



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

08/04/2014

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Phoenix Plan Amendment
DLCD File Number 003-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. 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 22, 2014

This amendment was submitted to DLCD for review prior to adoption with less than the required 35-day notice. 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 Acknowledgment or 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 than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Matt Brinkley, City of Phoenix
Gordon Howard, DLCD Urban Planning Specialist
Josh LeBombard, DLCD Regional Representative

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NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE	003-14
File No.:	(20476)
	[17955]
Received:	8/1/2014

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Phoenix

Local file no.: **LDC 14-06, 14-07, 14-08**

Date of adoption: July 21, 2014

Date sent: 8/1/2014

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 02/28/2014

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No
If yes, describe how the adoption differs from the proposal:

Local contact (name and title): Matt Brinkley, Director of Planning

Phone: 541-535-2050

E-mail: matt.brinkley@phoenixoregon.gov

Street address: 112 W. 2nd Street

City: Phoenix

Zip: 97535-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

None

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- | | | | |
|-------------|----|--------|------------------------------------------------|
| Change from | to | acres. | A goal exception was required for this change. |
| Change from | to | acres. | A goal exception was required for this change. |
| Change from | to | acres. | A goal exception was required for this change. |
| Change from | to | acres. | A goal exception was required for this change. |

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

CHAPTERS 1 AND 2, CHAPTER 4, 4.4, AND 4.6.

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: City of Phoenix

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Official record for each amendment.

**CITY OF PHOENIX
PHOENIX, OREGON**

ORDINANCE NO. 953

**AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE,
CHAPTER 1.3, CHAPTER 2.2.3, CHAPTER 2.2.5, CHAPTER 2.2.9, AND CHAPTER 2.3.**

WHEREAS, the Housing Element, Goal 1, Policy 1.3 of the Comprehensive Plan promotes “the efficient use and esthetic[sic] design of urban residential uses”; and

WHEREAS, the City has provided notification to the Department of Land Conservation and Development as required by ORS 197 and the Phoenix Land Development Code; and

WHEREAS, the Planning Commission held a public hearing on May 12, 2014 and took any public testimony regarding the proposed changes; and

WHEREAS, the Planning Commission voted to recommend approval of the attached amendments to the City Council based upon the findings contained in the Staff Report number LDC 14-06; and

WHEREAS, the Public Hearing on July 21, 2014, was duly noticed and the public was given the opportunity to testify on the proposed changes; and

WHEREAS, the Land Development Code has an adopted procedure (Chapter 4.7) to amend the Land Development Code; and

WHEREAS, the Council, after considering the presentation by the Staff, the recommendation of the Planning Commission, and public testimony received at this hearing, has decided to approve the proposed amendment to the Land Development Code in accordance with this procedure;

NOW THEREFORE, The City Council of the City of Phoenix **ORDAINS** as follows:

Section 1. The Findings for this amendment are included in the attached Staff Report for LDC:14-06, Exhibit A.

Section 2: The Land Development Code Chapter 1 and 2 are amended as proposed in Exhibit B.

Section 3. Effective Date: This ordinance shall become effective within 30 days of adoption.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof on this 21st day of July 2014.



_, Mayor

ATTEST:



_, City Manager/ Recorder



PO Box 330 • Phoenix, OR 97535

PLANNING DEPARTMENT

(541) 535-2050 • FAX (541) 535-5769

**TITLE: AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE
REGARDING GROUP LIVING AND ACCESSORY DWELLING,
BUILDINGS AND USES AND AMENDING CHAPTERS 1 AND 2**

FILE NUMBER: LDC 14-06

APPLICANT: City of Phoenix

STAFF REPORT: Available April 15, 2014 at the City of Phoenix, 112 W 2nd Street (M-F, 8:00 am to 5:00 pm) or on the website (www.phoenixoregon.net). For more information, call City of Phoenix, Planning Office, (541)535-2050.

DATE OF PLANNING COMMISSION HEARING: May 12, 2014

I. PROJECT INFORMATION: In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to 1.) correct the definitions for residential terms; 2.) clarify the standards for accessory dwellings in the Residential zones; 3.) clarify the difference between Accessory Uses and Accessory Buildings and the standards for each; and 4.) clarify process for the development of group living structures.

Nearly all of the proposed changes are designed to clarify the standards that the City currently has. It provides better definitions for terms such as Accessory Use. It uses the State language to describe the Group Living Structures. It directs uses that are similar and use the same process, to one category, again to make it easier to understand.

The proposal limits the coverage of some of the accessory buildings. This is designed to protect neighbors and be more consistent with the requirements for the primary building on the property.

II. PROPOSED AMENDMENTS: The proposed amendments are:

1.3 Definitions

Accessory dwelling: A small, secondary housing unit on a single-family lot, usually the size of a studio apartment. The additional unit can be a detached cottage, a unit attached to a garage, or in a portion of an existing house. See also Chapter 2.2.9 – Special Standards for Certain Uses, Section A.

Accessory use: Accessory uses are uses that are incidental and subordinate to the principal use on the same lot, i.e. storage. See also Chapter 2.2.9 – Special Standards for Certain Uses, Section H; and Chapter 2.3.10 – Special Standards for Certain Uses, section C.

~~Accessory use or structure:~~ Accessory ~~uses and~~ structures are ~~uses or~~ structures that are incidental and subordinate to the principal ~~use or~~ structure on the same lot. See also Chapter 2.2.9 – Special Standards for Certain Uses, Section H; and Chapter 2.3.10 – Special Standards for Certain Uses, section C.

~~Childcare center:~~ Facilities that provide care and supervision of minor children for periods of less than 24 hours. ~~(see also “Family child care providers”). “Family child care providers” provide care for not more than 12 children in a home.~~ See also, ORS 657A for certification requirements.

Family child care providers. Centers that provide care for not more than 12 children in a home. See also, ORS 657A for certification requirements.

Group Living Structure. A structure that contains sleeping areas and at least one set of cooking and sanitary facilities that is used as a residence for Group Living uses:

- Residential facility/group care facility. A residence for 6 to 15 physically or mentally disabled persons, and for staff persons. The facility may provide residential care alone, or in conjunction with training or treatment. This definition includes the State definition of Residential Facility; See Chapter 2.2.9 –

Special Standards for Certain Uses, Section F. or

- Residential home/group care home. A residence for five or fewer physically or mentally disabled persons, and for staff persons. The residence may provide residential care alone, or in conjunction with training or treatment. This definition includes the State definition of Residential Home. See Chapter 2.2.9 – Special Standards for Certain Uses, Section F.

Residential facility/group care facility. See Group Living Structure.

Residential home/group care facility. See Group Living Structure.

Chapter 2.2 – Residential Districts (R-1, R-2, R-3, HO)

2.2.3 – Building Setbacks

D. Setback Exceptions. The following architectural features are allowed to encroach into the setback yards: eaves, chimneys, bay windows, overhangs and similar architectural features may encroach into setbacks by no more than three feet. *Accessory structures which are no higher than the adjacent fence and no higher than six feet, may encroach into the side yard and/or rear yard setbacks.* Porches, decks and similar structures may encroach into front setbacks...

2.2.5 - Maximum Lot Coverage

A. Maximum Lot Coverage. The following maximum lot coverage standards shall apply:

1. Single Family Detached Houses - 40 percent
2. Duplexes and Triplexes - 50 percent
3. Single Family Attached Townhomes - 60 percent
4. Multiple Family Housing - 60 percent
5. Neighborhood Commercial and Public/Institutional Uses - 80 percent

B. Maximum lot coverage includes all of the housing units, the accessory dwelling unit (Section 2.2.9.A) and all accessory structures (Section 2.2.9.H).

2.2.9 – Special Standards for Certain Uses

This section supplements the standards contained in Sections 2.2.1 through 2.2.8. It provides standards for the following land uses in order to control the scale and compatibility of those uses within the Residential District:

A. Accessory dwelling (attached, separate cottage, or above detached garage). An accessory dwelling is a small, secondary housing unit on a single-family lot, usually the size of a studio apartment. The additional unit can be a detached cottage, a unit attached to a garage, or in a portion of an existing house. The housing density standard of the Residential District does not apply to accessory dwellings, due to the small size and low occupancy level of the use. The following standards are intended to control the size and number of accessory dwellings on individual lots to promote compatibility with adjacent land uses. Accessory dwellings shall comply with all of the following standards:

1. Oregon Structural Specialty Code. The structure complies with the Oregon Structural Specialty Code.
2. One Unit. A maximum of one accessory dwelling unit is allowed per lot.
3. Floor Area. The maximum floor area of the accessory dwelling shall not exceed 50% of the primary unit, with an 800 square foot maximum.
- 4. Lot coverage. The accessory dwelling shall be included in the total lot coverage and this total shall not exceed the maximum listed in Section 2.2.5.A.*
- 4.5. Building Height. The building height of detached accessory dwellings (i.e., separate cottages) shall not exceed building height requirements in Chapter 2.2.6 – Building Height, as measured in accordance with the definition of “Height of Building” in Chapter 1.3 – Definitions.
- 5.6. Buffering. A ~~minimum 6-foot~~ hedge or fence may be required to buffer a detached accessory dwelling from dwellings on adjacent lots, when buffering is necessary for the privacy and enjoyment of yard areas by either the occupants or adjacent residents.
- 6.7. Setbacks. Setbacks shall meet the Residential District requirements.
- 7.8. Architectural Compatibility. Architectural compatibility with the main residence is required.
- 8.9. Parking. One off-street, paved parking space shall be required in addition to off-street parking required by the primary residence.

B. Manufactured homes on individual lots.

C. Manufactured Home Park.

D. Single-family attached (townhouses), Duplexes, and Triplexes.

E. Multi-family housing.

F. ~~Residential care homes and facilities.~~ *Group living structures.* *Group living structures* Residential care homes are residential treatment or training homes or adult foster homes licensed by the State of Oregon. They may provide residential care alone, or in conjunction with treatment and/or training, for five or fewer individuals (homes) or six to 15 individuals (facilities) who need not be related. Staff persons required to meet state licensing requirements

shall not be counted in the number of facility residents and need not be related to each other or the residents. ~~Residential care homes and facilities~~ ***Group living structures*** shall comply with the following standards, consistent with ORS 197.660-670:

1. Licensing. All residential care homes shall be duly licensed by the State of Oregon.
2. Parking. Parking shall be provided in accordance with Chapter 3.4 – Vehicle and Bicycle Parking requirements.
3. Development Review. Development review shall be required for new structures to be used as ~~residential care homes or facilities~~ ***Group living structures***, and for conversion of an existing residence to be used as a residential care home, to ensure compliance with the licensing, parking, and other requirements of this Code.

G. Public and Institutional Land Uses.

H. Accessory Uses and Structures Accessory ~~uses and~~ structures are of a nature customarily incidental and subordinate to the principal use or structure on the same lot. Typical accessory structures in the Residential District include detached garages, sheds, workshops, green houses, and similar structures. (For standards applicable to Accessory Dwellings, please refer to Chapter 2.2.9 – Special Standards for Certain Uses, Section A.) All accessory structures shall comply with all of the following standards:

1. Primary use ***and primary structure are*** required. An accessory structure shall not be allowed without another permitted ~~primary~~ use (e.g., as listed in Table 2.2.2) ***and permitted primary structure.***
2. Restrictions. A structure shall not be placed over an easement that prohibits such placement. No structure shall encroach into the public right-of-way.
3. Compliance with land division standards. The owner may be required to remove an accessory structure as a condition of land division approval when removal of the structure is necessary to comply with setback standards.
4. Floor Area. The maximum floor area of the accessory structure shall not exceed 330 square feet;
5. Building Height. The building height of detached accessory structure shall comply with Chapter 2.2.6 – Building Height, as measured in accordance with the definition of “Height of Building” in Chapter 1.3 – Definitions.
6. ***Lot coverage. The accessory structure shall be included in the total lot coverage and this total shall not exceed the maximum listed in Section 2.2.5.A.***

Chapter 2.3 City Center District

2.3.10 Special Standards for Certain Uses

C. Accessory Uses and Structures Accessory ~~uses and~~ structures are of a nature customarily incidental and subordinate to the principal use or structure on the same lot. Typical accessory structures in the City Center District include small workshops, greenhouses, studios, storage sheds, and similar structures. Accessory uses and structures are allowed for all permitted land uses within the City Center District, as identified in Table 2.3.2.A Accessory structures shall comply with the following standards:

1. Primary use *and primary structure are* required. An accessory structure shall not be allowed before or without another *permitted* primary use *and permitted primary structure* as identified in Table 2.3.2.a.
- 2.
- 3.
- 4.
- 5.

III. COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS: Amendments to the Phoenix Land Development Code must comply with Section 4.7.2 of the Phoenix Land Development Code, which states that legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to Section 4.7.2.B and 4.7.6, as applicable.

Section 4.7.2 – Demonstration of compliance with section 4.7.2.

FINDING: This proposed amendment will be reviewed by the Planning Commission at a noticed public hearing. Their recommendation will be presented to the Phoenix City Council at a noticed public hearing. The hearing by the Planning Commission was noticed by posting the information on the City of Phoenix website beginning March 21, 2014.

FINDING: The Department of Land Conservation and Development was notified with an application mailed February 24, 2014 and a Staff report email sent on March 31, 2014.

FINDING: A copy of all notifications is available at the City Planning Office.

Section 4.7.3.B .1 – Demonstration of compliance with all applicable Comprehensive Plan policies and map designations. Where this criterion cannot be met, a Comprehensive Plan amendment shall be a prerequisite to approval.

FINDING: ~~The changes proposed are in compliance with Comprehensive Plan polices. Specifically, Housing Element, Goal 1.1: “Promote the efficient use and esthetic design of urban residential uses.”~~ *The proposed language will make the addition of other structures on the property within the conditions listed.*

FINDING: The changes proposed are in compliance with Comprehensive Plan polices. Specifically, Housing Element, Goal 1, Policy 1.3: “Promote the efficient use and esthetic

design of urban residential uses.” The proposed language will make the use of residential land more efficient. The current requirement of five or ten feet setbacks for an accessory structure that is lower than the adjacent fence limits the usability of the yards and is inefficient.

Section 4.7.3.B.2 – Demonstration of compliance with all applicable standards and criteria of this code and other applicable implementing ordinances.

FINDING: The proposed changes do not require any changes to be made on the part of the homeowner. This clarifies the options and allows the owner to make decisions about the design of the home and the use of more of the area of the lot.

Section 4.7.3.B.3 – Evidence of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or Land Use Map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 – Transportation Planning Rule Compliance, applicable.

FINDING: The proposed change is not based on a mistake in the Comprehensive Plan or the Land Use Map. The proposed change does not impact Transportation needs in the City.

Section 4.7.6 – Transportation Planning Rule, Subsection B, requires that amendments to land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.

FINDING: The clarification of Group Living Quarters, Accessory Dwelling Units, Accessory Uses and Accessory Structures will have no significant transportation impact to the City transportation facility.

~~**FINDING:** The change of the vision clearance requirements will not significantly affect the transportation facility. The proposed vision clearance is consistent with the requirements of other cities within the region and will bring the City of Phoenix in line with this norm.~~

FINDING: The proposed amendments comply with Sections 4.7.3 and 4.7.6 of the Phoenix Development Code.

IV. RECOMMENDATION: Staff recommends that the Planning Commission review the proposed amendments to the above listed sections of the Phoenix Development Code and the Phoenix Municipal Code, take testimony, and direct Staff on a recommendation to City Council.

EXHIBIT B
CHAPTERS 1.3, 2.2, AND 2.3, OF THE CITY OF PHOENIX LAND DEVELOPMENT
CODE (PLCD), AS AMENDED BY ORDINANCE 953 ON JULY 21, 2014, SHALL
READ AS FOLLOWS:

1.3 Definitions

Accessory dwelling: A small, secondary housing unit on a single-family lot, usually the size of a studio apartment. The additional unit can be a detached cottage, a unit attached to a garage, or in a portion of an existing house. See also Chapter 2.2.9 – Special Standards for Certain Uses, Section A.

Accessory use: Accessory uses are uses that are incidental and subordinate to the principal use on the same lot, i.e. storage. See also Chapter 2.2.9 – Special Standards for Certain Uses, Section H; and Chapter 2.3.10 – Special Standards for Certain Uses, section C.

Accessory structure: Structures that are incidental and subordinate to the principal structure on the same lot. See also Chapter 2.2.9 – Special Standards for Certain Uses, Section H; and Chapter 2.3.10 – Special Standards for Certain Uses, section C.

Childcare center: Facilities that provide care and supervision of minor children for periods of less than 24 hours (see also “Family child care providers”). See also, ORS 657A for certification requirements.

Family child care provider: Centers that provide care for not more than 12 children in a home. See also, ORS 657A for certification requirements.

Group Living Structure: A structure that contains sleeping areas and at least one set of cooking and sanitary facilities that is used as a residence for Group Living uses:

- Residential facility/group care facility. A residence for 6 to 15 physically or mentally disabled persons, and for staff persons. The facility may provide residential care alone, or in conjunction with training or treatment. This definition includes the State definition of Residential Facility; See Chapter 2.2.9 – Special Standards for Certain Uses, Section F.
- or
- Residential home/group care home. A residence for five or fewer physically or mentally disabled persons, and for staff persons. The residence may provide residential care alone, or in conjunction with training or treatment. This definition includes the State definition of Residential Home. See Chapter 2.2.9 – Special Standards for Certain Uses, Section F.

Residential facility/group care facility: See Group Living Structure.

Residential home/group care facility: See Group Living Structure.

Chapter 2.2 – Residential Districts (R-1, R-2, R-3, HO)

2.2.3 – Building Setbacks

D. Setback Exceptions. The following architectural features are allowed to encroach into the setback yards: eaves, chimneys, bay windows, overhangs and similar architectural features may encroach into setbacks by no more than three feet. Accessory structures, which are no higher than the adjacent fence and no higher than six feet, may encroach into the side yard and/or rear yard setbacks. Porches, decks and similar structures may encroach into front setbacks by no more than five feet, subject to the front yard setback provisions in “A”. Walls and fences may be placed on property lines, subject to the standards in Chapter 3.3 – Landscaping, Street Trees, Fences, and Walls. Walls and fences within front yards shall additionally comply with the vision clearance standards in Chapter 3.2.2 – Vehicular Access and Circulation, Section M.

2.2.5 - Maximum Lot Coverage

A. **Maximum Lot Coverage.** The following maximum lot coverage standards shall apply:

1. Single Family Detached Houses - 40 percent
2. Duplexes and Triplexes - 50 percent
3. Single Family Attached Townhomes - 60 percent
4. Multiple Family Housing - 60 percent
5. Neighborhood Commercial and Public/Institutional Uses - 80 percent

B. Maximum lot coverage includes all of the housing units, the accessory dwelling units (Section 2.2.9.A) and all accessory structures (Section 2.2.9.H).

2.2.9 – Special Standards for Certain Uses

This section supplements the standards contained in Sections 2.2.1 through 2.2.8. It provides standards for the following land uses in order to control the scale and compatibility of those uses within the Residential District:

A. **Accessory dwelling (attached, separate cottage, or above detached garage).** An accessory dwelling is a small, secondary housing unit on a single-family lot, usually the size of a studio apartment. The additional unit can be a detached cottage, a unit attached to a garage, or in a portion of an existing house. The housing density standard of the Residential District does not apply to accessory dwellings, due to the small size and low occupancy level of the use. The following standards are intended to control the size and number of accessory dwellings on individual lots to promote compatibility with adjacent land uses. Accessory dwellings shall comply with all of the following standards:

1. Oregon Structural Specialty Code. The structure complies with the Oregon Structural Specialty Code.
2. One Unit. A maximum of one accessory dwelling unit is allowed per lot.
3. Floor Area. The maximum floor area of the accessory dwelling shall not exceed 50% of the primary unit, with an 800 square foot maximum.
4. Lot coverage. The accessory dwelling shall be included in the total lot coverage and this total shall not exceed the maximum listed in Section 2.2.5.A.

5. **Building Height.** The building height of detached accessory dwellings (i.e., separate cottages) shall not exceed building height requirements in Chapter 2.2.6 – Building Height, as measured in accordance with the definition of “Height of Building” in Chapter 1.3 – Definitions.
6. **Buffering.** A hedge or fence may be required to buffer a detached accessory dwelling from dwellings on adjacent lots, when buffering is necessary for the privacy and enjoyment of yard areas by either the occupants or adjacent residents.
7. **Setbacks.** Setbacks shall meet the Residential District requirements.
8. **Architectural Compatibility.** Architectural compatibility with the main residence is required.
9. **Parking.** One off-street, paved parking space shall be required in addition to off-street parking required by the primary residence.

