industrial property within the city as a temporary commercial or industrial office or space associated with the primary use on the property.
- Section 4 References to Chapter 19.400 throughout the Fairview Municipal Code are amended to reflect changes in Attachment 1.

¹ Ordinance 06-2009 repeals Section 19.400 in its entirety. The code written in Attachment 1 (of Ordinance 06-2009) is a combination of new code language combined with and some sections of the "old" 19.400. The code in Attachment 1 has been restructured and re-numbered. To reduce confusion, Section 19.400 will be repealed and a newly structured section, using some old code language and implementing new code language will be adopted. Therefore Attachment 1 does not have strike through and underline items.

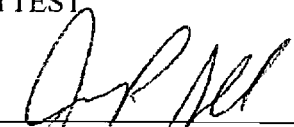
Section 5 This Ordinance shall be in effect 30-days from adoption.

Motion adopted by the City Council of the City of Fairview this 5th day of August 2009.



Mayor, City of Fairview
Mike Weatherby

ATTEST



Recorder, City of Fairview
Joseph Gall

ATTACHMENT 1
(Ordinance 06-2009)

Process Regulations

19.400 Administration of Land Use and Development Review

19.400.010 Introduction

This section specifies application requirements and procedures for obtaining land use permits required for development within the City of Fairview. Table 19.413.050 provides permit and decision making requirements for land use permit applications.

19.400.020 Decision Making Authority

This chapter shall be administered by the Community Development Director or designee.

19.412 Description of Permit Procedures

19.412.010 Preapplication Conferences

A preapplication conference is required for Type II, III, and IV applications. Pre-application conferences are held to provide direction, information, and a description of the land use permitting process for applicants prior to submission of a land use permit.

The applicant must submit the following items to the community development department two weeks prior to the preapplication meeting:

1. Signed application form.
2. Fee.
3. Preliminary site plan and drawings.
4. Project Description.
5. Questions the applicant may have regarding the land use process, development standards, permitting procedures and application requirements.

19.412.020 Forms, Applications, and Filing Fees

Applications and requests for actions authorized under this title shall be made in accordance with provisions of this chapter and shall include:

1. Application fee as adopted by the city council.
2. Completed application form signed by all owners of property included in the proposal or written authorization signed by the property owner(s) allowing the applicant to act as agent on behalf of property owners.
3. Plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon.
4. Sizes and locations on the lot of the buildings and other structures, existing and proposed.
5. Existing and intended use of each building, structure, or part thereof.

6. All information specified on the Site Plan and Application Requirements form, the Land Use Application Submission Requirements form, and the Fire Access and Protection form.

7. Include 1 set of address labels for all real property owners of record who are entitled to notice of the application as required by section 19.413.

8. Narrative demonstrating compliance with all applicable sections of the Fairview Municipal Code and Comprehensive Plan.

19.412.030 Concurrent Review of Multiple Applications

Applications for more than one land use review on the same property may be processed in a single hearing.

19.412.040 Consistency with State Statutes (ORS 227.178 -120 day rule)

A. Applications for action authorized under this title shall be processed in accordance with Oregon Revised Statutes Chapter 227.178.

B. Time limit and appeal from ruling of planning commission.

Final action or ruling on any request pursuant to this title, including resolution of all appeals under ORS 227.180, shall be given within one hundred twenty (120) calendar days after an application is received and is deemed complete. This section does not apply to amendment of an acknowledged comprehensive plan or adoption of a new land use regulation.

19.412.050 Determination of Completeness

A. The Community Development Director shall review applications for consistency with submission requirements of the Fairview Municipal Code. Applications that do not meet submission requirements shall be deemed incomplete for the purpose of Oregon Revised Statutes 227.178 and Fairview Municipal Code Chapter 19.400. The Community Development Director shall provide notice to the applicant as to whether an application is complete or incomplete within thirty (30) calendar days of receipt of the application. If the application is deemed incomplete, written notice shall be provided to the applicant that specifies information needed to make the application complete.