B. Manufactured homes on individual lots. Manufactured homes are permitted on individual lots, subject to all of the following design standards, consistent with ORS 197.307(5).

1. **Floor Plan.** The manufactured home shall be multi-sectional and have an enclosed floor area of not less than 1,000 sq. feet;
2. **Roof.** The manufactured home shall have a pitched roof with a slope not less than three feet in height for each 12 feet in width (14 degrees);
3. **Residential Building Materials.** The manufactured home shall have exterior siding and roofing which in color, material, and appearance are similar to the exterior siding and roof material used on nearby residences;
4. **Garages and Carports.** The manufactured home shall have a garage or carport constructed of materials to match the primary residence;
5. **Thermal Envelope.** The manufactured home shall be certified by the manufacturer to meet the thermal envelope requirements equivalent to those for a single-family dwelling constructed under the State Building Code;
6. **Placement.** The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 16 inches above grade, and complying with the minimum set-up standards of the adopted state Administrative Rules for Manufactured Dwellings, Chapter 918. Where the building site has a sloped grade, no more than 16 inches of the enclosing material shall be exposed on the uphill side of the home;
7. **Foundation Skirt.** The foundation area of the manufactured home shall be fully skirted; and with concrete masonry block stem wall or decorative material.

C. Manufactured Home Park. Manufactured home parks are permitted on parcels of one acre or larger, subject to compliance with subsections 1-6, below:

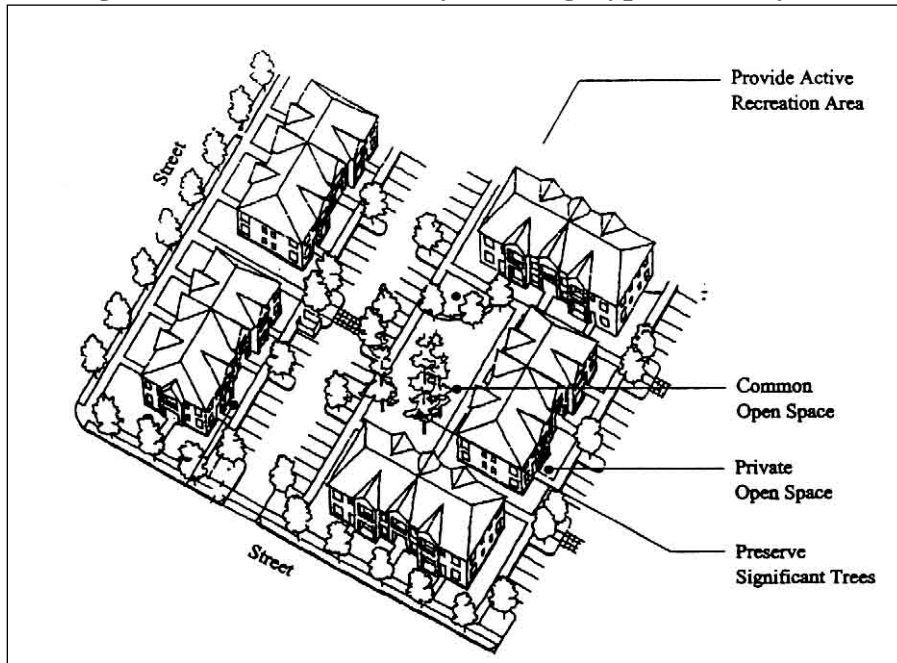
1. Permitted uses: Single-family residences, manufactured home park manager's office, home occupations, and accessory structures which are necessary for the operation and maintenance of the manufactured home park (e.g., landscape maintenance). Home occupations shall comply with Chapter 4.9.2 – Home Occupation Permits.
2. Building pad. The minimum size building pad for each home is 2,500 square feet, and the overall density of the park shall not exceed 12 units per acre. Each building pad shall be at least 30 feet wide and shall be at least 40 feet long, in accordance with ORS 446.100(c).
3. Setbacks and Building Separation. The minimum setback between park structures and abutting properties is five feet, in accordance with ORS 446.100(b). The minimum setback between park structures and public street right-of-way is between 15 feet to 20 feet, with a requirement of varied setbacks within the park. At least a 10-foot separation shall be provided between all dwellings. Dwellings shall be placed a minimum of 14 feet apart where flammable or combustible fuel is stored between units. Park structures shall be placed no closer than five feet to a park street or sidewalk/pathway. An accessory structure shall not be located closer than six feet to any other structure or dwelling, except that a double carport or garage may be built which serves two dwellings. When a double carport/garage is built, the carport/garage shall be separated from all adjacent structures by at least three feet.
4. Perimeter landscaping. When manufactured homes are oriented with their back or side yards facing a public right-of-way, the City may require installation of fencing and planting of a 15 foot wide landscape buffer between the right-of-way and a manufactured home park for the privacy and security of residents or aesthetics of the streetscape.
5. House design (parks smaller than three acres). Manufactured homes in parks shall meet the following design standards, consistent with ORS 197.314(6):
 - a. The manufactured home shall have a pitched roof with a slope not less than three feet in height for each 12 feet in width (14 degrees);
 - b. The manufactured home shall have exterior siding and roofing which in color, material, and appearance are similar or superior to the exterior siding and roof material used on nearby residences;
 - c. Exception: Subsections a-b, above, do not apply to manufactured homes that existed within the City prior to the effective date of this ordinance.
6. Play Area. The manufactured home park shall provide, in accordance with ORS 446.095(3), a separate general play area restricted to that use, if the park accommodates children who are under 14 years of age. No separate play area shall be less than 2,500 square feet in area. At least 100 square feet of play area shall be provided for each manufactured dwelling occupied by children.

D. Single-family attached (townhouses), Duplexes, and Triplexes. Single-family attached housing (townhouse units on individual lots), duplex and triplex developments shall comply with the standards in 1-4, below. The standards are intended to control development scale; avoid or minimize impacts associated with traffic, parking, and design compatibility; and ensure management and maintenance of common areas.

1. As necessary, the City shall require dedication of right-of-way or easements and construction of pathways between townhouse lots (e.g., between building breaks) to implement the standards in Chapter 3.2 – Access and Circulation.
2. Building Mass Supplemental Standard. Within the R-2 and R-3 Districts, the maximum number and width of consecutively attached townhouses (i.e. with attached walls at property line) shall not exceed six units, or 130 feet (from end-wall to end-wall), whichever is less.
3. Street Access Developments. Townhouses, duplexes and triplexes receiving access directly from a public or private street shall comply with all of the following standards, in order to minimize interruption of adjacent sidewalks by driveway entrances, slow traffic, improve appearance of the streets, and minimize paved surfaces for better storm water management.
 - a. When garages face the street, they shall be recessed behind the front elevation (i.e., living area or covered front porch) by a minimum of four feet and shall be setback 20 feet from the back of the sidewalk.
 - b. The maximum allowable driveway width facing the street is 24 feet per dwelling unit. The maximum combined garage width per unit is 50 percent of the total building width. For example, a 24-foot wide unit may have one 12-foot wide recessed garaged facing the street. The maximum curb cut shall meet access standards and shall not be wider than 9' for single garages and 18' for double garages.
4. Common Areas. Common areas shall be maintained by a homeowner's association or other legal entity. A copy of any applicable covenants, restrictions, and conditions shall be recorded and provided to the city prior to building permit approval.

E. Multi-family housing. Multi-family housing is allowed within the R-2 and R-3 Zoning districts. Multi-family housing means housing that provides more than three dwellings on an individual lot (e.g., multiplexes, apartments, condominiums, etc.). New multi-family developments shall comply with all of the following standards:

Figure 2.2.9.E – Multifamily Housing (typical site layout)



1. Building Mass Supplemental Standard. Within the R-2 and R-3 Residential District's, the maximum width or length of a multiple family building shall not exceed 130 feet (from end-wall to end-wall).
2. Common open space standard. Inclusive of required setback yards, a minimum of 20 percent of the site area shall be designated and permanently reserved as common open space in all multiple family developments. The site area is defined as the lot or parcel on which the development is planned, after subtracting any required public land dedication and public and private streets. Sensitive lands and historic buildings or landmarks open to the public and designated by the Comprehensive Plan may be counted toward meeting the common open space requirements.
3. Private open space standard. Private open space areas shall be required for ground-floor and upper-floor housing units based on all of the following standards:
 - a. All ground-floor housing units shall have front or rear patios or decks measuring at least 48 square feet. Ground-floor housing means the housing unit entrance (front or rear) is within five feet of the finished ground elevation (i.e., after grading and landscaping);
 - b. All upper-floor housing units shall have balconies or porches measuring at least 48 square feet. Upper-floor housing means housing units that are more than five feet above the finished grade;
 - c. Private open space areas shall be oriented toward common open space areas and away from adjacent single-family residences, trash receptacles, parking and drives to the greatest extent practicable; and

4. Exemptions. Exemptions may be granted when these developments are within one-quarter mile (measured walking distance) of a public park; and there is a direct, accessible (i.e., Americans With Disabilities Act-compliant), and maintained pedestrian trail or sidewalk between the site and the park. An exemption shall be granted only when the nearby park provides an active recreation area such as a ball field, children's play area, sports court, track, or similar facility.
5. Trash receptacles. Trash receptacles shall be oriented away from adjacent residences and shall be screened with a solid masonry wall of not less than six feet in height.

F. Group living structures. Group living structures_ Residential care homes are residential treatment or training homes or adult foster homes licensed by the State of Oregon. They may provide residential care alone, or in conjunction with treatment and/or training, for five or fewer individuals (homes) or six to 15 individuals (facilities) who need not be related. Staff persons required to meet state licensing requirements shall not be counted in the number of facility residents and need not be related to each other or the residents. Group living structures_ shall comply with the following standards, consistent with ORS 197.660-670:

1. Licensing. All residential care homes shall be duly licensed by the State of Oregon.
2. Parking. Parking shall be provided in accordance with Chapter 3.4 – Vehicle and Bicycle Parking requirements.
3. Development Review. Development review shall be required for new structures to be used as Group living structures, and for conversion of an existing residence to be used as a residential care home, to ensure compliance with the licensing, parking, and other requirements of this Code.

G. Public and Institutional Land Uses. Public and institutional uses (as listed in Table 2.2.2) are allowed in the Residential Districts as a Conditional Use and subject to the following land use standards, which are intended to control the scale of these developments and their compatibility with nearby residences:

1. Development Site Area. The maximum development site area shall be three acres, except that this standard shall not apply to parks and open space uses. Larger developments may be approved as a Conditional Use, in accordance with Chapter 4.4 – Conditional Use Permits, or as part of a Planned Unit Development, in accordance with Chapter 4.5 – Planned Unit Developments.
2. Building Mass. The maximum width or length of a building shall not exceed 130 feet (from end-wall to end-wall), except that this standard may be increased through the approval of a Conditional Use Permit, or as part of a Planned Unit Development.
3. Vehicle Areas and Trash Receptacles. All vehicle areas and trash receptacles shall be oriented away from adjacent residences to the greatest extent practicable, and shall be screened with a solid masonry wall of not less than six feet in height.

H. Accessory Uses and Structures Accessory structures are of a nature customarily incidental and subordinate to the principal use or structure on the same lot. Typical accessory structures in the Residential District include detached garages, sheds, workshops, green houses, and similar structures. (For standards applicable to Accessory Dwellings, please refer to Chapter 2.2.9 –

Special Standards for Certain Uses, Section A.) All accessory structures shall comply with all of the following standards:

1. Primary use and primary structure are required. An accessory structure shall not be allowed without another permitted use (e.g., as listed in Table 2.2.2) and permitted primary structure.
2. Restrictions. A structure shall not be placed over an easement that prohibits such placement. No structure shall encroach into the public right-of-way.
3. Compliance with land division standards. The owner may be required to remove an accessory structure as a condition of land division approval when removal of the structure is necessary to comply with setback standards.
4. Floor Area. The maximum floor area of the accessory structure shall not exceed 330 square feet;
5. Building Height. The building height of detached accessory structure shall comply with Chapter 2.2.6 – Building Height, as measured in accordance with the definition of “Height of Building” in Chapter 1.3 – Definitions.
6. Lot coverage. The accessory structure shall be included in the total lot coverage and this total shall not exceed the maximum listed in Section 2.2.5.A.

Chapter 2.3 City Center District

2.3.10 Special Standards for Certain Uses

C. Accessory Uses and Structures Accessory structures are of a nature customarily incidental and subordinate to the principal use or structure on the same lot. Typical accessory structures in the City Center District include small workshops, greenhouses, studios, storage sheds, and similar structures. Accessory uses and structures are allowed for all permitted land uses within the City Center District, as identified in Table 2.3.2.A Accessory structures shall comply with the following standards:

1. Primary use and primary structure are required. An accessory structure shall not be allowed before or without another permitted primary use and permitted primary structure as identified in Table 2.3.2.a.

AGENDA BILL

AGENDA ITEM: _____

AGENDA TITLE: PUBLIC HEARING FOR AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE REGARDING GROUP LIVING AND ACCESSORY DWELLING, BUILDINGS AND USES AND AMENDING CHAPTERS 1 AND 2, AKA LDC 14-06.

DATE: July 21, 2014

ACTION REQUIRED:

ORDINANCE: XX

RESOLUTION:

MOTION: XX

INFORMATION:

EXPLANATION:

The Planning Commission has reviewed the standards for accessory buildings and, after holding a public hearing on May 12, 2014, has recommended the following legislative action: 1. Correct the definitions for residential terms; 2. Clarify the standards for accessory dwellings in the Residential zones; 3. Clarify the difference between Accessory Uses and Accessory Buildings and the standards for each; and 4. Clarify process for the development of group living structures.

The proposal limits the coverage of some of the accessory buildings. This is designed to protect neighbors and be more consistent with the requirements for the primary building on the property.

The First Reading of the Ordinance was conducted before Council on July 7, 2014.

FISCAL IMPACT:

There should be no fiscal impact on the City of Phoenix.

ALTERNATIVES:

The Council may amend the changes or may deny the recommendation and leave the Land Development Code as it is.

STAFF RECOMMENDATION:

Staff recommends that Council adopt the attached Ordinance to change the Phoenix Land Development Code as recommended by the Planning Commission.

MOTION: "I MOVE TO ADOPT ORDINANCE NO. _____, AMENDING THE PHOENIX DEVELOPMENT CODE, CHAPTERS 1 AND 2 REGARDING GROUP LIVING AND ACCESSORY DWELLINGS, BUIDINGS, AND USES."

PREPARED BY: M. Brinkley **REVIEWED BY:** _____

AGENDA BILL

AGENDA ITEM: _____

AGENDA TITLE: PUBLIC HEARING FOR AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE REGARDING GROUP LIVING AND ACCESSORY DWELLING, BUILDINGS AND USES AND AMENDING CHAPTERS 1 AND 2, AKA LDC 14-06.

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RESOLUTION:

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INFORMATION:

EXPLANATION:

The Planning Commission has reviewed the standards for accessory buildings and, after holding a public hearing on May 12, 2014, has recommended the following legislative action: 1. Correct the definitions for residential terms; 2. Clarify the standards for accessory dwellings in the Residential zones; 3. Clarify the difference between Accessory Uses and Accessory Buildings and the standards for each; and 4. Clarify process for the development of group living structures.

The proposal limits the coverage of some of the accessory buildings. This is designed to protect neighbors and be more consistent with the requirements for the primary building on the property.

The First Reading of the Ordinance was conducted before Council on July 7, 2014.

FISCAL IMPACT:

There should be no fiscal impact on the City of Phoenix.

ALTERNATIVES:

The Council may amend the changes or may deny the recommendation and leave the Land Development Code as it is.

STAFF RECOMMENDATION:

Staff recommends that Council adopt the attached Ordinance to change the Phoenix Land Development Code as recommended by the Planning Commission.

MOTION: "I MOVE TO ADOPT ORDINANCE NO. _____, AMENDING THE PHOENIX DEVELOPMENT CODE, CHAPTERS 1 AND 2 REGARDING GROUP LIVING AND ACCESSORY DWELLINGS, BUIDINGS, AND USES."

PREPARED BY: M. Brinkley **REVIEWED BY:** _____

**CITY OF PHOENIX
PHOENIX, OREGON**

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE, CHAPTER 1.3, CHAPTER 2.2.3, CHAPTER 2.2.5, CHAPTER 2.2.9, AND CHAPTER 2.3.

WHEREAS, the Housing Element, Goal 1, Policy 1.3 of the Comprehensive Plan promotes “the efficient use and esthetic[sic] design of urban residential uses”; and

WHEREAS, the City has provided notification to the Department of Land Conservation and Development as required by ORS 197 and the Phoenix Land Development Code; and

WHEREAS, the Planning Commission held a public hearing on May 12, 2014 and took any public testimony regarding the proposed changes; and

WHEREAS, the Planning Commission voted to recommend approval of the attached amendments to the City Council based upon the findings contained in the Staff Report number LDC 14-06; and

WHEREAS, the Public Hearing on July 21, 2014, was duly noticed and the public was given the opportunity to testify on the proposed changes; and

WHEREAS, the Land Development Code has an adopted procedure (Chapter 4.7) to amend the Land Development Code; and

WHEREAS, the Council, after considering the presentation by the Staff, the recommendation of the Planning Commission, and public testimony received at this hearing, has decided to approve the proposed amendment to the Land Development Code in accordance with this procedure;

NOW THEREFORE, The City Council of the City of Phoenix **ORDAINS** as follows:

Section 1. The Findings for this amendment are included in the attached Staff Report for LDC:14-06, Exhibit A.

Section 2: The Land Development Code Chapter 1 and 2 are amended as proposed in Exhibit B.

Section 3. Effective Date: This ordinance shall become effective upon adoption.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof
on this ____ day of _____, 20__.

_, Mayor

ATTEST:

_, City Manager/ Recorder

DRAFT



PO Box 330 • Phoenix, OR 97535

PLANNING DEPARTMENT

(541) 535-2050 • FAX (541) 535-5769

TITLE: AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE REGARDING GROUP LIVING AND ACCESSORY DWELLING, BUILDINGS AND USES AND AMENDING CHAPTERS 1 AND 2

FILE NUMBER: LDC 14-06

APPLICANT: City of Phoenix

STAFF REPORT: Available April 15, 2014 at the City of Phoenix, 112 W 2nd Street (M-F, 8:00 am to 5:00 pm) or on the website (www.phoenixoregon.net). For more information, call City of Phoenix, Planning Office, (541)535-2050.

DATE OF PLANNING COMMISSION HEARING: May 12, 2014

I. PROJECT INFORMATION: In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to 1.) correct the definitions for residential terms; 2.) clarify the standards for accessory dwellings in the Residential zones; 3.) clarify the difference between Accessory Uses and Accessory Buildings and the standards for each; and 4.) clarify process for the development of group living structures.

Nearly all of the proposed changes are designed to clarify the standards that the City currently has. It provides better definitions for terms such as Accessory Use. It uses the State language to describe the Group Living Structures. It directs uses that are similar and use the same process, to one category, again to make it easier to understand.

The proposal limits the coverage of some of the accessory buildings. This is designed to protect neighbors and be more consistent with the requirements for the primary building on the property.

II. PROPOSED AMENDMENTS: The proposed amendments are:

1.3 Definitions

Accessory dwelling: A small, secondary housing unit on a single-family lot, usually the size of a studio apartment. The additional unit can be a detached cottage, a unit attached to a garage, or in a portion of an existing house. See also Chapter 2.2.9 – Special Standards for Certain Uses, Section A.

Accessory use: Accessory uses are uses that are incidental and subordinate to the principal use on the same lot, i.e. storage. See also Chapter 2.2.9 – Special Standards for Certain Uses, Section H; and Chapter 2.3.10 – Special Standards for Certain Uses, section C.

~~Accessory use or structure:~~ Accessory ~~uses and~~ structures are ~~uses or~~ structures that are incidental and subordinate to the principal ~~use or~~ structure on the same lot. See also Chapter 2.2.9 – Special Standards for Certain Uses, Section H; and Chapter 2.3.10 – Special Standards for Certain Uses, section C.

~~Childcare center:~~ Facilities that provide care and supervision of minor children for periods of less than 24 hours. (see also “Family child care providers”). ~~“Family child care providers” provide care for not more than 12 children in a home. See also, ORS 657A for certification requirements.~~

Family child care providers. Centers that provide care for not more than 12 children in a home. See also, ORS 657A for certification requirements.