B. When an application is deemed complete, the community development director shall note the date of completeness. The completeness date will be determined the day materials were submitted to make the application complete. If the application was complete upon submission, the original submission date of the application shall be the complete date. If the application was deemed incomplete and additional materials were submitted, the completeness date shall be the date the additional materials were submitted. An application shall be deemed complete when the following are submitted:

1. Application form that is properly filled out and signed,
 2. Application fee has been paid,
 3. The correct number of copies of the application materials has been provided,
 4. Authorization of the property owner to submit the application.
5. All required submittal information identified in FMC 19.412.020(A).

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

19.412.060 City Duties

The Community Development Director shall:

A. Prepare application forms based on the criteria and standards in applicable state law, the city's comprehensive plan, and implementing ordinance provisions.

B. Accept all development applications which comply with this chapter.

C. Prepare a staff report for Type II, III, and IV applications that summarizes the application(s) and applicable decision criteria, and provides findings of conformance and/or nonconformance with the criteria, and a recommended decision. The decision shall approve; deny; or approve with specific conditions that ensure conformance with approval criteria.

D. Provide public notice.

1. In the case of an application subject to a Type II review process, the city shall make the staff report and all case-file materials available at the time that the notice of the decision is issued;

2. In the case of an application subject to a hearing (Type II appeal, Type III, or IV process), the city shall make the staff report available to the public at least seven days prior to the scheduled hearing date, and make the case-file materials available when notice of the hearing is mailed, as provided by FMC 19.413.020 (Type II), 19.413.030 (Type III), or 19.413.040 (Type IV);

E. Administer the hearings process consistent with FMC 19.412.070;

F. File notice of the final decision in the city's records and mail a copy of the notice of the final decision to the applicant; all persons who provided comments or testimony; persons who requested copies of the notice; and any other persons entitled to notice by law;

G. Maintain and preserve the file for each application for the time period required by law. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given; the application and all supporting information; the staff report; the final decision including the findings, conclusions and conditions, if any; all correspondence; and any other exhibit, information or documentation which was considered by the decision-maker(s) on the application; and

H. Administer the appeals and review process.

19.412.070 Public Hearing

A. Conduct and Process

At the commencement of the hearing, the hearings body shall state to those in attendance the following:

1. The applicable approval criteria and standards that apply to the application or appeal.
2. A statement that testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations which the person testifying believes to apply to the decision.
3. A statement that failure to raise an issue with sufficient detail to give the hearings body and the parties an opportunity to respond to the issue, means that no appeal may be made to the State Land Use Board of Appeals on that issue.
4. Before the conclusion of the initial evidentiary hearing, any participant may ask the hearings body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a "continuance") per subsection C of this section, or by leaving the record open for additional written evidence or testimony per subsection C of this section.
5. Failure to raise constitutional or other issues relating to the proposed conditions of approval with sufficient detail to allow the hearings body to respond to the issue precludes an action for damages in circuit court.

B. Continuation of Hearing.

If the hearings body grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or testimony in response to the new written evidence.

The Planning Commission or City Council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.

C. Record.

If the hearings body leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the city in writing for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings body shall reopen the record as follows:

1. When the hearings body re-opens the record to admit new evidence or testimony, any person may raise new issues which relate to that new evidence or testimony.
2. An extension of the hearing or record is subject to the limitations of ORS 227.178 ("120-day rule"), unless the continuance or extension is requested or agreed to by the applicant.
3. The city shall allow the applicant at least seven days after the record is closed to all other persons to submit final written arguments in support of the application, unless the

3. List of applicable criteria used to decide the application.
4. Findings and conclusions based on the applicable criteria.
5. The deadline for the 14-day comment period where persons may request a public hearing and provide for potentially affected persons to communicate concerns to the Community Development Director.
6. State that failure to raise an issue prior to the end of the 14-day comment period accompanied by statements and evidence sufficient to afford the decision maker and the parties an opportunity to respond precludes an appeal on that issue, and only comments on the relevant approval criteria will be considered.
7. The deadline for the 14-day appeal period where persons may appeal the decision to the Planning Commission.
8. The name and telephone number of a contact person regarding the administrative decision.
9. Description of the property, including, the street address or other easily understandable reference to the location of the site.
10. All conditions necessary to support approval of the application.

C. Public Notice Requirements.

The tentative notice of decision shall be mailed to the owner, applicant, and all property adjacent property owners within 100 feet of the outer boundaries of the site, and all governmental agencies entitled to notice. A Fourteen (14) day comment period shall be given from the date of the tentative notice of decision was mailed to state objections or submit written comments. If comments are not received, the tentative decision becomes final. Once the decision becomes final, a 14-day appeal period begins.