Group Living Structure. A structure that contains sleeping areas and at least one set of cooking and sanitary facilities that is used as a residence for Group Living uses:
- Residential facility/group care facility. A residence for 6 to 15 physically or mentally disabled persons, and for staff persons. The facility may provide residential care alone, or in conjunction with training or treatment. This definition includes the State definition of Residential Facility; See Chapter 2.2.9 – Special Standards for Certain Uses, Section F. or
- Residential home/group care home. A residence for five or fewer physically or mentally disabled persons, and for staff persons. The residence may provide residential care alone, or in conjunction with training or treatment. This definition includes the State definition of Residential Home. See Chapter 2.2.9 – Special Standards for Certain Uses, Section F.

Residential facility/group care facility. See Group Living Structure.

Residential home/group care facility. See Group Living Structure.

Chapter 2.2 – Residential Districts (R-1, R-2, R-3, HO)

2.2.3 – Building Setbacks

D. Setback Exceptions. The following architectural features are allowed to encroach into the setback yards: eaves, chimneys, bay windows, overhangs and similar architectural features may encroach into setbacks by no more than three feet. Accessory structures which are no higher than the adjacent fence and no higher than six feet, may encroach into the side yard and/or rear yard setbacks. Porches, decks and similar structures may encroach into front setbacks...

2.2.5 - Maximum Lot Coverage

- A. Maximum Lot Coverage.** The following maximum lot coverage standards shall apply:
1. Single Family Detached Houses - 40 percent
 2. Duplexes and Triplexes - 50 percent
 3. Single Family Attached Townhomes - 60 percent
 4. Multiple Family Housing - 60 percent
 5. Neighborhood Commercial and Public/Institutional Uses - 80 percent

B. Maximum lot coverage includes all of the housing units, the accessory dwelling unit (Section 2.2.9.A) and all accessory structures (Section 2.2.9.H).

2.2.9 – Special Standards for Certain Uses

This section supplements the standards contained in Sections 2.2.1 through 2.2.8. It provides standards for the following land uses in order to control the scale and compatibility of those uses within the Residential District:

A. Accessory dwelling (attached, separate cottage, or above detached garage). An accessory dwelling is a small, secondary housing unit on a single-family lot, usually the size of a studio apartment. The additional unit can be a detached cottage, a unit attached to a garage, or in a portion of an existing house. The housing density standard of the Residential District does not apply to accessory dwellings, due to the small size and low occupancy level of the use. The following standards are intended to control the size and number of accessory dwellings on individual lots to promote compatibility with adjacent land uses. Accessory dwellings shall comply with all of the following standards:

1. Oregon Structural Specialty Code. The structure complies with the Oregon Structural Specialty Code.
2. One Unit. A maximum of one accessory dwelling unit is allowed per lot.
3. Floor Area. The maximum floor area of the accessory dwelling shall not exceed 50% of the primary unit, with an 800 square foot maximum.
- 4. Lot coverage. The accessory dwelling shall be included in the total lot coverage and this total shall not exceed the maximum listed in Section 2.2.5.A.**
- 4.5. Building Height. The building height of detached accessory dwellings (i.e., separate cottages) shall not exceed building height requirements in Chapter 2.2.6 – Building Height, as measured in accordance with the definition of “Height of Building” in Chapter 1.3 – Definitions.
- 5.6. Buffering. A ~~minimum 6-foot~~ hedge or fence may be required to buffer a detached accessory dwelling from dwellings on adjacent lots, when buffering is necessary for the privacy and enjoyment of yard areas by either the occupants or adjacent residents.
- 6.7. Setbacks. Setbacks shall meet the Residential District requirements.
- 7.8. Architectural Compatibility. Architectural compatibility with the main residence is required.
- 8.9. Parking. One off-street, paved parking space shall be required in addition to off-street parking required by the primary residence.

B. Manufactured homes on individual lots.

C. Manufactured Home Park.

D. Single-family attached (townhouses), Duplexes, and Triplexes.

E. Multi-family housing.

F. ~~Residential care homes and facilities.~~ Group living structures. Group living structures Residential care homes are residential treatment or training homes or adult foster homes licensed by the State of Oregon. They may provide residential care alone, or in conjunction with treatment and/or training, for five or fewer individuals (homes) or six to 15 individuals (facilities) who need not be related. Staff persons required to meet state licensing requirements

shall not be counted in the number of facility residents and need not be related to each other or the residents. ~~Residential care homes and facilities~~ ***Group living structures*** shall comply with the following standards, consistent with ORS 197.660-670:

1. Licensing. All residential care homes shall be duly licensed by the State of Oregon.
2. Parking. Parking shall be provided in accordance with Chapter 3.4 – Vehicle and Bicycle Parking requirements.
3. Development Review. Development review shall be required for new structures to be used as ~~residential care homes or facilities~~ ***Group living structures***, and for conversion of an existing residence to be used as a residential care home, to ensure compliance with the licensing, parking, and other requirements of this Code.

G. Public and Institutional Land Uses.

H. Accessory Uses and Structures Accessory ~~uses and~~ structures are of a nature customarily incidental and subordinate to the principal use or structure on the same lot. Typical accessory structures in the Residential District include detached garages, sheds, workshops, green houses, and similar structures. (For standards applicable to Accessory Dwellings, please refer to Chapter 2.2.9 – Special Standards for Certain Uses, Section A.) All accessory structures shall comply with all of the following standards:

1. Primary use ***and primary structure are*** required. An accessory structure shall not be allowed without another permitted ~~primary~~ use (e.g., as listed in Table 2.2.2) ***and permitted primary structure.***
2. Restrictions. A structure shall not be placed over an easement that prohibits such placement. No structure shall encroach into the public right-of-way.
3. Compliance with land division standards. The owner may be required to remove an accessory structure as a condition of land division approval when removal of the structure is necessary to comply with setback standards.
4. Floor Area. The maximum floor area of the accessory structure shall not exceed 330 square feet;
5. Building Height. The building height of detached accessory structure shall comply with Chapter 2.2.6 – Building Height, as measured in accordance with the definition of “Height of Building” in Chapter 1.3 – Definitions.
6. ***Lot coverage. The accessory structure shall be included in the total lot coverage and this total shall not exceed the maximum listed in Section 2.2.5.A.***

Chapter 2.3 City Center District

2.3.10 Special Standards for Certain Uses

C. Accessory Uses and Structures Accessory ~~uses and~~ structures are of a nature customarily incidental and subordinate to the principal use or structure on the same lot. Typical accessory structures in the City Center District include small workshops, greenhouses, studios, storage sheds, and similar structures. Accessory uses and structures are allowed for all permitted land uses within the City Center District, as identified in Table 2.3.2.A Accessory structures shall comply with the following standards:

1. Primary use *and primary structure are* required. An accessory structure shall not be allowed before or without another *permitted* primary use *and permitted primary structure* as identified in Table 2.3.2.a.
- 2.
- 3.
- 4.
- 5.

III. COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS: Amendments to the Phoenix Land Development Code must comply with Section 4.7.2 of the Phoenix Land Development Code, which states that legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to Section 4.7.2.B and 4.7.6, as applicable.

Section 4.7.2 – Demonstration of compliance with section 4.7.2.

FINDING: This proposed amendment will be reviewed by the Planning Commission at a noticed public hearing. Their recommendation will be presented to the Phoenix City Council at a noticed public hearing. The hearing by the Planning Commission was noticed by posting the information on the City of Phoenix website beginning March 21, 2014.

FINDING: The Department of Land Conservation and Development was notified with an application mailed February 24, 2014 and a Staff report email sent on March 31, 2014.

FINDING: A copy of all notifications is available at the City Planning Office.

Section 4.7.3.B .1 – Demonstration of compliance with all applicable Comprehensive Plan policies and map designations. Where this criterion cannot be met, a Comprehensive Plan amendment shall be a prerequisite to approval.

FINDING: ~~The changes proposed are in compliance with Comprehensive Plan polices. Specifically, Housing Element, Goal 1.1: “Promote the efficient use and esthetic design of urban residential uses.”~~ *The proposed language will make the addition of other structures on the property within the conditions listed.*

FINDING: The changes proposed are in compliance with Comprehensive Plan polices. Specifically, Housing Element, Goal 1, Policy 1.3: “Promote the efficient use and esthetic

design of urban residential uses.” The proposed language will make the use of residential land more efficient. The current requirement of five or ten feet setbacks for an accessory structure that is lower than the adjacent fence limits the usability of the yards and is inefficient.

Section 4.7.3.B.2 – Demonstration of compliance with all applicable standards and criteria of this code and other applicable implementing ordinances.

FINDING: The proposed changes do not require any changes to be made on the part of the homeowner. This clarifies the options and allows the owner to make decisions about the design of the home and the use of more of the area of the lot.

Section 4.7.3.B.3 – Evidence of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or Land Use Map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 – Transportation Planning Rule Compliance, applicable.

FINDING: The proposed change is not based on a mistake in the Comprehensive Plan or the Land Use Map. The proposed change does not impact Transportation needs in the City.

Section 4.7.6 – Transportation Planning Rule, Subsection B, requires that amendments to land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.

FINDING: The clarification of Group Living Quarters, Accessory Dwelling Units, Accessory Uses and Accessory Structures will have no significant transportation impact to the City transportation facility.

~~**FINDING:** The change of the vision clearance requirements will not significantly affect the transportation facility. The proposed vision clearance is consistent with the requirements of other cities within the region and will bring the City of Phoenix in line with this norm.~~

FINDING: The proposed amendments comply with Sections 4.7.3 and 4.7.6 of the Phoenix Development Code.

IV. RECOMMENDATION: Staff recommends that the Planning Commission review the proposed amendments to the above listed sections of the Phoenix Development Code and the Phoenix Municipal Code, take testimony, and direct Staff on a recommendation to City Council.

EXHIBIT B
CHAPTERS 1.3, 2.2, AND 2.3, OF THE CITY OF PHOENIX LAND DEVELOPMENT
CODE (PLCD), AS AMENDED BY ORDINANCE _____ ON JULY 21, 2014, SHALL
READ AS FOLLOWS:

1.3 Definitions

Accessory dwelling: A small, secondary housing unit on a single-family lot, usually the size of a studio apartment. The additional unit can be a detached cottage, a unit attached to a garage, or in a portion of an existing house. See also Chapter 2.2.9 – Special Standards for Certain Uses, Section A.

Accessory use: Accessory uses are uses that are incidental and subordinate to the principal use on the same lot, i.e. storage. See also Chapter 2.2.9 – Special Standards for Certain Uses, Section H; and Chapter 2.3.10 – Special Standards for Certain Uses, section C.

Accessory structure: Structures that are incidental and subordinate to the principal structure on the same lot. See also Chapter 2.2.9 – Special Standards for Certain Uses, Section H; and Chapter 2.3.10 – Special Standards for Certain Uses, section C.

Childcare center: Facilities that provide care and supervision of minor children for periods of less than 24 hours (see also “Family child care providers”). See also, ORS 657A for certification requirements.

Family child care provider: Centers that provide care for not more than 12 children in a home. See also, ORS 657A for certification requirements.

Group Living Structure: A structure that contains sleeping areas and at least one set of cooking and sanitary facilities that is used as a residence for Group Living uses:

- Residential facility/group care facility. A residence for 6 to 15 physically or mentally disabled persons, and for staff persons. The facility may provide residential care alone, or in conjunction with training or treatment. This definition includes the State definition of Residential Facility; See Chapter 2.2.9 – Special Standards for Certain Uses, Section F.
- or
- Residential home/group care home. A residence for five or fewer physically or mentally disabled persons, and for staff persons. The residence may provide residential care alone, or in conjunction with training or treatment. This definition includes the State definition of Residential Home. See Chapter 2.2.9 – Special Standards for Certain Uses, Section F.

Residential facility/group care facility: See Group Living Structure.

Residential home/group care facility: See Group Living Structure.

Chapter 2.2 – Residential Districts (R-1, R-2, R-3, HO)

2.2.3 – Building Setbacks

D. Setback Exceptions. The following architectural features are allowed to encroach into the setback yards: eaves, chimneys, bay windows, overhangs and similar architectural features may encroach into setbacks by no more than three feet. Accessory structures, which are no higher than the adjacent fence and no higher than six feet, may encroach into the side yard and/or rear yard setbacks. Porches, decks and similar structures may encroach into front setbacks by no more than five feet, subject to the front yard setback provisions in “A”. Walls and fences may be placed on property lines, subject to the standards in Chapter 3.3 – Landscaping, Street Trees, Fences, and Walls. Walls and fences within front yards shall additionally comply with the vision clearance standards in Chapter 3.2.2 – Vehicular Access and Circulation, Section M.

2.2.5 - Maximum Lot Coverage

A. **Maximum Lot Coverage.** The following maximum lot coverage standards shall apply:

1. Single Family Detached Houses - 40 percent
2. Duplexes and Triplexes - 50 percent
3. Single Family Attached Townhomes - 60 percent
4. Multiple Family Housing - 60 percent
5. Neighborhood Commercial and Public/Institutional Uses - 80 percent

B. Maximum lot coverage includes all of the housing units, the accessory dwelling units (Section 2.2.9.A) and all accessory structures (Section 2.2.9.H).

2.2.9 – Special Standards for Certain Uses

This section supplements the standards contained in Sections 2.2.1 through 2.2.8. It provides standards for the following land uses in order to control the scale and compatibility of those uses within the Residential District:

A. **Accessory dwelling (attached, separate cottage, or above detached garage).** An accessory dwelling is a small, secondary housing unit on a single-family lot, usually the size of a studio apartment. The additional unit can be a detached cottage, a unit attached to a garage, or in a portion of an existing house. The housing density standard of the Residential District does not apply to accessory dwellings, due to the small size and low occupancy level of the use. The following standards are intended to control the size and number of accessory dwellings on individual lots to promote compatibility with adjacent land uses. Accessory dwellings shall comply with all of the following standards:

1. Oregon Structural Specialty Code. The structure complies with the Oregon Structural Specialty Code.
2. One Unit. A maximum of one accessory dwelling unit is allowed per lot.
3. Floor Area. The maximum floor area of the accessory dwelling shall not exceed 50% of the primary unit, with an 800 square foot maximum.
4. Lot coverage. The accessory dwelling shall be included in the total lot coverage and this total shall not exceed the maximum listed in Section 2.2.5.A.

5. **Building Height.** The building height of detached accessory dwellings (i.e., separate cottages) shall not exceed building height requirements in Chapter 2.2.6 – Building Height, as measured in accordance with the definition of “Height of Building” in Chapter 1.3 – Definitions.
6. **Buffering.** A hedge or fence may be required to buffer a detached accessory dwelling from dwellings on adjacent lots, when buffering is necessary for the privacy and enjoyment of yard areas by either the occupants or adjacent residents.
7. **Setbacks.** Setbacks shall meet the Residential District requirements.
8. **Architectural Compatibility.** Architectural compatibility with the main residence is required.
9. **Parking.** One off-street, paved parking space shall be required in addition to off-street parking required by the primary residence.

B. Manufactured homes on individual lots. Manufactured homes are permitted on individual lots, subject to all of the following design standards, consistent with ORS 197.307(5).

1. **Floor Plan.** The manufactured home shall be multi-sectional and have an enclosed floor area of not less than 1,000 sq. feet;
2. **Roof.** The manufactured home shall have a pitched roof with a slope not less than three feet in height for each 12 feet in width (14 degrees);
3. **Residential Building Materials.** The manufactured home shall have exterior siding and roofing which in color, material, and appearance are similar to the exterior siding and roof material used on nearby residences;
4. **Garages and Carports.** The manufactured home shall have a garage or carport constructed of materials to match the primary residence;
5. **Thermal Envelope.** The manufactured home shall be certified by the manufacturer to meet the thermal envelope requirements equivalent to those for a single-family dwelling constructed under the State Building Code;
6. **Placement.** The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 16 inches above grade, and complying with the minimum set-up standards of the adopted state Administrative Rules for Manufactured Dwellings, Chapter 918. Where the building site has a sloped grade, no more than 16 inches of the enclosing material shall be exposed on the uphill side of the home;
7. **Foundation Skirt.** The foundation area of the manufactured home shall be fully skirted; and with concrete masonry block stem wall or decorative material.

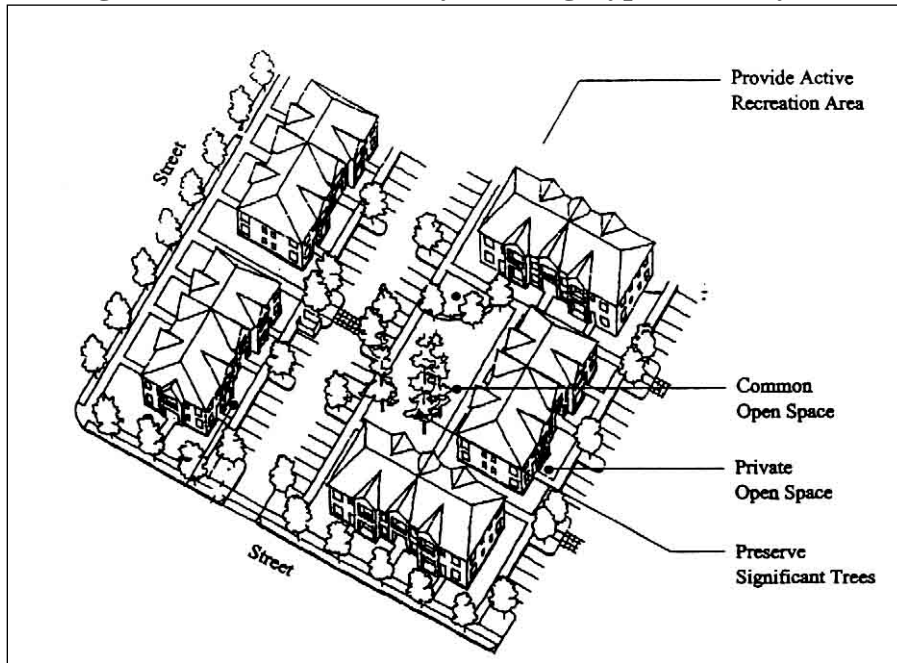
C. Manufactured Home Park. Manufactured home parks are permitted on parcels of one acre or larger, subject to compliance with subsections 1-6, below:

1. Permitted uses: Single-family residences, manufactured home park manager's office, home occupations, and accessory structures which are necessary for the operation and maintenance of the manufactured home park (e.g., landscape maintenance). Home occupations shall comply with Chapter 4.9.2 – Home Occupation Permits.
2. Building pad. The minimum size building pad for each home is 2,500 square feet, and the overall density of the park shall not exceed 12 units per acre. Each building pad shall be at least 30 feet wide and shall be at least 40 feet long, in accordance with ORS 446.100(c).
3. Setbacks and Building Separation. The minimum setback between park structures and abutting properties is five feet, in accordance with ORS 446.100(b). The minimum setback between park structures and public street right-of-way is between 15 feet to 20 feet, with a requirement of varied setbacks within the park. At least a 10-foot separation shall be provided between all dwellings. Dwellings shall be placed a minimum of 14 feet apart where flammable or combustible fuel is stored between units. Park structures shall be placed no closer than five feet to a park street or sidewalk/pathway. An accessory structure shall not be located closer than six feet to any other structure or dwelling, except that a double carport or garage may be built which serves two dwellings. When a double carport/garage is built, the carport/garage shall be separated from all adjacent structures by at least three feet.
4. Perimeter landscaping. When manufactured homes are oriented with their back or side yards facing a public right-of-way, the City may require installation of fencing and planting of a 15 foot wide landscape buffer between the right-of-way and a manufactured home park for the privacy and security of residents or aesthetics of the streetscape.
5. House design (parks smaller than three acres). Manufactured homes in parks shall meet the following design standards, consistent with ORS 197.314(6):
 - a. The manufactured home shall have a pitched roof with a slope not less than three feet in height for each 12 feet in width (14 degrees);
 - b. The manufactured home shall have exterior siding and roofing which in color, material, and appearance are similar or superior to the exterior siding and roof material used on nearby residences;
 - c. Exception: Subsections a-b, above, do not apply to manufactured homes that existed within the City prior to the effective date of this ordinance.
6. Play Area. The manufactured home park shall provide, in accordance with ORS 446.095(3), a separate general play area restricted to that use, if the park accommodates children who are under 14 years of age. No separate play area shall be less than 2,500 square feet in area. At least 100 square feet of play area shall be provided for each manufactured dwelling occupied by children.

D. Single-family attached (townhouses), Duplexes, and Triplexes. Single-family attached housing (townhouse units on individual lots), duplex and triplex developments shall comply with the standards in 1-4, below. The standards are intended to control development scale; avoid or minimize impacts associated with traffic, parking, and design compatibility; and ensure management and maintenance of common areas.

1. As necessary, the City shall require dedication of right-of-way or easements and construction of pathways between townhouse lots (e.g., between building breaks) to implement the standards in Chapter 3.2 – Access and Circulation.
 2. Building Mass Supplemental Standard. Within the R-2 and R-3 Districts, the maximum number and width of consecutively attached townhouses (i.e. with attached walls at property line) shall not exceed six units, or 130 feet (from end-wall to end-wall), whichever is less.
 3. Street Access Developments. Townhouses, duplexes and triplexes receiving access directly from a public or private street shall comply with all of the following standards, in order to minimize interruption of adjacent sidewalks by driveway entrances, slow traffic, improve appearance of the streets, and minimize paved surfaces for better storm water management.
 - a. When garages face the street, they shall be recessed behind the front elevation (i.e., living area or covered front porch) by a minimum of four feet and shall be setback 20 feet from the back of the sidewalk.
 - b. The maximum allowable driveway width facing the street is 24 feet per dwelling unit. The maximum combined garage width per unit is 50 percent of the total building width. For example, a 24-foot wide unit may have one 12-foot wide recessed garaged facing the street. The maximum curb cut shall meet access standards and shall not be wider than 9' for single garages and 18' for double garages.
 4. Common Areas. Common areas shall be maintained by a homeowner's association or other legal entity. A copy of any applicable covenants, restrictions, and conditions shall be recorded and provided to the city prior to building permit approval.
- E. Multi-family housing.** Multi-family housing is allowed within the R-2 and R-3 Zoning districts. Multi-family housing means housing that provides more than three dwellings on an individual lot (e.g., multiplexes, apartments, condominiums, etc.). New multi-family developments shall comply with all of the following standards:

Figure 2.2.9.E – Multifamily Housing (typical site layout)



1. Building Mass Supplemental Standard. Within the R-2 and R-3 Residential District's, the maximum width or length of a multiple family building shall not exceed 130 feet (from end-wall to end-wall).
2. Common open space standard. Inclusive of required setback yards, a minimum of 20 percent of the site area shall be designated and permanently reserved as common open space in all multiple family developments. The site area is defined as the lot or parcel on which the development is planned, after subtracting any required public land dedication and public and private streets. Sensitive lands and historic buildings or landmarks open to the public and designated by the Comprehensive Plan may be counted toward meeting the common open space requirements.
3. Private open space standard. Private open space areas shall be required for ground-floor and upper-floor housing units based on all of the following standards:
 - a. All ground-floor housing units shall have front or rear patios or decks measuring at least 48 square feet. Ground-floor housing means the housing unit entrance (front or rear) is within five feet of the finished ground elevation (i.e., after grading and landscaping);
 - b. All upper-floor housing units shall have balconies or porches measuring at least 48 square feet. Upper-floor housing means housing units that are more than five feet above the finished grade;
 - c. Private open space areas shall be oriented toward common open space areas and away from adjacent single-family residences, trash receptacles, parking and drives to the greatest extent practicable; and

4. Exemptions. Exemptions may be granted when these developments are within one-quarter mile (measured walking distance) of a public park; and there is a direct, accessible (i.e., Americans With Disabilities Act-compliant), and maintained pedestrian trail or sidewalk between the site and the park. An exemption shall be granted only when the nearby park provides an active recreation area such as a ball field, children's play area, sports court, track, or similar facility.
5. Trash receptacles. Trash receptacles shall be oriented away from adjacent residences and shall be screened with a solid masonry wall of not less than six feet in height.

F. Group living structures. Group living structures_ Residential care homes are residential treatment or training homes or adult foster homes licensed by the State of Oregon. They may provide residential care alone, or in conjunction with treatment and/or training, for five or fewer individuals (homes) or six to 15 individuals (facilities) who need not be related. Staff persons required to meet state licensing requirements shall not be counted in the number of facility residents and need not be related to each other or the residents. Group living structures_ shall comply with the following standards, consistent with ORS 197.660-670:

1. Licensing. All residential care homes shall be duly licensed by the State of Oregon.
2. Parking. Parking shall be provided in accordance with Chapter 3.4 – Vehicle and Bicycle Parking requirements.
3. Development Review. Development review shall be required for new structures to be used as Group living structures, and for conversion of an existing residence to be used as a residential care home, to ensure compliance with the licensing, parking, and other requirements of this Code.

G. Public and Institutional Land Uses. Public and institutional uses (as listed in Table 2.2.2) are allowed in the Residential Districts as a Conditional Use and subject to the following land use standards, which are intended to control the scale of these developments and their compatibility with nearby residences:

1. Development Site Area. The maximum development site area shall be three acres, except that this standard shall not apply to parks and open space uses. Larger developments may be approved as a Conditional Use, in accordance with Chapter 4.4 – Conditional Use Permits, or as part of a Planned Unit Development, in accordance with Chapter 4.5 – Planned Unit Developments.
2. Building Mass. The maximum width or length of a building shall not exceed 130 feet (from end-wall to end-wall), except that this standard may be increased through the approval of a Conditional Use Permit, or as part of a Planned Unit Development.
3. Vehicle Areas and Trash Receptacles. All vehicle areas and trash receptacles shall be oriented away from adjacent residences to the greatest extent practicable, and shall be screened with a solid masonry wall of not less than six feet in height.

H. Accessory Uses and Structures Accessory structures are of a nature customarily incidental and subordinate to the principal use or structure on the same lot. Typical accessory structures in the Residential District include detached garages, sheds, workshops, green houses, and similar structures. (For standards applicable to Accessory Dwellings, please refer to Chapter 2.2.9 –

Special Standards for Certain Uses, Section A.) All accessory structures shall comply with all of the following standards:

1. Primary use and primary structure are required. An accessory structure shall not be allowed without another permitted use (e.g., as listed in Table 2.2.2) and permitted primary structure.
2. Restrictions. A structure shall not be placed over an easement that prohibits such placement. No structure shall encroach into the public right-of-way.
3. Compliance with land division standards. The owner may be required to remove an accessory structure as a condition of land division approval when removal of the structure is necessary to comply with setback standards.
4. Floor Area. The maximum floor area of the accessory structure shall not exceed 330 square feet;
5. Building Height. The building height of detached accessory structure shall comply with Chapter 2.2.6 – Building Height, as measured in accordance with the definition of “Height of Building” in Chapter 1.3 – Definitions.
6. Lot coverage. The accessory structure shall be included in the total lot coverage and this total shall not exceed the maximum listed in Section 2.2.5.A.

Chapter 2.3 City Center District

2.3.10 Special Standards for Certain Uses

C. Accessory Uses and Structures Accessory structures are of a nature customarily incidental and subordinate to the principal use or structure on the same lot. Typical accessory structures in the City Center District include small workshops, greenhouses, studios, storage sheds, and similar structures. Accessory uses and structures are allowed for all permitted land uses within the City Center District, as identified in Table 2.3.2.A Accessory structures shall comply with the following standards:

1. Primary use and primary structure are required. An accessory structure shall not be allowed before or without another permitted primary use and permitted primary structure as identified in Table 2.3.2.a.



Date of Notice: June 30, 2014

File Number: LDC: 14-06

NOTICE OF PUBLIC HEARING

Notice is hereby given that the City Council of the City of Phoenix will hold a Public Hearing on July 21, 2014 at 6:30 pm at Phoenix Public Works at 1000 S "B" Street, Phoenix, Oregon to consider the following request:

Request: AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE REGARDING GROUP LIVING AND ACCESSORY DWELLING, BUILDINGS AND USES AND AMENDING CHAPTERS 1 AND 2

Applicant: City of Phoenix

Date of City Council hearing: July 21, 2014

Project information: In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to 1.) Correct the definitions for residential terms; 2.) clarify the standards for accessory dwellings in the Residential zones; 3.) clarify the difference between Accessory Uses and Accessory Buildings and the standards for each; and 4.) clarify process for the development of group living structures.

Nearly all of the proposed changes are designed to clarify the standards that the City currently has. It provides better definitions for terms such as Accessory Use. It uses the State language to describe the Group Living Structures. It directs uses that are similar and use the same process, to one category, again to make it easier to understand.

The proposal limits the coverage of some of the accessory buildings. This is designed to protect neighbors and be more consistent with the requirements for the primary building on the property.

Legislative Review: The purpose of the Legislative review is to ensure compliance with the Comprehensive Plan of the City of Phoenix. A public hearing before the Planning Commission is required to be followed by a public hearing before Phoenix City Council.

Approval Criteria: After holding and closing a public hearing, the City Council may vote to approve, modify, or deny the permit. Action may be tabled or referred to staff or other body for further review. Any final action will be based on criteria listed and referenced in LDC Section 4.7.3.B. Contact Planning and Building Department to explain or provide the criteria; or visit the Planning and Building Department on the City of Phoenix home page at www.phoenixoregon.net (click on Planning and Building link on left side of homepage), and click on the Phoenix Development Code link.

Public Participation: We encourage the public to comment on this matter either in writing or orally at the Public Hearing. Mailed comments should be sent to the City of Phoenix, Planning and Building Department, P.O. Box 330, Phoenix, OR. The application and related information are available for public review at the

Date of Notice: June 30, 2014
File Number: LDC: 14-06
CITY COUNCIL PUBLIC HEARING
AT PUBLIC WORKS, 1000 S "B" STREET

Planning and Building Department at City Hall
112 W. 2nd Street
Phoenix, Oregon 97535

Office hours are 8 a.m. to noon and 1 p.m. to 5 p.m., Monday through Friday. The contact person is Matt Brinkley, Planning Director at 541-535-2050 extension 316.

Failure to raise an issue in person, or in writing either before or at the hearing, or failure to provide statements or evidence sufficient to afford the City Council an opportunity to respond to an issue would mean that an appeal based on that issue could not be filed with the State Land Use Board of Appeals (see Land Development Code 4.1.5.C.2.e).

Staff Report: A staff report has been prepared and available for review; a copy may be obtained at 25 cents per page or emailed upon request.

Notice to mortgagee, lien holder, vendor, or seller: If you receive this notice, it shall be promptly forwarded to the purchaser.



Date of Notice: June 30, 2014

File Number: LDC: 14-06

NOTICE OF PUBLIC HEARING

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Planning and Building Department at City Hall
112 W. 2nd Street
Phoenix, Oregon 97535

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Failure to raise an issue in person, or in writing either before or at the hearing, or failure to provide statements or evidence sufficient to afford the City Council an opportunity to respond to an issue would mean that an appeal based on that issue could not be filed with the State Land Use Board of Appeals (see Land Development Code 4.1.5.C.2.e).

Staff Report: A staff report has been prepared and available for review; a copy may be obtained at 25 cents per page or emailed upon request.

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**CITY OF PHOENIX
PHOENIX, OREGON**

ORDINANCE NO. 953

**AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE,
CHAPTER 1.3, CHAPTER 2.2.3, CHAPTER 2.2.5, CHAPTER 2.2.9, AND CHAPTER 2.3.**

WHEREAS, the Housing Element, Goal 1, Policy 1.3 of the Comprehensive Plan promotes “the efficient use and esthetic[sic] design of urban residential uses”; and

WHEREAS, the City has provided notification to the Department of Land Conservation and Development as required by ORS 197 and the Phoenix Land Development Code; and

WHEREAS, the Planning Commission held a public hearing on May 12, 2014 and took any public testimony regarding the proposed changes; and

WHEREAS, the Planning Commission voted to recommend approval of the attached amendments to the City Council based upon the findings contained in the Staff Report number LDC 14-06; and

WHEREAS, the Public Hearing on July 21, 2014, was duly noticed and the public was given the opportunity to testify on the proposed changes; and

WHEREAS, the Land Development Code has an adopted procedure (Chapter 4.7) to amend the Land Development Code; and

WHEREAS, the Council, after considering the presentation by the Staff, the recommendation of the Planning Commission, and public testimony received at this hearing, has decided to approve the proposed amendment to the Land Development Code in accordance with this procedure;

NOW THEREFORE, The City Council of the City of Phoenix **ORDAINS** as follows:

Section 1. The Findings for this amendment are included in the attached Staff Report for LDC:14-06, Exhibit A.

Section 2: The Land Development Code Chapter 1 and 2 are amended as proposed in Exhibit B.

Section 3. Effective Date: This ordinance shall become effective within 30 days of adoption.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof on this 21st day of July 2014.

__, Mayor

ATTEST:

__, City Manager/ Recorder

AGENDA BILL

AGENDA ITEM: _____

AGENDA TITLE: PUBLIC HEARING FOR AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE RELATED TO IMPLEMENTATION OF THE TRIP BUDGET OVERLAY ZONE AND AMENDING CHAPTER 4, AKA LDC 14-07.

DATE: July 21, 2014

ACTION REQUIRED:

ORDINANCE: XX

RESOLUTION:

MOTION: XX

INFORMATION:

EXPLANATION:

The Planning Commission has reviewed measures to implement the Trip Budget Overlay Zone, and after holding a public hearing on May 12, 2014, has recommended the following legislative action: 1) Eliminate requirements for pre-application for Type II applications; 2) Change procedures to meet State law; and 3) Add requirements to meet Trip Budget Overlay Zone requirements.

The Trip Budget Overlay Zone was adopted to protect the capacity and function of the area around the Fern Valley Road freeway exit. However, the requirement to comply with this zone was not included in the process for development. This corrects that oversight.

FISCAL IMPACT:

There should be no fiscal impact on the City of Phoenix.

ALTERNATIVES:

The Council may amend the changes or may deny the recommendation and leave the Land Development Code as it is.

STAFF RECOMMENDATION:

Staff recommends that Council adopt the attached Ordinance to change the Phoenix Land Development Code as recommended by the Planning Commission.

MOTION: "I MOVE TO ADOPT ORDINANCE NO. _____, AMENDING THE PHOENIX DEVELOPMENT CODE, CHAPTER 4 AND RELATED TO THE IMPLEMENTATION OF THE TRIP BUDGET OVERLAY ZONE."

PREPARED BY: M. Brinkley **REVIEWED BY:** _____

AGENDA BILL

AGENDA ITEM: _____

AGENDA TITLE: PUBLIC HEARING FOR AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE RELATED TO IMPLEMENTATION OF THE TRIP BUDGET OVERLAY ZONE AND AMENDING CHAPTER 4, AKA LDC 14-07.

DATE: July 21, 2014

ACTION REQUIRED:

ORDINANCE: XX

RESOLUTION:

MOTION: XX

INFORMATION:

EXPLANATION:

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The Trip Budget Overlay Zone was adopted to protect the capacity and function of the area around the Fern Valley Road freeway exit. However, the requirement to comply with this zone was not included in the process for development. This corrects that oversight.

FISCAL IMPACT:

There should be no fiscal impact on the City of Phoenix.

ALTERNATIVES:

The Council may amend the changes or may deny the recommendation and leave the Land Development Code as it is.

STAFF RECOMMENDATION:

Staff recommends that Council adopt the attached Ordinance to change the Phoenix Land Development Code as recommended by the Planning Commission.

MOTION: "I MOVE TO ADOPT ORDINANCE NO. _____, AMENDING THE PHOENIX DEVELOPMENT CODE, CHAPTER 4 AND RELATED TO THE IMPLEMENTATION OF THE TRIP BUDGET OVERLAY ZONE.

PREPARED BY: M. Brinkley **REVIEWED BY:** _____

**CITY OF PHOENIX
PHOENIX, OREGON**

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE,
CHAPTERS 4.1.4, 4.1.6, 4.2.5, 4.4.5, 4.7.2 AND 4.7.3.**

WHEREAS, changes to the Type II Procedure are consistent with the Comprehensive Plan, specifically the Economic Element, Goal 1, “To foster economic development through the retention, renewal, upgrading, expansion, and linkage of existing commercial and industrial business, and recruitment of new ones.”; and

WHEREAS, changes to the development requirements regarding the Trip Budget Overlay Zone are specifically designed to protect the function, capacity, and level of service of transportation infrastructure; and

WHEREAS, the City has provided notification to the Department of Land Conservation and Development as required by ORS 197 and the Phoenix Land Development Code; and

WHEREAS, the Planning Commission held a public hearing on May 12, 2014 and took any public testimony regarding the proposed changes; and

WHEREAS, the Planning Commission voted to recommend approval of the attached amendments to the City Council based upon the findings contained in the Staff Report number LDC 14-07; and

WHEREAS, the Public Hearing on July 21, 2014, was duly noticed and the public was given the opportunity to testify on the proposed changes; and

WHEREAS, the Land Development Code has an adopted procedure (Chapter 4.7) to amend the Land Development Code; and

WHEREAS, the Council, after considering the recommendation of the Planning Commission and staff, and public testimony received at this hearing, has decided to approve the proposed amendment to the Land Development Code in accordance with this procedure;

NOW THEREFORE, The City Council of the City of Phoenix **ORDAINS** as follows:

Section 1. The Findings for this amendment are included in the attached Staff Report for LDC: 14-07, Exhibit A.

Section 2: The Land Development Code Chapter 4 is amended as proposed in Exhibit B.

Section 3. Effective Date: This ordinance shall become effective upon adoption.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof
on this ____ day of _____, 20__.

Mayor

ATTEST:

City Manager/ Recorder

DRAFT



PO Box 330 • Phoenix, OR 97535

PLANNING DEPARTMENT

(541) 535-2050 • FAX (541) 535-5769

**TITLE: AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE
REGARDING PROCEDURES, AMENDING CHAPTER 4**

FILE NUMBER: LDC:14-07

APPLICANT: City of Phoenix

STAFF REPORT: Available April 15, 2014 at the City of Phoenix, 112 W. 2nd Street (M-F, 8:00 a.m. to 5:00 p.m.) or on the website (www.phoenixoregon.net). For more information, call City of Phoenix, Planning Office, 541-535-2050

DATE OF PLANNING COMMISSION HEARING: May 12, 2014

PROJECT INFORMATION: In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to 1.) Eliminate requirements for pre-application for Type II applications; 2.) Change procedures to meet State law; and 3.) Add requirements to meet Trip Budget Overlay Zone requirements.

I. PROPOSED AMENDMENTS: The proposed amendments are:

4.1 Types of Applications and Review Procedures

4.1.4 - Type II Procedure (Administrative)

A. Pre-Application. A pre-application conference is ~~required~~ *recommended* for Type II applications. Pre-application conference requirements and procedures are in Chapter 4.1.7 – General Provisions.

4.1.6 – Type IV Procedure (Legislative)

A. Pre-Application Conference

B. Timing of requests. The City Planner shall not review non-City sponsored or State required proposed Type IV actions more than five times annually, based on a City Council Resolution approved schedule for such actions. *Legislative requests are not subject to the 120-day review under ORS 227.178.*

C. Application requirements

D. Notice of hearing

1. 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.
2. Notification requirements. Notice of public hearings for the request shall be given by the Planning Department in the following manner:
 - a. At least 35 days before the date of the first public hearing on an ordinance that proposed to amend the Comprehensive Plan or any element thereof, or to adopt an ordinance that proposed to rezone property or to amend the Phoenix Land Development Code, a notice shall be sent to the Department of Land Conservation and Development (DLCD), in accordance with State law (ORS 197).
 - b. At least 20 days, but not more than 40 days.
 - c. At least 10 days before scheduled City Council public hearing, public notices shall be published on the City of Phoenix website.
 - d. The Planning Department shall file an affidavit of mailing or public notice in record as provided in Subsection a. and b.
 - ~~b. 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 new evidence will be received.~~
 - e. Notifications for annexations shall follow the provisions of this Chapter, except as requirement for local government boundary commissions (ORS 199).

Chapter 4.2 - Development Review and Site Plan Review

4.2.5 – Site Design Review Application Submission Requirements

All of the following information is required for Site Design Review application submittal:

- A. General Submission Requirements.** The applicant shall submit an application containing all of the general information required by Chapter 4.1.4 – Type II Procedure (Administrative) or Chapter 4.1.5 – Type III Procedure (Quasi-Judicial), as applicable. The type of application shall be determined in accordance with Subsection A of 4.2.4 – Site Design Review Application Review Procedure. Site Design Review requires a pre-application conference in accordance with Chapter 4.1.7 – General Provisions, Section C.
- B. Site Design Review Information.** An application for Site Design Review shall include the following information: (not shown are the items 1 through 9)
- C. Site Design Review Additional Information for Overlay Zones.** An application for Site Design Review for a property located in an overlay zone shall include the following information:

1. *For properties within the Trip Budget Overlay Zone (Chapter 2.9), submit a traffic analysis for review by Oregon Department of Transportation (ODOT).*

Chapter 4.4 – Conditional Use Permits

4.4.5 – Additional Development Standards for Conditional Use Types

- A. General Submission Requirements.
- B. Site Design Review Information.
- C. **Traffic studies.** Traffic studies may be required for any applications that the Planning Department or the Planning Commission deems necessary.