D. If comments are received and the tentative notice of decision is changed, the applicant, property owner, and all property owners within the notification area shall be renotified. If either the applicant or persons with concerns are not satisfied with the director's decision, they may appeal the final decision during the 14-day appeal period and the matter will be subject to the provisions of subsection 19.414.020, Type II Review.

19.413.030 Type III Procedure (Quasi-Judicial).

Type III decisions are made by the planning commission after a public hearing. Appeals of Type III decisions are reviewed and decided by the city council.

A. Public Notification.

Notice of the public hearing shall be mailed to the property owner and applicant, if different, and to all property owners within two hundred fifty (250) feet of the outer boundaries of the site, not less than twenty (20) days prior to the date of the hearing. Notice must also be provided in a public news paper at least 20 days prior to the hearing date. In addition, a sign indicating the date of the public hearing, shall be posted on the subject property not less than ten (10) days prior to the date of the hearing. Notice must also be provided at least 20 days prior to the scheduled hearing to any neighborhood or

19.413.040 Type IV Procedures (Legislative)

Type IV matters are considered initially by the planning commission with final decisions made by the city council. Type IV procedures apply to legislative matters and involve the following:

- Zoning Map Amendments
- Development Code Text Amendments
- Comprehensive Plan Text Amendments
- Comprehensive Plan Map Amendments
- Planned Developments
- Park Master Plans
- Master Plan Adoption
- Annexations

A. Required Hearings.

A minimum of two hearings, one before the planning commission, and one before the city council, are required for all Type IV applications, except annexations where only a hearing by the city council is required.

B. Public Notification Requirements.

Notice of public hearings shall be given by the city in the following manner:

1. At least 30 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - a. Each owner whose property would be rezoned in order to implement the ordinance.
 - b. Any affected governmental agency.
 - c. Recognized neighborhood groups or associations affected by the ordinance.
 - d. Any person who requests notice in writing.
 - e. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
 - f. Any property owner affected by the zone changes where the change in regulations becomes more restrictive than the current regulations shall be notified.
2. At least 10 days before the scheduled planning commission public hearing date, and 10 days before the city council hearing date, notice shall be published in a newspaper of general circulation in the city.
3. Metro and the department of land conservation and development (DLCD) shall be notified in writing of proposed comprehensive plan and development code amendments at least 45 days before the first public hearing at which public testimony or evidence will be received.
4. Notifications for annexation shall follow the provisions of this chapter.

- a. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the planning commission for rehearing and reconsideration on all or part of the application.
- b. Consider the recommendation of the planning commission; however, it is not bound by the commission's recommendation.
- c. Adopt ordinances, which shall be signed by the mayor after the council's adoption of the ordinance.

F. Notice of decision.

Notice of a Type IV decision shall be mailed to the applicant, all participants of record, Metro, and the department of land conservation and development, within five business days after the city council decision is filed with the city administrator or designate. The city shall also provide notice to all persons as required by other applicable laws.

G. Final decision and effective date.

A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.

Table 19.413.050 Summary of Development Decisions/Permit by Type of Decision-Making Procedure

Access Permit (Public Street)	Type I
Annexation	Type IV
Amendments <ul style="list-style-type: none"> ▪ Comprehensive Plan Map Amendment ▪ Comprehensive Plan Text Amendment ▪ Zoning Text Amendment ▪ Zone Map Amendment (Zone Change) ▪ Master Plan Adoption or Amendment ▪ Parks Master Plan Adoption or Amendment ▪ Annexations ▪ Vacations (right-of-way) 	Type IV Type IV Type IV Type IV Type IV Type IV Type IV
Building Permit and Sign Permit	Type I
Code Interpretation	Type II
Conditional Use Permit	Type III
Directors Determination	Type II
Floodplain Development Permit	Type II

A notice of appeal shall be filed with the Community Development Director within 14 days of the date the tentative notice of decision became final (19.413.020(B));

3. Content of Notice of Appeal. The notice of appeal shall contain:

- a. An identification of the decision being appealed, including the date of the decision;
 - b. A statement demonstrating the person filing the notice of appeal has standing to appeal;
 - c. A statement explaining the specific issues raised on appeal along with a statement or evidence documenting that the issues were raised during the comment period;
 - d. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period;
 - e. Filing fee.
- C. Fees.