1. *For properties within the Trip Budget Overlay Zone (Chapter 2.9), a traffic analysis must be submitted to Oregon Department of Transportation (ODOT) and approved by ODOT.*

4.7 – Land Use District Map and Text Amendments

4.7.2 Legislative Amendments

Legislative Amendments. Legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to *the criteria listed in 4.7.2.B and to* Chapter 4.7.6 – Transportation Planning Rule Compliance, as applicable.

A. Criteria for Legislative Amendments.

1. *The text of this Development Code may be recommended for amendment and amended provided that all the following criteria are met:*
 - (a.) The proposed amendment is consistent with the purpose of the subject section and article.*
 - (b.) The proposed amendment is consistent with other Provisions of this Code.*
 - (c.) The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, and most effectively carries out those goals and policies of all alternatives considered.*

4.7.3 – Quasi-Judicial Amendments

4.7.3 – Quasi-Judicial Amendments. Quasi-judicial amendments are those that involve the application of adopted policy to a specific development application ~~or Code revision~~. Quasi-judicial map amendments shall follow the Type III Procedure as governed by Chapter 4.1.5 –

Type III Procedure (Quasi-Judicial), using standards of approval in Subsection “B” below. The approval authority shall be as follows:

- 1.
- 2.
- 3.

II. COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS: Amendments to the Phoenix Land Development Code must comply with Section 4.7.2 of the Phoenix Land Development Code, which states that legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to Section 4.7.2.B and 4.7.6, as applicable.

Section 4.7.2 – Demonstration of compliance with Section 4.7.2

FINDING: This proposed amendment will be reviewed by the Planning Commission at a noticed public hearing. Their recommendation will be presented to the Phoenix City Council at a noticed public hearing. The hearing by the Planning Commission was noticed by posting the information on the City of Phoenix website beginning March 25, 2014.

FINDING: The Department of Land Conservation and Development was notified with an application mailed February 24, 2014 and a Staff report email sent on March 25, 2014.

FINDING: A copy of all notification is available at the City Planning Office.

Section 4.7.3.B.1 – Demonstration of compliance with all applicable Comprehensive Plan policies and map designations. Where this criterion cannot be met, a Comprehensive Plan amendment shall be a prerequisite to approval.

FINDING: The changes to the Type II Procedure with Comprehensive Plan policies. Specifically, Economic Element, Goal 1, “To foster economic development through the retention, renewal, upgrading, expansion, and linkage of existing commercial and industrial business, and recruitment of new ones.” The change will eliminate a step that is unnecessary and expensive when the proposal is simple.

FINDING: The changes to the notice of the State are in compliance with Comprehensive Plan policies as they will put the City in compliance with current State law.

Section 4.7.3.B.2 – Demonstration of compliance with all applicable standards and criteria of this Code and other applicable implementing ordinances.

FINDING: The proposed changes do not impact other applicable standards.

Section 4.7.3.B.3 – Evidence of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or the Land Use Map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 – Transportation Planning Rule Compliance, if applicable.

FINDING: The proposed change is not based on a mistake in the Comprehensive Plan or the Land Use Map. The proposed change does not impact transportation needs in the City.

FINDING: The changes to the Site Design Review and Conditional Use Permit to review submissions will correct an error in the Development Code (sections 4.2.5 and 4.4.5) which did not link the adoption of a Trip Budget Overlay Zone to requirements of development.

Section 4.7.6 – Transportation Planning Rule, Subsection B, requires that amendments to land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.

FINDING: The changes to the process will have no transportation impact to the City transportation facility.

FINDING: The changes to the development requirements regarding the Trip Budget Overlay Zone are specifically designed to protect the function, capacity, and level of service of a State facility.

FINDING: The proposed amendments comply with Sections 4.7.3 and 4.7.6 of the Phoenix Development Code.

III. RECOMMENDATION: Staff recommends that the Planning Commission review the amendments to Chapter 4 of the Phoenix Development Code and the Phoenix Municipal Code, take testimony and direct Staff on a recommendation to City Council.

EXHIBIT B
CHAPTERS 4.1.4, 4.1.6, 4.2.5, 4.4.5, 4.7.2 AND 4.7.3 OF THE CITY OF PHOENIX LAND DEVELOPMENT CODE (PLCD), AS AMENDED BY ORDINANCE _____ ON JULY 21, 2014, SHALL READ AS FOLLOWS:

4.1.4 - Type II Procedure (Administrative)

A. Pre-Application. A pre-application conference is recommended for Type II applications. Pre-application conference requirements and procedures are in Chapter 4.1.7 – General Provisions.

B. Scope of appeal. The appeal shall be a de novo hearing and shall be the initial evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals.

C. Application requirements

1. Application Forms. Type II applications shall be made on forms provided by the Planning Department;
2. Submittal Information. The application shall:
 - a. Include the information requested on the application form;
 - b. Be filed with two copies of a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making;
 - c. Be accompanied by the required fee;
 - d. Include two sets of mailing labels for all real property owners of record who will receive a notice of the application as required in Chapter 4.1.4 – Type II Procedure (Administrative), Section C. The records of the Jackson County Department of Assessment and Taxation are the official records for determining ownership. The applicant shall demonstrate that the most current assessment records have been used to produce the notice list;
 - e. Include an impact study for all land division applications. The impact study shall quantify/assess the effect of the development on public facilities and services. The study shall address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water system, the sewer system, and the noise impacts of the development. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users. In situations where this Code requires the dedication of real property to the City, the applicant shall either specifically agree to the dedication requirement, or provide evidence that shows that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

D. Notice of Application for Type II Administrative Decision

1. Before making a Type II Administrative Decision, the Planning Department shall provide noticing in the following forms:
 - a. By mail, all owners of record of real property within 200 feet of the subject site;
 - b. Any person who submits a written request to receive a notice; and

- c. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies, as appropriate, for review of the application.
2. The purpose of the notice is to give nearby property owners and other interested people the opportunity to submit written comments about the application, before the Type II decision is made. The goal of this notice is to invite people to participate early in the decision-making process;
3. Notice of a pending Type II Administrative Decision shall:
 - a. Provide a 14-day period for submitting written comments before a decision is made on the permit;
 - b. List the relevant approval criteria by name and number of code sections;
 - c. State the place, date and time the comments are due, and the person to whom the comments should be addressed;
 - d. Include the name and telephone number of a contact person regarding the Administrative Decision;
 - e. Identify the specific permits or approvals requested;
 - f. Describe the street address or other easily understandable reference to the location of the site;
 - g. State that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence;
 - h. State that all evidence relied upon by the Planning Director to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City;
 - i. State that after the comment period closes, the Planning Director shall issue a Type II Administrative Decision. The decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;
 - j. Contain the following notice: "Notice to mortgagee, lien holder, vendor, or seller: The City of Phoenix Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

E. Administrative Decision Requirements. The Planning Director shall make Type II written decisions addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the Planning Director shall approve, approve with conditions, or deny the requested permit or action.

F. Public Hearing Option. Applicant may request a public hearing with the Planning Commission in lieu of administrative review. The City will charge a fee for a Type III Procedure if the applicant requests a public hearing.

G. Notice of Decision

1. Within five days after the Planning Director signs the decision, a Notice of Decision shall sent by mail to:
 - a. All property owners of record within 100 feet of the site;

- b. The applicant and all owners or contract purchasers of record of the site that is the subject of the application;
 - c. Any person who submits a written request to receive notice, or provides comments during the application review period;
 - d. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies that were notified or provided comments during the application review period.
 - e. Any neighborhood or community organization recognized by the City whose boundaries include the site.
2. The Planning Department shall cause an affidavit of mailing and posting of the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and posted, and shall demonstrate that the notice was mailed to the people and within the time required by law.
 3. The Type II Notice of Decision shall contain:
 - a. A description of the applicant's proposal and the use or uses authorized by the City's decision on the proposal ;
 - b. The address or other geographic description of the property proposed for development;
 - c. The name of the planning official to be contacted and the telephone number where additional information on the decision may be obtained.
 - d. A statement that a copy of the application and decision, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at Phoenix City Hall at no cost and that copies shall be provided at a reasonable cost;
 - e. A statement that the decision will not become final until the period for filing a local appeal has expired and a statement that the person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830;
 - f. A statement that all persons entitled to notice or who are otherwise adversely affected or aggrieved by the decision may appeal the decision;
 - g. A statement briefly explaining how an appeal can be filed, the deadline for filing an appeal, and where further information can be obtained concerning the appeal process; and

H. Final decision and effective date. A Type II administrative decision is final for purposes of appeal, when it is mailed by the City. A Type II administrative decision is effective on the day after the appeal period expires. If an appeal is filed, the decision is effective when the appeal is decided.

I. Appeal. A Type II administrative decision may be appealed to the Planning Commission as follows:

1. The following people have legal standing to appeal a Type II Administrative Decision:
 - a. The applicant;
 - b. Any person who was mailed written notice of the Type II administrative decision;
 - c. Any other person who participated in the proceeding by submitting written comments.

2. Appeal procedure.

- a. Notice of appeal. Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type II Administrative Decision by filing a Notice of Appeal according to the following procedures:
 - (1) A Notice of Appeal shall be filed with the Planning Department within 14 days of the date the Notice of Decision was mailed;
 - (2) 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;
 - (d) Filing fee.
 - (3) The amount of the filing fee shall be established by the City. The maximum fee for an initial hearing shall be the City's cost for preparing and for conducting the hearing or the statutory maximum, whichever is less.
- b. Appeal procedures. Type III notice and hearing procedures shall be used for all Type II Administrative Appeals, as provided in Sections 4.1.5 – Type III Procedure (Quasi-Judicial), Sections C through G;

J. Appeal to City Council. The decision of the Planning Commission regarding an appeal of a Type II Administrative Decision is the final decision of the City unless appealed to City Council. An appeal to City Council shall follow the same notification and hearing procedures as for the Planning Commission appeal.

4.1.6 – Type IV Procedure (Legislative)

A. Pre-Application conference. A pre-application conference is required for all Type IV applications. The requirements and procedures for a pre-application conference are described in Chapter 4.1.7 – General Provisions. Section C.

B. Timing of requests. The City Planner shall not review non-City sponsored or State required proposed Type IV actions more than five times annually, based on a City Council Resolution approved schedule for such actions. Legislative requests are not subject to the 120-day review under ORS 227.178.

C. Application requirements

1. Application forms. Type IV applications shall be made on forms provided by the Planning Department;
2. Submittal Information. The application shall contain:
 - a. The information requested on the application form;
 - b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
 - c. The required fee; and
 - d. Findings or a narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.
 - e. Mailing labels.

D. Notice of hearing

1. 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.
2. Notification requirements. Notice of public hearings for the request shall be given by the Planning Department in the following manner:
 - a. At least 35 days before the date of the first public hearing on an ordinance that proposed to amend the Comprehensive Plan or any element thereof, or to adopt an ordinance that proposed to rezone property or to amend the Phoenix Land Development Code, a notice shall be sent to the Department of Land Conservation and Development (DLCD), in accordance with State law (ORS 197).
 - b. At least 20 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:
 - (1) Each owner whose property would be rezoned in order to implement the ordinance (i.e., owners of property subject to a Comprehensive Plan amendment shall be notified if a zone change would be required to implement the proposed comprehensive plan amendment);
 - (2) Any affected governmental agency;
 - (3) Recognized neighborhood groups or associations affected by the ordinance;
 - (4) Any person who requests notice in writing; and
 - (5) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.

- c. At least 10 days before a scheduled City Council public hearing, public notices shall be published on the City of Phoenix website, City Hall, and other locations as appropriate.
 - d. The Planning Department shall file an affidavit of mailing or public notice in the record as provided in Subsection a. and b.
 - e. Notifications for annexations shall follow the provisions of this Chapter, except as requirement for local government boundary commissions (ORS 199).
3. Content of notices. The notices shall include the following information:
- a. The number and title of the file containing the application, and the address and telephone number of the Planning Office where additional information about the application can be obtained;
 - b. A description of the location of the proposal reasonably calculated to give notice of the location of the geographic area;
 - c. A description of the proposal in enough detail for people to determine that a change is proposed, and the place where all relevant materials and information may be obtained or reviewed;
 - d. The time, place, and date of the public hearing; a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the Council and available at City Hall (See subsection E below); and
 - e. Each notice required by Section D shall contain the following statement: “Notice to mortgagee, lien holder, vendor, or seller: The City of Phoenix Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser.”
4. Failure to receive notice. The failure of any person to receive notice shall not invalidate the action, providing:
- a. Personal notice is deemed given where the notice is deposited with the United States Postal Service;
 - b. Published notice is deemed given on the date it is published.

E. Hearing Process and Procedure

- 1. Unless otherwise provided in the rules of procedure adopted by the City Council:
 - a. The presiding officer of the Planning Commission and of the City Council shall have the authority to:
 - (1) Regulate the course, sequence, and decorum of the hearing;
 - (2) Direct procedural requirements or similar matters; and
 - (3) Impose reasonable time limits for oral presentations.
 - b. No person shall address the Commission or the Council without:
 - (1) Receiving recognition from the presiding officer; and
 - (2) Stating their full name and residence address.
 - c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
- 2. Unless otherwise provided in the rules of procedures adopted by the Council, the presiding officer of the Commission and of the Council, shall conduct the hearing as follows:

- a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the City Council or the final decision of the Council;
- b. The Planning Director's report and other applicable staff reports shall be presented;
- c. The public shall be invited to testify;
- d. The public hearing may be continued to allow additional testimony or it may be closed; and
- e. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.

F. Continuation of the Public Hearing. The Planning Commission or the 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.

G. Decision-Making Considerations. The recommendation by the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:

1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197 (for comprehensive plan amendments only);
2. Comments from any applicable federal or state agencies regarding applicable statutes or regulations;
3. Any applicable intergovernmental agreements; and
4. Any applicable comprehensive plan policies and provisions of this Code that implement the comprehensive plan. Compliance with Chapter 4.7 – Land Use District Map and Text Amendments shall be required for Comprehensive Plan Amendments, and Land Use District Map and Text Amendments.

H. Approval Process and Authority

1. The Planning Commission shall:
After notice and a public hearing, vote on and prepare a recommendation to the City Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative.
2. If the Planning Commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal, within 30 days of its first public hearing on the proposed change, the Planning Director shall:
 - a. Report the failure together with the proposed change to the City Council; and
 - b. Provide notice and put the matter on the City Council's agenda, a public hearing to be held, and a decision to be made by the Council. No further action shall be taken by the Commission.
3. The City Council shall:
 - 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; and
- c. Act by ordinance, which shall be signed by the Mayor after the Council's adoption of the ordinance.

I. Vote Required for a Legislative Change

1. A vote by a majority of the qualified voting members of the Planning Commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial, or adoption of an alternative.
2. A vote by a majority of the qualified members of the City Council present is required to decide any motion made on the proposal.

J. Notice of Decision. Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five business days after the City Council decision is filed with the City Official. The City shall also provide notice to all persons as required by other applicable laws.

K. 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.

L. Record of the Public Hearing

1. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record;
2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;
3. The official record shall include:
 - a. All materials considered by the hearings body;
 - b. All materials submitted by the Planning Director to the hearings body regarding the application;
 - c. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;
 - d. The final ordinance;
 - e. All correspondence; and
 - f. A copy of the notices that were given as required by this Chapter.

Chapter 4.2 - Development Review and Site Plan Review

4.2.5 – Site Design Review Application Submission Requirements

All of the following information is required for Site Design Review application submittal:

A. General Submission Requirements. The applicant shall submit an application containing all of the general information required by Chapter 4.1.4 – Type II Procedure (Administrative) or Chapter 4.1.5 – Type III Procedure (Quasi-Judicial), as applicable. The type of application shall be determined in accordance with subsection A of 4.2.4 – Site Design Review Application Review Procedure. Site Design Review requires a pre-application conference in accordance with Chapter 4.1.7 – General Provisions, Section C.

B. Site Design Review Information. An application for Site Design Review shall include the following information:

1. A map showing the applicant's entire property and the surrounding property to a distance sufficient to determine the location of the development in the City, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions, and gross area shall be identified;
2. Proposed site plan. The site plan shall contain the following information, if applicable:
 - a. North arrow and scale
 - b. The proposed development site, including boundaries, dimensions, and gross area;
 - c. The name and address of project designer, engineer, surveyor, and/or planner, if applicable.
 - d. The location, size, and species of trees having a 2" diameter that are proposed to be removed or modified by the development;
 - e. The location and dimensions of all proposed public and private streets, drives, rights-of-way, and easements;
 - f. The location and dimensions of all existing and proposed structures, utilities, pavement, and other improvements on the site. Setback dimensions for all existing and proposed buildings shall be provided on the site plan;
 - g. The location and dimensions of entrances and exits to the site for vehicular, pedestrian, and bicycle access;
 - h. The location and dimensions of all parking and vehicle circulation areas (show striping for parking stalls and wheel stops, as applicable);
 - i. Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails;
 - j. Loading and service areas for waste disposal, loading, and delivery;
 - k. Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements;
 - l. Location, type, and height of outdoor lighting;
 - m. Location of mail boxes, if known;
 - n. Location of bus stops and other public or private transportation facilities.
 - o. Locations, sizes, and types of signs.
 - p. Location of trash enclosures or other waste storage areas.
 - q. Identification of slopes greater than 35 percent.

- r. Potential natural hazard areas, including any areas identified as subject to a 100-year flood, areas subject to high water table, and areas mapped by the city, county, or state as having a potential for geologic hazards;
 - s. Resource areas, including marsh and wetland areas, streams, wildlife habitat identified by the City or any natural resource regulatory agencies as requiring protection;
 - t. Site features, including existing structures, pavement, drainage ways, canals and ditches;
 - u. Locally or federally designated historic and cultural resources on the site and adjacent parcels or lots;
 - v. Other information determined by the Planning Director to be pertinent. The City may require studies or exhibits prepared by qualified professionals to address specific site features (e.g., traffic, environmental features, natural hazards, etc.), in conformance with this Code.
3. Architectural drawings. Architectural drawings shall be submitted showing:
 - a. Building elevations with building height and width dimensions;
 - b. Building materials, color, and type.
 - c. The name of the architect or designer.
 4. Preliminary grading plan. A preliminary grading plan prepared by a registered engineer shall be required for developments which would result in the grading (cut or fill) of 1,000 cubic yards or greater. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed. Surface water detention and treatment plans may also be required, in accordance with Chapter 3.8 – Storm and Surface Water Management Standards.
 5. Landscape plan. A landscape plan is required and shall show the following:
 - a. The location and height of existing and proposed fences and other buffering or screening materials;
 - b. The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;
 - c. The location, size, and species of the existing and proposed plant materials (at time of planting);
 - d. Existing and proposed building and pavement outlines;
 - e. Specifications for soil at time of planting, irrigation plans, and anticipated planting schedule.
 - f. Other information as deemed appropriate by the Planning Director. An arborist's report may be required for sites with mature trees that are protected under Chapter 3.3 – Landscaping, Street Trees, Fences, and Walls.
 6. Sign drawings shall be required in conformance with Chapter 3.6 – Signs.
 7. Copies of all existing and proposed restrictions or covenants.
 8. Letter or narrative report documenting compliance with the applicable approval criteria contained in Chapter 4.2.6 – Site Design Approval Criteria.

9. Uses that are likely to generate significant levels of vehicle traffic (e.g., due to shipping, receiving, and/or customer traffic) shall require a Conditional Use Permit, in accordance with Chapter 4.4 – Conditional Use Permits. “Significant traffic” means that the average number of daily trips, or the average number of peak hour trips, on any existing street would increase by 15 percent or greater as a result of the development. The city may require a traffic impact analysis prepared by a qualified professional prior to deeming a land use application complete, and determining whether the proposed use requires conditional use approval. Applicants may be required to provide a traffic analysis for review by Oregon Department of Transportation (ODOT) for developments that increase traffic on state highways. The Conditional Use Permit shall include appropriate transportation improvement requirements, as identified by the traffic analysis and/or ODOT, in conformance with Chapter 3.5.2 – Transportation Standards.

C. Site Design Review Additional Information for Overlay Zones. An application for Site Design Review for a property located in an overlay zone shall include the following information:

1. For properties within the Trip Budget Overlay Zone (Chapter 2.9), submit a traffic analysis for review by Oregon Department of Transportation (ODOT).

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Chapter 4.4 – Conditional Use Permits

4.4.5 – Additional Development Standards for Conditional Use Types

- A. Concurrent Variance Applications.** A Conditional Use Permit shall not grant Variances to regulations otherwise prescribed by the Development Code. Variance applications may be filed in conjunction with the conditional use application and both applications may be reviewed at the same hearing.
- B. Additional development standards.** Development standards for specific uses are contained in Chapter 2 – Land Use Districts.
- C. Traffic studies.** Traffic studies may be required for any applications that the Planning Department or the Planning Commission deems necessary.
1. For properties within the Trip Budget Overlay Zone (Chapter 2.9), a traffic analysis must be submitted to Oregon Department of Transportation (ODOT) and approved by ODOT.
- D.** In the case of a use existing prior to the effective date of this ordinance, any change of use expansion of lot area or expansion of structure shall conform with the requirements for conditional use.

DRAFT

4.7 – Land Use District Map and Text Amendments

4.7.2 Legislative Amendments

A. Legislative Amendments. Legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to the criteria listed in 4.7.2.B and to Chapter 4.7.6 – Transportation Planning Rule Compliance, as applicable.

B. Criteria for Legislative Amendments.

1. The text of this Development Code may be recommended for amendment and amended provided that all the following criteria are met:
 - a. The proposed amendment is consistent with the purpose of the subject section and article.
 - b. The proposed amendment is consistent with other Provisions of this Code.
 - c. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, and most effectively carries out those goals and policies of all alternatives considered.

DRAFT

4.7.3 – Quasi-Judicial Amendments

A. Quasi-Judicial Amendments. Quasi-judicial amendments are those that involve the application of adopted policy to a specific development application. Quasi-judicial map amendments shall follow the Type III Procedure as governed by Chapter 4.1.5 – Type III Procedure (Quasi-Judicial), using standards of approval in Subsection “B” below. The approval authority shall be as follows:

1. The Planning Commission shall decide land use district map changes that do not involve comprehensive plan map amendments;
2. The Planning Commission shall make a recommendation to the City Council on an application for a comprehensive plan map amendment. The City Council shall decide such applications; and
3. The Planning Commission shall make a recommendation to the City Council on a land-use district change application that also involves a comprehensive plan map amendment application. The City Council shall decide both applications.

B. Criteria for Quasi-Judicial Amendments. A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

1. Demonstration of compliance with all applicable comprehensive plan policies and map designations. Where this criterion cannot be met, a comprehensive plan amendment shall be a prerequisite to approval;
2. Demonstration of compliance with all applicable standards and criteria of this Code, and other applicable implementing ordinances;
3. Evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or land use district map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 – Transportation Planning Rule Compliance, as applicable.



Date of Notice: June 30, 2014

File Number: LDC: 14-07

NOTICE OF PUBLIC HEARING

Notice is hereby given that the City Council of the City of Phoenix will hold a Public Hearing on July 21, 2014 at 6:30 pm at Phoenix Public Works at 1000 S "B" Street, Phoenix, Oregon to consider the following request:

Request: AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE
REGARDING PROCEDURES AND AMENDING CHAPTER 4

Applicant: City of Phoenix

Date of City Council hearing: July 21, 2014

Project information: In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to allow for the implementation of the Trip Budget Overlay Zone that was adopted by the City.

The Trip Budget Overlay Zone was adopted to protect the capacity and function of the area around the Fern Valley Road freeway exit. However, the requirement to comply with this zone was not included in the process for development. This corrects that oversight.

Legislative Review: The purpose of the Legislative review is to ensure compliance with the Comprehensive Plan of the City of Phoenix. A public hearing before the Planning Commission is required to be followed by a public hearing before Phoenix City Council.

Approval Criteria: After holding and closing a public hearing, the City Council may vote to approve, modify, or deny the permit. Action may be tabled or referred to staff or other body for further review. Any final action will be based on criteria listed and referenced in LDC Section 4.7.3.B. Contact Planning and Building Department to explain or provide the criteria; or visit the Planning and Building Department on the City of Phoenix home page at www.phoenixoregon.net (click on Planning and Building link on left side of homepage), and click on the Phoenix Development Code link.

Public Participation: We encourage the public to comment on this matter either in writing or orally at the Public Hearing. Mailed comments should be sent to the City of Phoenix, Planning and Building Department, P.O. Box 330, Phoenix, OR. The application and related information are available for public review at the

Planning and Building Department at City Hall
112 W. 2nd Street
Phoenix, Oregon 97535

Office hours are 8 a.m. to noon and 1 p.m. to 5 p.m., Monday through Friday. The contact person is Matt Brinkley, Planning Director at 541-535-2050 extension 316.

Date of Notice: June 30, 2014

File Number: LDC: 14-07

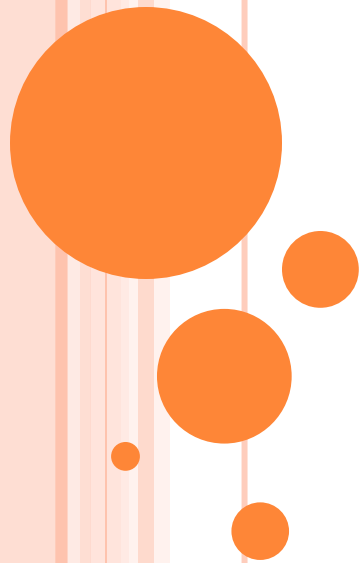
CITY COUNCIL PUBLIC HEARING
MONDAY JULY 21, 2014 – 6.30 PM
AT PUBLIC WORKS, 1000 S “B” STREET

Failure to raise an issue in person, or in writing either before or at the hearing, or failure to provide statements or evidence sufficient to afford the City Council an opportunity to respond to an issue would mean that an appeal based on that issue could not be filed with the State Land Use Board of Appeals (see Land Development Code 4.1.5.C.2.e).

Staff Report: A staff report has been prepared and available for review; a copy may be obtained at 25 cents per page or emailed upon request.

Notice to mortgagee, lien holder, vendor, or seller: If you receive this notice, it shall be promptly forwarded to the purchaser.

**AMENDMENT TO LAND DEVELOPMENT
CODE RE:
PROCEDURES, AMENDING CHAPTER 4
(LDC 14-06)**



**Planning Commission hearing
May 12, 2014**

PROCESS OF AMENDMENT

- Workshop with Planning Commission
- Notify DLCD
- Notify the Public of Planning Commission hearing
- **Public Hearing with Planning Commission**
- Notify the Public of Council hearing
- Public Hearing with Council
- Notify DLCD of any adopted changes



PURPOSE OF AMENDMENT

- Eliminate requirements for pre-application for Type II applications
- Change procedures to meet State Law
- Add requirements to meet Trip Budget Overlay Zone requirements
- Add criteria for legislative changes



COMPARISON OF CURRENT AND PROPOSED

Current

- Preapplication conference is required for all Type II procedures

Proposed

- Change notice requirements for Type II to recommend a preapplication conference.



COMPARISON OF CURRENT AND PROPOSED

Current

- Type IV notice requirements are outdated

Proposed

- Change notice requirements for Type IV requirements to meet State Law



COMPARISON OF CURRENT AND PROPOSED

Current

- No additional information required for application in Trip Budget Overlay Zone

Proposed

- Properties within the Trip Budget Overlay Zone shall submit a traffic analysis report for review by ODOT



COMPARISON OF CURRENT AND PROPOSED

Current

- Criteria for legislative change and quasi judicial are combined in section 4.7

Proposed

- Separates the processes and criteria and creates criteria for legislative changes.



IMPACT OF AMENDMENT

- Update and clarify outdated Code sections

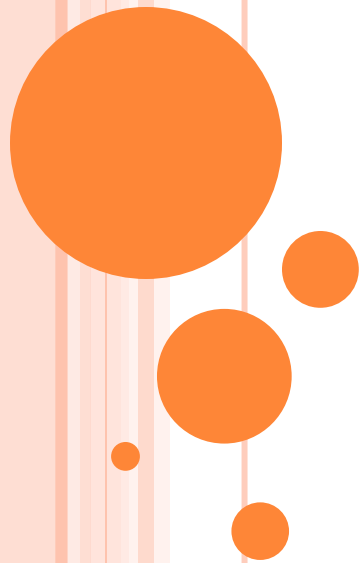


ACTION TONIGHT AND NEXT STEPS

- Planning Commission listens to Staff report
- Planning Commission listens to public testimony.
- Planning Commission considers the proposal and votes to
 - 1) recommend approval;
 - 2) amend and recommend approval;
 - 3) postpone; or
 - 4) recommend denial.
- Council considers recommendation and makes a decision



**AMENDMENT TO LAND DEVELOPMENT
CODE RE:
PROCEDURES, AMENDING CHAPTER 4
(LDC 14-06)**



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IMPACT OF AMENDMENT

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ACTION TONIGHT AND NEXT STEPS

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- Planning Commission considers the proposal and votes to
 - 1) recommend approval;
 - 2) amend and recommend approval;
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 - 4) recommend denial.
- Council considers recommendation and makes a decision





Date of Notice: June 30, 2014

File Number: LDC: 14-07

NOTICE OF PUBLIC HEARING

Notice is hereby given that the City Council of the City of Phoenix will hold a Public Hearing on July 21, 2014 at 6:30 pm at Phoenix Public Works at 1000 S "B" Street, Phoenix, Oregon to consider the following request:

Request: AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE
REGARDING PROCEDURES AND AMENDING CHAPTER 4

Applicant: City of Phoenix

Date of City Council hearing: July 21, 2014

Project information: In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to allow for the implementation of the Trip Budget Overlay Zone that was adopted by the City.

The Trip Budget Overlay Zone was adopted to protect the capacity and function of the area around the Fern Valley Road freeway exit. However, the requirement to comply with this zone was not included in the process for development. This corrects that oversight.

Legislative Review: The purpose of the Legislative review is to ensure compliance with the Comprehensive Plan of the City of Phoenix. A public hearing before the Planning Commission is required to be followed by a public hearing before Phoenix City Council.

Approval Criteria: After holding and closing a public hearing, the City Council may vote to approve, modify, or deny the permit. Action may be tabled or referred to staff or other body for further review. Any final action will be based on criteria listed and referenced in LDC Section 4.7.3.B. Contact Planning and Building Department to explain or provide the criteria; or visit the Planning and Building Department on the City of Phoenix home page at www.phoenixoregon.net (click on Planning and Building link on left side of homepage), and click on the Phoenix Development Code link.

Public Participation: We encourage the public to comment on this matter either in writing or orally at the Public Hearing. Mailed comments should be sent to the City of Phoenix, Planning and Building Department, P.O. Box 330, Phoenix, OR. The application and related information are available for public review at the

Planning and Building Department at City Hall
112 W. 2nd Street
Phoenix, Oregon 97535

Office hours are 8 a.m. to noon and 1 p.m. to 5 p.m., Monday through Friday. The contact person is Matt Brinkley, Planning Director at 541-535-2050 extension 316.

Date of Notice: June 30, 2014

File Number: LDC: 14-07

CITY COUNCIL PUBLIC HEARING
MONDAY JULY 21, 2014 – 6.30 PM
AT PUBLIC WORKS, 1000 S “B” STREET

Failure to raise an issue in person, or in writing either before or at the hearing, or failure to provide statements or evidence sufficient to afford the City Council an opportunity to respond to an issue would mean that an appeal based on that issue could not be filed with the State Land Use Board of Appeals (see Land Development Code 4.1.5.C.2.e).

Staff Report: A staff report has been prepared and available for review; a copy may be obtained at 25 cents per page or emailed upon request.

Notice to mortgagee, lien holder, vendor, or seller: If you receive this notice, it shall be promptly forwarded to the purchaser.

**CITY OF PHOENIX
PHOENIX, OREGON**

ORDINANCE NO. 954

**AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE,
CHAPTERS 4.1.4, 4.1.6, 4.2.5, 4.4.5, 4.7.2 AND 4.7.3.**

WHEREAS, changes to the Type II Procedure are consistent with the Comprehensive Plan, specifically the Economic Element, Goal 1, “To foster economic development through the retention, renewal, upgrading, expansion, and linkage of existing commercial and industrial business, and recruitment of new ones.”; and

WHEREAS, changes to the development requirements regarding the Trip Budget Overlay Zone are specifically designed to protect the function, capacity, and level of service of transportation infrastructure; and

WHEREAS, the City has provided notification to the Department of Land Conservation and Development as required by ORS 197 and the Phoenix Land Development Code; and

WHEREAS, the Planning Commission held a public hearing on May 12, 2014 and took any public testimony regarding the proposed changes; and

WHEREAS, the Planning Commission voted to recommend approval of the attached amendments to the City Council based upon the findings contained in the Staff Report number LDC 14-07; and

WHEREAS, the Public Hearing on July 21, 2014, was duly noticed and the public was given the opportunity to testify on the proposed changes; and

WHEREAS, the Land Development Code has an adopted procedure (Chapter 4.7) to amend the Land Development Code; and

WHEREAS, the Council, after considering the recommendation of the Planning Commission and staff, and public testimony received at this hearing, has decided to approve the proposed amendment to the Land Development Code in accordance with this procedure;

NOW THEREFORE, The City Council of the City of Phoenix **ORDAINS** as follows:

Section 1. The Findings for this amendment are included in the attached Staff Report for LDC: 14-07, Exhibit A.

Section 2: The Land Development Code Chapter 4 is amended as proposed in Exhibit B.

Section 3. Effective Date: This ordinance shall become effective 30 after adoption.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof on this 21st day of July, 2014.

Mayor

ATTEST:

City Manager/ Recorder

**CITY OF PHOENIX
PHOENIX, OREGON**

ORDINANCE NO. 954

**AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE,
CHAPTERS 4.1.4, 4.1.6, 4.2.5, 4.4.5, 4.7.2 AND 4.7.3.**

WHEREAS, changes to the Type II Procedure are consistent with the Comprehensive Plan, specifically the Economic Element, Goal 1, “To foster economic development through the retention, renewal, upgrading, expansion, and linkage of existing commercial and industrial business, and recruitment of new ones.”; and

WHEREAS, changes to the development requirements regarding the Trip Budget Overlay Zone are specifically designed to protect the function, capacity, and level of service of transportation infrastructure; and

WHEREAS, the City has provided notification to the Department of Land Conservation and Development as required by ORS 197 and the Phoenix Land Development Code; and

WHEREAS, the Planning Commission held a public hearing on May 12, 2014 and took any public testimony regarding the proposed changes; and

WHEREAS, the Planning Commission voted to recommend approval of the attached amendments to the City Council based upon the findings contained in the Staff Report number LDC 14-07; and

WHEREAS, the Public Hearing on July 21, 2014, was duly noticed and the public was given the opportunity to testify on the proposed changes; and

WHEREAS, the Land Development Code has an adopted procedure (Chapter 4.7) to amend the Land Development Code; and

WHEREAS, the Council, after considering the recommendation of the Planning Commission and staff, and public testimony received at this hearing, has decided to approve the proposed amendment to the Land Development Code in accordance with this procedure;

NOW THEREFORE, The City Council of the City of Phoenix **ORDAINS** as follows:

Section 1. The Findings for this amendment are included in the attached Staff Report for LDC: 14-07, Exhibit A.

Section 2: The Land Development Code Chapter 4 is amended as proposed in Exhibit B.

Section 3. Effective Date: This ordinance shall become effective 30 after adoption.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof on this 21st day of July, 2014.

Mayor 

ATTEST:

City Manager/ Recorder 



PO Box 330 • Phoenix, OR 97535

PLANNING DEPARTMENT

(541) 535-2050 • FAX (541) 535-5769

**TITLE: AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE
REGARDING PROCEDURES, AMENDING CHAPTER 4**

FILE NUMBER: LDC:14-07

APPLICANT: City of Phoenix

STAFF REPORT: Available April 15, 2014 at the City of Phoenix, 112 W. 2nd Street (M-F, 8:00 a.m. to 5:00 p.m.) or on the website (www.phoenixoregon.net). For more information, call City of Phoenix, Planning Office, 541-535-2050

DATE OF PLANNING COMMISSION HEARING: May 12, 2014

PROJECT INFORMATION: In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to 1.) Eliminate requirements for pre-application for Type II applications; 2.) Change procedures to meet State law; and 3.) Add requirements to meet Trip Budget Overlay Zone requirements.

I. PROPOSED AMENDMENTS: The proposed amendments are:

4.1 Types of Applications and Review Procedures

4.1.4 - Type II Procedure (Administrative)

A. Pre-Application. A pre-application conference is ~~required~~ *recommended* for Type II applications. Pre-application conference requirements and procedures are in Chapter 4.1.7 – General Provisions.

4.1.6 – Type IV Procedure (Legislative)

A. Pre-Application Conference

B. Timing of requests. The City Planner shall not review non-City sponsored or State required proposed Type IV actions more than five times annually, based on a City Council Resolution approved schedule for such actions. *Legislative requests are not subject to the 120-day review under ORS 227.178.*

C. Application requirements

D. Notice of hearing

1. 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.
2. Notification requirements. Notice of public hearings for the request shall be given by the Planning Department in the following manner:
 - a. At least 35 days before the date of the first public hearing on an ordinance that proposed to amend the Comprehensive Plan or any element thereof, or to adopt an ordinance that proposed to rezone property or to amend the Phoenix Land Development Code, a notice shall be sent to the Department of Land Conservation and Development (DLCD), in accordance with State law (ORS 197).
 - b. At least 20 days, but not more than 40 days.
 - c. At least 10 days before scheduled City Council public hearing, public notices shall be published on the City of Phoenix website.
 - d. The Planning Department shall file an affidavit of mailing or public notice in record as provided in Subsection a. and b.
 - ~~b. 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 new evidence will be received.~~
 - e. Notifications for annexations shall follow the provisions of this Chapter, except as requirement for local government boundary commissions (ORS 199).

Chapter 4.2 - Development Review and Site Plan Review

4.2.5 – Site Design Review Application Submission Requirements

All of the following information is required for Site Design Review application submittal:

- A. **General Submission Requirements.** The applicant shall submit an application containing all of the general information required by Chapter 4.1.4 – Type II Procedure (Administrative) or Chapter 4.1.5 – Type III Procedure (Quasi-Judicial), as applicable. The type of application shall be determined in accordance with Subsection A of 4.2.4 – Site Design Review Application Review Procedure. Site Design Review requires a pre-application conference in accordance with Chapter 4.1.7 – General Provisions, Section C.
- B. **Site Design Review Information.** An application for Site Design Review shall include the following information: (not shown are the items 1 through 9)
- C. Site Design Review Additional Information for Overlay Zones. An application for Site Design Review for a property located in an overlay zone shall include the following information:

1. *For properties within the Trip Budget Overlay Zone (Chapter 2.9), submit a traffic analysis for review by Oregon Department of Transportation (ODOT).*

Chapter 4.4 – Conditional Use Permits

4.4.5 – Additional Development Standards for Conditional Use Types

- A. General Submission Requirements.
- B. Site Design Review Information.
- C. **Traffic studies.** Traffic studies may be required for any applications that the Planning Department or the Planning Commission deems necessary.

1. *For properties within the Trip Budget Overlay Zone (Chapter 2.9), a traffic analysis must be submitted to Oregon Department of Transportation (ODOT) and approved by ODOT.*

4.7 – Land Use District Map and Text Amendments

4.7.2 Legislative Amendments

Legislative Amendments. Legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to *the criteria listed in 4.7.2.B and to* Chapter 4.7.6 – Transportation Planning Rule Compliance, as applicable.

A. Criteria for Legislative Amendments.

1. *The text of this Development Code may be recommended for amendment and amended provided that all the following criteria are met:*
 - (a.) The proposed amendment is consistent with the purpose of the subject section and article.*
 - (b.) The proposed amendment is consistent with other Provisions of this Code.*
 - (c.) The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, and most effectively carries out those goals and policies of all alternatives considered.*

4.7.3 – Quasi-Judicial Amendments

4.7.3 – Quasi-Judicial Amendments. Quasi-judicial amendments are those that involve the application of adopted policy to a specific development application ~~or Code revision~~. Quasi-judicial map amendments shall follow the Type III Procedure as governed by Chapter 4.1.5 –

Type III Procedure (Quasi-Judicial), using standards of approval in Subsection “B” below. The approval authority shall be as follows:

- 1.
- 2.
- 3.

II. COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS: Amendments to the Phoenix Land Development Code must comply with Section 4.7.2 of the Phoenix Land Development Code, which states that legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to Section 4.7.2.B and 4.7.6, as applicable.

Section 4.7.2 – Demonstration of compliance with Section 4.7.2

FINDING: This proposed amendment will be reviewed by the Planning Commission at a noticed public hearing. Their recommendation will be presented to the Phoenix City Council at a noticed public hearing. The hearing by the Planning Commission was noticed by posting the information on the City of Phoenix website beginning March 25, 2014.