The amount of the filing fee shall be established by resolution of the city council.

D. Scope of Appeal.

The appeal of a Type II administrative decision by a person with standing shall be limited to the specific issues raised during the written comment period and presented in the notice of appeal, unless the hearings body decides otherwise. Only in extraordinary circumstances should new issues be considered by the hearings body on appeal of a Type II administrative decision. The applicant must submit the request in writing for Community Development consideration. The appeals shall be limited to the record unless the hearings body determines additional evidence is necessary to resolve the case. The purpose of this requirement is to limit the scope of Type II administrative appeals by encouraging persons with standing to submit their specific concerns in writing during the comment period.

E. Failure to file an appeal with the Community Development Director by 5:00 pm on the due date in conformance with the requirements of Section 19.414.020 including the proper filing fee shall be a jurisdictional defect, resulting in the immediate rejection of the appeal. Failure to amend an appeal to correct any identified deficiency within fourteen calendar days of notice thereof shall be a jurisdictional defect, resulting in immediate rejection of the appeal.

E. Appeal Procedures.

Type III notice and hearing procedures shall be used for all Type II administrative appeals.

F. Record.

The record for a Type II appeal shall include all testimony and evidence submitted to the city during the 14-day comment period and not specifically rejected by the Community Development Director. Evidence or testimony submitted after the comment period is generally not included within the record unless the hearings body expressly incorporates that information into the record.

G. Appeal to city council.

calendar days of notice thereof shall be a jurisdictional defect resulting in the immediate rejection of the appeal.

G. Notice of Appeal Hearing.

Notice of the appeal hearing shall be provided to the applicant and other persons as otherwise provided by law; include a description of applicable criteria; include a street address or other geographical reference; state the time, date, and location of the hearing; state that failure to raise an issue in person or by letter precludes appeal and that failure to specify to which criterion the comment is directed precludes appeal based on that criterion; and be mailed at least ten (10) calendar days before the hearing. At the commencement of the city council appeal hearing, a statement shall be made to those attendance that: describes the applicable substantive criteria, testimony and evidence must be directed at the issues raised in the appeal, and failure to address a criterion precludes an appeal based on that criterion.

19.414.040 Type IV Appeal Procedures

Type IV Decisions made by the city council are appealed to the State of Oregon Land Use Board of Appeals (LUBA).

19.414.050 Resubmittal of applications following denial

An application which has been denied, or an application which was denied and which on appeal or review has not been reversed by a higher authority, including the land use board of appeals, the land conservation and development commission or the courts, may not be resubmitted as the same or a substantially similar proposal for the same land for a period of at least 12 months from the date the final city action is made denying the application, unless there is substantial change in the facts or a change in city policy which would change the outcome, as determined by the Community Development Director.

19.415 Amendments to Decisions

19.415.010 Amended Decision Process

A. The purpose of an amended decision process is to allow the city to correct typographical errors, rectify inadvertent omissions and/or make other minor changes which do not materially alter the decision.

B. The Community Development Director may issue an amended decision after the notice of final decision has been issued but before the appeal period has expired. If such a decision is amended, the decision shall be issued within 10 business days after the original decision would have become final, but in no event beyond the 120-day period required by state law. A new 10-day appeal period shall begin on the day the amended decision is issued.

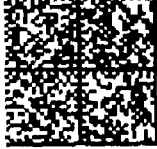
C. Notice of an amended decision shall be given using the same mailing and distribution list as for the original decision notice.

D. Modifications to approved plans or conditions of approval requested by the applicant shall follow the procedures contained in Chapter 19.415.020 FMC. All other requested changes to decisions that do not qualify as minor or major modifications shall follow the appeal process.

UNITED STATES POSTAGE



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0004236225 AUG07 2009
MAILED FROM ZIP CODE 97024



City of Fairview

1300 NE Village Street/P.O. Box 337
Fairview, Oregon 97024
Phone: 503/665-7929 Fax: 503/666-0888

To

Attention: Plan Amendment Specialist
Department of Land Conservation & Development
635 Capitol Street, Suite 150
Salem, OR 97301-2540