FINDING: The Department of Land Conservation and Development was notified with an application mailed February 24, 2014 and a Staff report email sent on March 25, 2014.

FINDING: A copy of all notification is available at the City Planning Office.

Section 4.7.3.B.1 – Demonstration of compliance with all applicable Comprehensive Plan policies and map designations. Where this criterion cannot be met, a Comprehensive Plan amendment shall be a prerequisite to approval.

FINDING: The changes to the Type II Procedure with Comprehensive Plan policies. Specifically, Economic Element, Goal 1, “To foster economic development through the retention, renewal, upgrading, expansion, and linkage of existing commercial and industrial business, and recruitment of new ones.” The change will eliminate a step that is unnecessary and expensive when the proposal is simple.

FINDING: The changes to the notice of the State are in compliance with Comprehensive Plan policies as they will put the City in compliance with current State law.

Section 4.7.3.B.2 – Demonstration of compliance with all applicable standards and criteria of this Code and other applicable implementing ordinances.

FINDING: The proposed changes do not impact other applicable standards.

Section 4.7.3.B.3 – Evidence of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or the Land Use Map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 – Transportation Planning Rule Compliance, if applicable.

FINDING: The proposed change is not based on a mistake in the Comprehensive Plan or the Land Use Map. The proposed change does not impact transportation needs in the City.

FINDING: The changes to the Site Design Review and Conditional Use Permit to review submissions will correct an error in the Development Code (sections 4.2.5 and 4.4.5) which did not link the adoption of a Trip Budget Overlay Zone to requirements of development.

Section 4.7.6 – Transportation Planning Rule, Subsection B, requires that amendments to land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.

FINDING: The changes to the process will have no transportation impact to the City transportation facility.

FINDING: The changes to the development requirements regarding the Trip Budget Overlay Zone are specifically designed to protect the function, capacity, and level of service of a State facility.

FINDING: The proposed amendments comply with Sections 4.7.3 and 4.7.6 of the Phoenix Development Code.

III. RECOMMENDATION: Staff recommends that the Planning Commission review the amendments to Chapter 4 of the Phoenix Development Code and the Phoenix Municipal Code, take testimony and direct Staff on a recommendation to City Council.

EXHIBIT B
CHAPTERS 4.1.4, 4.1.6, 4.2.5, 4.4.5, 4.7.2 AND 4.7.3 OF THE CITY OF PHOENIX LAND DEVELOPMENT CODE (PLCD), AS AMENDED BY ORDINANCE 954 ON JULY 21, 2014, SHALL READ AS FOLLOWS:

4.1.4 - Type II Procedure (Administrative)

A. Pre-Application. A pre-application conference is recommended for Type II applications. Pre-application conference requirements and procedures are in Chapter 4.1.7 – General Provisions.

B. Scope of appeal. The appeal shall be a de novo hearing and shall be the initial evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals.

C. Application requirements

1. Application Forms. Type II applications shall be made on forms provided by the Planning Department;
2. Submittal Information. The application shall:
 - a. Include the information requested on the application form;
 - b. Be filed with two copies of a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making;
 - c. Be accompanied by the required fee;
 - d. Include two sets of mailing labels for all real property owners of record who will receive a notice of the application as required in Chapter 4.1.4 – Type II Procedure (Administrative), Section C. The records of the Jackson County Department of Assessment and Taxation are the official records for determining ownership. The applicant shall demonstrate that the most current assessment records have been used to produce the notice list;
 - e. Include an impact study for all land division applications. The impact study shall quantify/assess the effect of the development on public facilities and services. The study shall address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water system, the sewer system, and the noise impacts of the development. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users. In situations where this Code requires the dedication of real property to the City, the applicant shall either specifically agree to the dedication requirement, or provide evidence that shows that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

D. Notice of Application for Type II Administrative Decision

1. Before making a Type II Administrative Decision, the Planning Department shall provide noticing in the following forms:
 - a. By mail, all owners of record of real property within 200 feet of the subject site;
 - b. Any person who submits a written request to receive a notice; and

- c. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies, as appropriate, for review of the application.
2. The purpose of the notice is to give nearby property owners and other interested people the opportunity to submit written comments about the application, before the Type II decision is made. The goal of this notice is to invite people to participate early in the decision-making process;
 3. Notice of a pending Type II Administrative Decision shall:
 - a. Provide a 14-day period for submitting written comments before a decision is made on the permit;
 - b. List the relevant approval criteria by name and number of code sections;
 - c. State the place, date and time the comments are due, and the person to whom the comments should be addressed;
 - d. Include the name and telephone number of a contact person regarding the Administrative Decision;
 - e. Identify the specific permits or approvals requested;
 - f. Describe the street address or other easily understandable reference to the location of the site;
 - g. State that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence;
 - h. State that all evidence relied upon by the Planning Director to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City;
 - i. State that after the comment period closes, the Planning Director shall issue a Type II Administrative Decision. The decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;
 - j. Contain the following notice: “Notice to mortgagee, lien holder, vendor, or seller: The City of Phoenix Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser.”

E. Administrative Decision Requirements. The Planning Director shall make Type II written decisions addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the Planning Director shall approve, approve with conditions, or deny the requested permit or action.

F. Public Hearing Option. Applicant may request a public hearing with the Planning Commission in lieu of administrative review. The City will charge a fee for a Type III Procedure if the applicant requests a public hearing.

G. Notice of Decision

1. Within five days after the Planning Director signs the decision, a Notice of Decision shall sent by mail to:
 - a. All property owners of record with in 100 feet of the site;

- b. The applicant and all owners or contract purchasers of record of the site that is the subject of the application;
 - c. Any person who submits a written request to receive notice, or provides comments during the application review period;
 - d. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies that were notified or provided comments during the application review period.
 - e. Any neighborhood or community organization recognized by the City whose boundaries include the site.
2. The Planning Department shall cause an affidavit of mailing and posting of the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and posted, and shall demonstrate that the notice was mailed to the people and within the time required by law.
3. The Type II Notice of Decision shall contain:
- a. A description of the applicant's proposal and the use or uses authorized by the City's decision on the proposal ;
 - b. The address or other geographic description of the property proposed for development;
 - c. The name of the planning official to be contacted and the telephone number where additional information on the decision may be obtained.
 - d. A statement that a copy of the application and decision, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at Phoenix City Hall at no cost and that copies shall be provided at a reasonable cost;
 - e. A statement that the decision will not become final until the period for filing a local appeal has expired and a statement that the person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830;
 - f. A statement that all persons entitled to notice or who are otherwise adversely affected or aggrieved by the decision may appeal the decision;
 - g. A statement briefly explaining how an appeal can be filed, the deadline for filing an appeal, and where further information can be obtained concerning the appeal process; and

H. Final decision and effective date. A Type II administrative decision is final for purposes of appeal, when it is mailed by the City. A Type II administrative decision is effective on the day after the appeal period expires. If an appeal is filed, the decision is effective when the appeal is decided.

I. Appeal. A Type II administrative decision may be appealed to the Planning Commission as follows:

- 1. The following people have legal standing to appeal a Type II Administrative Decision:
 - a. The applicant;
 - b. Any person who was mailed written notice of the Type II administrative decision;
 - c. Any other person who participated in the proceeding by submitting written comments.

2. Appeal procedure.
 - a. Notice of appeal. Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type II Administrative Decision by filing a Notice of Appeal according to the following procedures;
 - (1) A Notice of Appeal shall be filed with the Planning Department within 14 days of the date the Notice of Decision was mailed;
 - (2) 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;
 - (d) Filing fee.
 - (3) The amount of the filing fee shall be established by the City. The maximum fee for an initial hearing shall be the City's cost for preparing and for conducting the hearing or the statutory maximum, whichever is less.
 - b. Appeal procedures. Type III notice and hearing procedures shall be used for all Type II Administrative Appeals, as provided in Sections 4.1.5 – Type III Procedure (Quasi-Judicial), Sections C through G;

J. Appeal to City Council. The decision of the Planning Commission regarding an appeal of a Type II Administrative Decision is the final decision of the City unless appealed to City Council. An appeal to City Council shall follow the same notification and hearing procedures as for the Planning Commission appeal.

4.1.6 – Type IV Procedure (Legislative)

A. Pre-Application conference. A pre-application conference is required for all Type IV applications. The requirements and procedures for a pre-application conference are described in Chapter 4.1.7 – General Provisions. Section C.

B. Timing of requests. The City Planner shall not review non-City sponsored or State required proposed Type IV actions more than five times annually, based on a City Council Resolution approved schedule for such actions. Legislative requests are not subject to the 120-day review under ORS 227.178.

C. Application requirements

1. Application forms. Type IV applications shall be made on forms provided by the Planning Department;
2. Submittal Information. The application shall contain:
 - a. The information requested on the application form;
 - b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
 - c. The required fee; and
 - d. Findings or a narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.
 - e. Mailing labels.

D. Notice of hearing

1. 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.
2. Notification requirements. Notice of public hearings for the request shall be given by the Planning Department in the following manner:
 - a. At least 35 days before the date of the first public hearing on an ordinance that proposed to amend the Comprehensive Plan or any element thereof, or to adopt an ordinance that proposed to rezone property or to amend the Phoenix Land Development Code, a notice shall be sent to the Department of Land Conservation and Development (DLCD), in accordance with State law (ORS 197).
 - b. At least 20 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:
 - (1) Each owner whose property would be rezoned in order to implement the ordinance (i.e., owners of property subject to a Comprehensive Plan amendment shall be notified if a zone change would be required to implement the proposed comprehensive plan amendment);
 - (2) Any affected governmental agency;
 - (3) Recognized neighborhood groups or associations affected by the ordinance;
 - (4) Any person who requests notice in writing; and
 - (5) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.

- c. At least 10 days before a scheduled City Council public hearing, public notices shall be published on the City of Phoenix website, City Hall, and other locations as appropriate.
 - d. The Planning Department shall file an affidavit of mailing or public notice in the record as provided in Subsection a. and b.
 - e. Notifications for annexations shall follow the provisions of this Chapter, except as requirement for local government boundary commissions (ORS 199).
3. Content of notices. The notices shall include the following information:
- a. The number and title of the file containing the application, and the address and telephone number of the Planning Office where additional information about the application can be obtained;
 - b. A description of the location of the proposal reasonably calculated to give notice of the location of the geographic area;
 - c. A description of the proposal in enough detail for people to determine that a change is proposed, and the place where all relevant materials and information may be obtained or reviewed;
 - d. The time, place, and date of the public hearing; a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the Council and available at City Hall (See subsection E below); and
 - e. Each notice required by Section D shall contain the following statement: “Notice to mortgagee, lien holder, vendor, or seller: The City of Phoenix Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser.”
4. Failure to receive notice. The failure of any person to receive notice shall not invalidate the action, providing:
- a. Personal notice is deemed given where the notice is deposited with the United States Postal Service;
 - b. Published notice is deemed given on the date it is published.

E. Hearing Process and Procedure

- 1. Unless otherwise provided in the rules of procedure adopted by the City Council:
 - a. The presiding officer of the Planning Commission and of the City Council shall have the authority to:
 - (1) Regulate the course, sequence, and decorum of the hearing;
 - (2) Direct procedural requirements or similar matters; and
 - (3) Impose reasonable time limits for oral presentations.
 - b. No person shall address the Commission or the Council without:
 - (1) Receiving recognition from the presiding officer; and
 - (2) Stating their full name and residence address.
 - c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
- 2. Unless otherwise provided in the rules of procedures adopted by the Council, the presiding officer of the Commission and of the Council, shall conduct the hearing as follows:

- a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the City Council or the final decision of the Council;
- b. The Planning Director's report and other applicable staff reports shall be presented;
- c. The public shall be invited to testify;
- d. The public hearing may be continued to allow additional testimony or it may be closed; and
- e. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.

F. Continuation of the Public Hearing. The Planning Commission or the 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.

G. Decision-Making Considerations. The recommendation by the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:

1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197 (for comprehensive plan amendments only);
2. Comments from any applicable federal or state agencies regarding applicable statutes or regulations;
3. Any applicable intergovernmental agreements; and
4. Any applicable comprehensive plan policies and provisions of this Code that implement the comprehensive plan. Compliance with Chapter 4.7 – Land Use District Map and Text Amendments shall be required for Comprehensive Plan Amendments, and Land Use District Map and Text Amendments.

H. Approval Process and Authority

1. The Planning Commission shall:
After notice and a public hearing, vote on and prepare a recommendation to the City Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative.
2. If the Planning Commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal, within 30 days of its first public hearing on the proposed change, the Planning Director shall:
 - a. Report the failure together with the proposed change to the City Council; and
 - b. Provide notice and put the matter on the City Council's agenda, a public hearing to be held, and a decision to be made by the Council. No further action shall be taken by the Commission.
3. The City Council shall:
 - 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; and
- c. Act by ordinance, which shall be signed by the Mayor after the Council's adoption of the ordinance.

I. Vote Required for a Legislative Change

1. A vote by a majority of the qualified voting members of the Planning Commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial, or adoption of an alternative.
2. A vote by a majority of the qualified members of the City Council present is required to decide any motion made on the proposal.

J. Notice of Decision. Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five business days after the City Council decision is filed with the City Official. The City shall also provide notice to all persons as required by other applicable laws.

K. 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.

L. Record of the Public Hearing

1. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record;
2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;
3. The official record shall include:
 - a. All materials considered by the hearings body;
 - b. All materials submitted by the Planning Director to the hearings body regarding the application;
 - c. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;
 - d. The final ordinance;
 - e. All correspondence; and
 - f. A copy of the notices that were given as required by this Chapter.

Chapter 4.2 - Development Review and Site Plan Review

4.2.5 – Site Design Review Application Submission Requirements

All of the following information is required for Site Design Review application submittal:

A. General Submission Requirements. The applicant shall submit an application containing all of the general information required by Chapter 4.1.4 – Type II Procedure (Administrative) or Chapter 4.1.5 – Type III Procedure (Quasi-Judicial), as applicable. The type of application shall be determined in accordance with subsection A of 4.2.4 – Site Design Review Application Review Procedure. Site Design Review requires a pre-application conference in accordance with Chapter 4.1.7 – General Provisions, Section C.

B. Site Design Review Information. An application for Site Design Review shall include the following information:

1. A map showing the applicant's entire property and the surrounding property to a distance sufficient to determine the location of the development in the City, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions, and gross area shall be identified;
2. Proposed site plan. The site plan shall contain the following information, if applicable:
 - a. North arrow and scale
 - b. The proposed development site, including boundaries, dimensions, and gross area;
 - c. The name and address of project designer, engineer, surveyor, and/or planner, if applicable.
 - d. The location, size, and species of trees having a 2" diameter that are proposed to be removed or modified by the development;
 - e. The location and dimensions of all proposed public and private streets, drives, rights-of-way, and easements;
 - f. The location and dimensions of all existing and proposed structures, utilities, pavement, and other improvements on the site. Setback dimensions for all existing and proposed buildings shall be provided on the site plan;
 - g. The location and dimensions of entrances and exits to the site for vehicular, pedestrian, and bicycle access;
 - h. The location and dimensions of all parking and vehicle circulation areas (show striping for parking stalls and wheel stops, as applicable);
 - i. Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails;
 - j. Loading and service areas for waste disposal, loading, and delivery;
 - k. Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements;
 - l. Location, type, and height of outdoor lighting;
 - m. Location of mail boxes, if known;
 - n. Location of bus stops and other public or private transportation facilities.
 - o. Locations, sizes, and types of signs.
 - p. Location of trash enclosures or other waste storage areas.
 - q. Identification of slopes greater than 35 percent.

- r. Potential natural hazard areas, including any areas identified as subject to a 100-year flood, areas subject to high water table, and areas mapped by the city, county, or state as having a potential for geologic hazards;
 - s. Resource areas, including marsh and wetland areas, streams, wildlife habitat identified by the City or any natural resource regulatory agencies as requiring protection;
 - t. Site features, including existing structures, pavement, drainage ways, canals and ditches;
 - u. Locally or federally designated historic and cultural resources on the site and adjacent parcels or lots;
 - v. Other information determined by the Planning Director to be pertinent. The City may require studies or exhibits prepared by qualified professionals to address specific site features (e.g., traffic, environmental features, natural hazards, etc.), in conformance with this Code.
3. Architectural drawings. Architectural drawings shall be submitted showing:
 - a. Building elevations with building height and width dimensions;
 - b. Building materials, color, and type.
 - c. The name of the architect or designer.
 4. Preliminary grading plan. A preliminary grading plan prepared by a registered engineer shall be required for developments which would result in the grading (cut or fill) of 1,000 cubic yards or greater. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed. Surface water detention and treatment plans may also be required, in accordance with Chapter 3.8 – Storm and Surface Water Management Standards.
 5. Landscape plan. A landscape plan is required and shall show the following:
 - a. The location and height of existing and proposed fences and other buffering or screening materials;
 - b. The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;
 - c. The location, size, and species of the existing and proposed plant materials (at time of planting);
 - d. Existing and proposed building and pavement outlines;
 - e. Specifications for soil at time of planting, irrigation plans, and anticipated planting schedule.
 - f. Other information as deemed appropriate by the Planning Director. An arborist’s report may be required for sites with mature trees that are protected under Chapter 3.3 – Landscaping, Street Trees, Fences, and Walls.
 6. Sign drawings shall be required in conformance with Chapter 3.6 – Signs.
 7. Copies of all existing and proposed restrictions or covenants.
 8. Letter or narrative report documenting compliance with the applicable approval criteria contained in Chapter 4.2.6 – Site Design Approval Criteria.

9. Uses that are likely to generate significant levels of vehicle traffic (e.g., due to shipping, receiving, and/or customer traffic) shall require a Conditional Use Permit, in accordance with Chapter 4.4 – Conditional Use Permits. “Significant traffic” means that the average number of daily trips, or the average number of peak hour trips, on any existing street would increase by 15 percent or greater as a result of the development. The city may require a traffic impact analysis prepared by a qualified professional prior to deeming a land use application complete, and determining whether the proposed use requires conditional use approval. Applicants may be required to provide a traffic analysis for review by Oregon Department of Transportation (ODOT) for developments that increase traffic on state highways. The Conditional Use Permit shall include appropriate transportation improvement requirements, as identified by the traffic analysis and/or ODOT, in conformance with Chapter 3.5.2 – Transportation Standards.

C. Site Design Review Additional Information for Overlay Zones. An application for Site Design Review for a property located in an overlay zone shall include the following information:

1. For properties within the Trip Budget Overlay Zone (Chapter 2.9), submit a traffic analysis for review by Oregon Department of Transportation (ODOT).

Chapter 4.4 – Conditional Use Permits

4.4.5 – Additional Development Standards for Conditional Use Types

- A. Concurrent Variance Applications.** A Conditional Use Permit shall not grant Variances to regulations otherwise prescribed by the Development Code. Variance applications may be filed in conjunction with the conditional use application and both applications may be reviewed at the same hearing.
- B. Additional development standards.** Development standards for specific uses are contained in Chapter 2 – Land Use Districts.
- C. Traffic studies.** Traffic studies may be required for any applications that the Planning Department or the Planning Commission deems necessary.
 - 1. For properties within the Trip Budget Overlay Zone (Chapter 2.9), a traffic analysis must be submitted to Oregon Department of Transportation (ODOT) and approved by ODOT.
- D.** In the case of a use existing prior to the effective date of this ordinance, any change of use expansion of lot area or expansion of structure shall conform with the requirements for conditional use.

4.7 – Land Use District Map and Text Amendments

4.7.2 Legislative Amendments

A. Legislative Amendments. Legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to the criteria listed in 4.7.2.B and to Chapter 4.7.6 – Transportation Planning Rule Compliance, as applicable.

B. Criteria for Legislative Amendments.

1. The text of this Development Code may be recommended for amendment and amended provided that all the following criteria are met:
 - a. The proposed amendment is consistent with the purpose of the subject section and article.
 - b. The proposed amendment is consistent with other Provisions of this Code.
 - c. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, and most effectively carries out those goals and policies of all alternatives considered.

4.7.3 – Quasi-Judicial Amendments

A. Quasi-Judicial Amendments. Quasi-judicial amendments are those that involve the application of adopted policy to a specific development application. Quasi-judicial map amendments shall follow the Type III Procedure as governed by Chapter 4.1.5 – Type III Procedure (Quasi-Judicial), using standards of approval in Subsection “B” below. The approval authority shall be as follows:

1. The Planning Commission shall decide land use district map changes that do not involve comprehensive plan map amendments;
2. The Planning Commission shall make a recommendation to the City Council on an application for a comprehensive plan map amendment. The City Council shall decide such applications; and
3. The Planning Commission shall make a recommendation to the City Council on a land-use district change application that also involves a comprehensive plan map amendment application. The City Council shall decide both applications.

B. Criteria for Quasi-Judicial Amendments. A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

1. Demonstration of compliance with all applicable comprehensive plan policies and map designations. Where this criterion cannot be met, a comprehensive plan amendment shall be a prerequisite to approval;
2. Demonstration of compliance with all applicable standards and criteria of this Code, and other applicable implementing ordinances;
3. Evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or land use district map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 – Transportation Planning Rule Compliance, as applicable.

AGENDA BILL

AGENDA ITEM: _____

AGENDA TITLE: PUBLIC HEARING FOR AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE REGARDING MODIFICATION PROCEDURES, AMENDING CHAPTER 4.4 AND 4.6, AKA LDC 14-08.

DATE: July 21, 2014

ACTION REQUIRED:

ORDINANCE: XX

RESOLUTION:

MOTION: XX

INFORMATION:

EXPLANATION:

The Planning Commission has reviewed, after holding a public hearing on May 12, 2014, recommends the following legislative action to amend the Phoenix Land Development Code: 1.Consolidate procedures for modifying approved plans; and; 2.Correct inconsistencies between the procedures.

The current process to modify an existing Conditional Use Permit is shown in two locations that contradict each other. This proposal brings the information to one location. It also reduces the requirements for a change of use that will not adversely impact adjoining property owners. This will reduce costs and time for those applicants.

FISCAL IMPACT:

There should be no fiscal impact on the City of Phoenix.

ALTERNATIVES:

The Council may amend the changes or may deny the recommendation and leave the Land Development Code as it is.

STAFF RECOMMENDATION:

Staff recommends that Council adopt the attached Ordinance to change the Phoenix Land Development Code as recommended by the Planning Commission.

MOTION: "I MOVE TO ADOPT ORDINANCE NO. _____, AMENDING THE PHOENIX DEVELOPMENT CODE, CHAPTERS 4.4 AND 4.6 REGARDING MODIFICATIONS OF APPROVED PLANS AND CONDITIONAL USE PERMITS.

PREPARED BY: M. BRINKLEY **REVIEWED BY:** _____

AGENDA BILL

AGENDA ITEM: _____

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MOTION: XX

INFORMATION:

EXPLANATION:

The Planning Commission has reviewed, after holding a public hearing on May 12, 2014, recommends the following legislative action to amend the Phoenix Land Development Code: 1.Consolidate procedures for modifying approved plans; and; 2.Correct inconsistencies between the procedures.

The current process to modify an existing Conditional Use Permit is shown in two locations that contradict each other. This proposal brings the information to one location. It also reduces the requirements for a change of use that will not adversely impact adjoining property owners. This will reduce costs and time for those applicants.

FISCAL IMPACT:

There should be no fiscal impact on the City of Phoenix.

ALTERNATIVES:

The Council may amend the changes or may deny the recommendation and leave the Land Development Code as it is.

STAFF RECOMMENDATION:

Staff recommends that Council adopt the attached Ordinance to change the Phoenix Land Development Code as recommended by the Planning Commission.

MOTION: "I MOVE TO ADOPT ORDINANCE NO. _____, AMENDING THE PHOENIX DEVELOPMENT CODE, CHAPTERS 4.4 AND 4.6 REGARDING MODIFICATIONS OF APPROVED PLANS AND CONDITIONAL USE PERMITS.

PREPARED BY: M. BRINKLEY **REVIEWED BY:** _____

**CITY OF PHOENIX
PHOENIX, OREGON**

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE,
CHAPTERS 4.4.6 AND 4.6.3.**

WHEREAS, changes to the process for modifications to an approved permit are in compliance with Comprehensive Plan policies; and

WHEREAS, changes to the Phoenix Land Development Code will improve clarity and ease of use of the Code; and

WHEREAS, the City has provided notification to the Department of Land Conservation and Development as required by ORS 197 and the Phoenix Land Development Code; and

WHEREAS, the Planning Commission held a public hearing on May 12, 2014 and took any public testimony regarding the proposed changes; and

WHEREAS, the Planning Commission voted to recommend approval of the attached amendments to the City Council based upon the findings contained in a Staff Report; and

WHEREAS, the Public Hearing on July 21, 2014, was duly noticed and the public was given the opportunity to testify on the proposed changes; and

WHEREAS, the Land Development Code has an adopted procedure (Chapter 4.7) to amend the Land Development Code; and

WHEREAS, the Council, after considering the recommendation of the Planning Commission and staff, and public testimony received at this hearing, has decided to approve the proposed amendment to the Land Development Code in accordance with this procedure;

NOW THEREFORE, The City Council of the City of Phoenix **ORDAINS** as follows:

Section 1. The Findings for this amendment are included in the attached Staff Report for LDC: 14-08, Exhibit A.

Section 2: The Land Development Code Chapter 4 is amended as proposed in Exhibit B.

Section 3. Effective Date: This ordinance shall become effective upon adoption.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof
on this ____ day of _____, 20__.

Mayor

ATTEST:

City Manager/ Recorder

DRAFT



PO Box 330 • Phoenix, OR 97535

PLANNING DEPARTMENT

(541) 535-2050 • FAX (541) 535-5769

**TITLE: AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE
REGARDING MODIFICATION PROCEDURES, AMENDING
CHAPTER 4.4 AND 4.6**

FILE NUMBER: LDC: 14-08

APPLICANT: City of Phoenix

STAFF REPORT: Available April 15, 2014 at the City of Phoenix, 112 W 2nd Street (M-F, 8:00 am to 5:00 pm) or on the website (www.phoenixoregon.net). For more information, call City of Phoenix, Planning Office, (541)535-2050.

DATE OF PLANNING COMMISSION HEARING: May 12, 2014

I. PROJECT INFORMATION: In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to 1.) consolidate procedures for modifying approved plans; and; 2.) correct inconsistencies between the procedures.

The current process to modify an existing Conditional Use Permit is shown in two locations that contradict each other. This proposal brings the information to one location. It also reduces the requirements for a change of use that will not adversely impact adjoining property owners. This will reduce costs and time for those applicants.

II. PROPOSED AMENDMENTS: The proposed amendments are:

Chapter 4.4 - Conditional Use Permits

4.4.6 – Modification

Any expansion to, alteration of, or accessory use to a conditional use shall *follow procedures in Chapter 4.6.* ~~require Planning Commission or the Planning Director's approval of a modification to the original conditional Use Permit. If permitted, the modification shall be reviewed as a Site Plan Review. A minor modification may be reviewed using the Type II procedure. Type III review procedures to an approved Conditional Use Permit is considered one of the following:\~~

~~A. Modification to a structure that increases the square footage of a building or buildings included original site plan approved by 35% or more.~~

~~B. Revisions to parking alignment and/or related vehicle circulation patterns.~~

Chapter 4.6 -Modifications to Approved Plans and conditions of Approval

4.6.3 Major Modifications

A. Major Modifications Defined. The Planning Director shall determine that a major modification is required if one or more of the changes listed below are proposed:

1. A change in land use, *if new use will adversely impact adjoining properties or if no prior permit exists;*
2. An increase in the number of dwelling units;
3. A change in the type and/or location of access ways, drives, or parking area that affect off-site traffic;
4. An increase in the floor area proposed for non-residential use by more than 10 percent where previously specified;
5. A reduction of ~~more than 10~~ *25* percent of the area reserved for common open space and/or usable open space *so long as the resulting area satisfies the minimum open space requirement as established by the original approval;*
6. A reduction to specified setback requirements by more than 10 percent, or to a degree that the minimum setback standards of the land use district cannot be met; or
7. Changes similar to those listed in 1-6, which are likely to have an adverse impact on adjoining properties.

B. Major Modification Request. An applicant may request a major modification as follows:

1. If the Planning Director determines that the proposed modification is a major modification, the applicant shall submit an application for the major modification.
2. The modification request shall be subject to the same review procedure (Type I, II, or III) and approval criteria used for the initial project approval; however, the review shall be limited *in* scope to the modification request. For example, a request to modify a parking lot shall require Site Design Review only for the proposed parking lot and any changes to associated pathways, lighting, and landscaping. Notice shall be provided in accordance with the applicable review procedure.
3. *If no prior permit exists, the modification request shall be subject to the same review procedure (Type I, II or III) and approved criteria that would be used if this were a new development.*

4.6.4 Minor Modifications

A. Minor Modification defined. Any modification to a land use decision or approved development plan that is not within the description of a major modification as provided in Chapter 4.6.3 – Major Modifications, above, shall be considered a minor modification.

B. Minor Modification Request.

III. COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS: Amendments to the Phoenix Land Development Code must comply with Section 4.7.2 of the Phoenix Land Development Code, which states that legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to Section 4.7.2.B and 4.7.6, as applicable.

Section 4.7.2 – Demonstration of compliance with section 4.7.2.

FINDING: This proposed amendment will be reviewed by the Planning Commission at a noticed public hearing. Their recommendation will be presented to the Phoenix City Council at a noticed public hearing. The hearing by the Planning Commission was noticed by posting the information on the City of Phoenix website beginning March 25, 2014.

FINDING: The Department of Land Conservation and Development was notified with an application mailed February 24, 2014 and a Staff report email sent on March 25, 2014.

FINDING: A copy of all notifications is available at the City Planning Office.

Section 4.7.3.B .1 – Demonstration of compliance with all applicable Comprehensive Plan policies and map designations. Where this criterion cannot be met, a Comprehensive Plan amendment shall be a prerequisite to approval.

FINDING: The changes to the process for modifications to a current permit are in compliance with Comprehensive Plan policies. It is combining two sections which currently conflict. The new language will have the process in one location and will also clarify questions that have arisen.

Section 4.7.3.B.2 – Demonstration of compliance with all applicable standards and criteria of this Code and other applicable implementing ordinances.

FINDING: The proposed changes do not impact other applicable standards.

Section 4.7.3.B.3 – Evidence of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or Land Use Map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 – Transportation Planning Rule Compliance, applicable.

FINDING: The proposed change is not based on a mistake in the Comprehensive Plan or the Land Use Map. The proposed change does protect the operation of the State transportation facility.

Section 4.7.6 – Transportation Planning Rule, Subsection B, requires that amendments to land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.

FINDING: The new language will have no impact on transportation in Phoenix.

FINDING: The proposed amendments comply with Sections 4.7.3 and 4.7.6 of the Phoenix Development Code.

IV. RECOMMENDATION: Staff recommends that the Planning Commission review the requirement to modify a land use permit, take testimony and direct Staff on a recommendation to City Council.

EXHIBIT B
CHAPTERS 4.4.6 AND 4.6.3 OF THE CITY OF PHOENIX LAND DEVELOPMENT
CODE (PLCD), AS AMENDED BY ORDINANCE _____ ON JULY 21, 2014, SHALL
READ AS FOLLOWS:

Chapter 4.4 - Conditional Use Permits

4.4.6 – Modifications

Any expansion to, alteration of, or accessory use to a conditional use shall follow procedures in Chapter 4.6.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

DRAFT

Chapter 4.6 -Modifications to Approved Plans and conditions of Approval

4.6.3 Major Modifications

A. Major Modifications Defined. The Planning Director shall determine that a major modification is required if one or more of the changes listed below are proposed:

1. A change in land use, if new use will adversely impact adjoining properties or if no prior permit exists;
2. An increase in the number of dwelling units;
3. A change in the type and/or location of access ways, drives, or parking area that affect off-site traffic;
4. An increase in the floor area proposed for non-residential use by more than 10 percent where previously specified;
5. A reduction of the area reserved for common open space and/or usable open space so long as the resulting area satisfies the minimum open space requirement as established by the original approval;
6. A reduction to specified setback requirements by more than 10 percent, or to a degree that the minimum setback standards of the land use district cannot be met; or
7. Changes similar to those listed in 1-6, which are likely to have an adverse impact on adjoining properties.

B. Major Modification Request. An applicant may request a major modification as follows:

1. If the Planning Director determines that the proposed modification is a major modification, the applicant shall submit an application for the major modification.
2. The modification request shall be subject to the same review procedure (Type I, II, or III) and approval criteria used for the initial project approval; however, the review shall be limited in scope to the modification request. For example, a request to modify a parking lot shall require Site Design Review only for the proposed parking lot and any changes to associated pathways, lighting, and landscaping. Notice shall be provided in accordance with the applicable review procedure.
3. If no prior permit exists, the modification request shall be subject to the same review procedure (Type I, II or III) and approved criteria that would be used if this were a new development.



Date of Notice: June 30, 2014

File Number: LDC: 14-08

NOTICE OF PUBLIC HEARING

Notice is hereby given that the City Council of the City of Phoenix will hold a Public Hearing on July 21 at 6:30 pm at Phoenix Public Works at 1000 S "B" Street, Phoenix, Oregon to consider the following request:

Request: AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE
REGARDING MODIFICATION PROCEDURES AND AMENDING
CHAPTER 4

Applicant: City of Phoenix

Date of City Council hearing: July 21, 2014

Project information: In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to 1.) consolidate procedures for modifying approved plans; and; 2.) correct inconsistencies between the procedures.

The current process to modify an existing Conditional Use Permit is shown in two locations that contradict each other. This proposal brings the information to one location. It also reduces the requirements for a change of use that will not adversely impact adjoining property owners. This will reduce costs and time for those applicants.

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Approval Criteria: After holding and closing a public hearing, the City Council may vote to approve, modify, or deny the permit. Action may be tabled or referred to staff or other body for further review. Any final action will be based on criteria listed and referenced in LDC Section 4.7.3.B. Contact Planning and Building Department to explain or provide the criteria; or visit the Planning and Building Department on the City of Phoenix home page at www.phoenixoregon.net (click on Planning and Building link on left side of homepage), and click on the Phoenix Development Code link.

Public Participation: We encourage the public to comment on this matter either in writing or orally at the Public Hearing. Mailed comments should be sent to the City of Phoenix, Planning and Building Department, P.O. Box 330, Phoenix, OR. The application and related information are available for public review at the

Planning and Building Department at City Hall
112 W. 2nd Street
Phoenix, Oregon 97535

Office hours are 8 a.m. to noon and 1 p.m. to 5 p.m., Monday through Friday. The contact person is Matt Brinkley, Planning Director at 541-535-2050 extension 316.

Date of Notice: June 30, 2014
File Number: LDC: 14-08

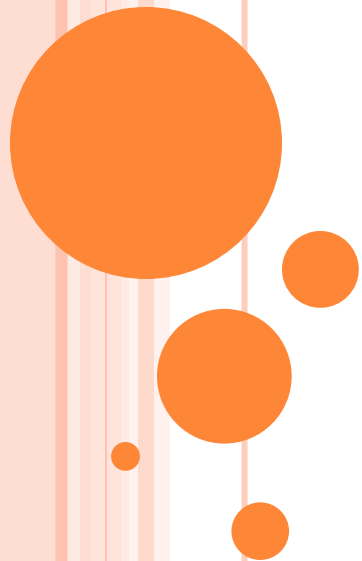
CITY COUNCIL PUBLIC HEARING
MONDAY, JULY 21 – 6:30 PM
AT PUBLIC WORKS, 1000 S “B” STREET

Failure to raise an issue in person, or in writing either before or at the hearing, or failure to provide statements or evidence sufficient to afford the City Council an opportunity to respond to an issue would mean that an appeal based on that issue could not be filed with the State Land Use Board of Appeals (see Land Development Code 4.1.5.C.2.e).

Staff Report: A staff report has been prepared and available for review; a copy may be obtained at 25 cents per page or emailed upon request.

Notice to mortgagee, lien holder, vendor, or seller: If you receive this notice, it shall be promptly forwarded to the purchaser.

**AMENDMENT TO LAND DEVELOPMENT
CODE RE:
MODIFICATION PROCEDURES, AMENDING
CHAPTER 4.4 AND 4.6 (LDC 14-08)**



**Planning Commission hearing
May 12, 2014**

PROCESS OF AMENDMENT

- Workshop with Planning Commission
- Notify DLCD
- Notify the Public of Planning Commission hearing
- Public Hearing with Planning Commission
- Notify the Public of Council hearing
- **Public Hearing with Council**
- Notify DLCD of any adopted changes



PURPOSE OF AMENDMENT

- Consolidate procedures for modifying approved plans
- Correct inconsistencies between the procedures



COMPARISON OF CURRENT AND PROPOSED

Current

- Modification of CUP has its own process

Proposed

- Will use same process as other Modification requests



COMPARISON OF CURRENT AND PROPOSED

Current

- A change in land use
= Major Modification

Proposed

- Only Major Modification if new use will adversely impact adjoining properties or if no prior permit exists



COMPARISON OF CURRENT AND PROPOSED

Current

- Major Modification if reduction of more than 10% of common open space

Proposed

- Only if modification would reduce open space below required minimum



IMPACT OF AMENDMENT

- Combining two sections which currently conflict will prevent future issues and will clarify questions that have arisen

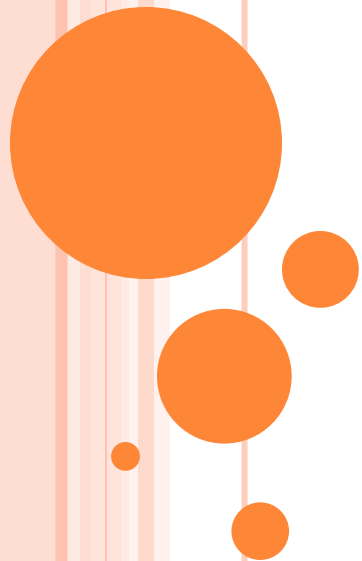


ACTION TONIGHT AND NEXT STEPS

- Planning Commission listens to Staff report
- Planning Commission listens to public testimony.
- Planning Commission considers the proposal and votes to
 - 1) recommend approval;
 - 2) amend and recommend approval;
 - 3) postpone; or
 - 4) recommend denial.
- Council considers recommendation and makes a decision



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Date of Notice: June 30, 2014

File Number: LDC: 14-08

NOTICE OF PUBLIC HEARING

Notice is hereby given that the City Council of the City of Phoenix will hold a Public Hearing on July 21 at 6:30 pm at Phoenix Public Works at 1000 S "B" Street, Phoenix, Oregon to consider the following request:

Request: AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE
REGARDING MODIFICATION PROCEDURES AND AMENDING
CHAPTER 4

Applicant: City of Phoenix

Date of City Council hearing: July 21, 2014

Project information: In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to 1.) consolidate procedures for modifying approved plans; and; 2.) correct inconsistencies between the procedures.

The current process to modify an existing Conditional Use Permit is shown in two locations that contradict each other. This proposal brings the information to one location. It also reduces the requirements for a change of use that will not adversely impact adjoining property owners. This will reduce costs and time for those applicants.

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**CITY OF PHOENIX
PHOENIX, OREGON**

ORDINANCE NO. 955

**AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE,
CHAPTERS 4.4.6 AND 4.6.3.**

WHEREAS, changes to the process for modifications to an approved permit are in compliance with Comprehensive Plan policies; and

WHEREAS, changes to the Phoenix Land Development Code will improve clarity and ease of use of the Code; and

WHEREAS, the City has provided notification to the Department of Land Conservation and Development as required by ORS 197 and the Phoenix Land Development Code; and

WHEREAS, the Planning Commission held a public hearing on May 12, 2014 and took any public testimony regarding the proposed changes; and

WHEREAS, the Planning Commission voted to recommend approval of the attached amendments to the City Council based upon the findings contained in a Staff Report; and

WHEREAS, the Public Hearing on July 21, 2014, was duly noticed and the public was given the opportunity to testify on the proposed changes; and

WHEREAS, the Land Development Code has an adopted procedure (Chapter 4.7) to amend the Land Development Code; and

WHEREAS, the Council, after considering the recommendation of the Planning Commission and staff, and public testimony received at this hearing, has decided to approve the proposed amendment to the Land Development Code in accordance with this procedure;

NOW THEREFORE, The City Council of the City of Phoenix **ORDAINS** as follows:

Section 1. The Findings for this amendment are included in the attached Staff Report for LDC: 14-08, Exhibit A.

Section 2: The Land Development Code Chapter 4 is amended as proposed in Exhibit B.

Section 3. Effective Date: This ordinance shall become effective 30 days after adoption.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof on this 21st day of July, 2014.

Mayor

ATTEST:

City Manager/ Recorder

**CITY OF PHOENIX
PHOENIX, OREGON**

ORDINANCE NO. 955

**AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE,
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WHEREAS, the Planning Commission held a public hearing on May 12, 2014 and took any public testimony regarding the proposed changes; and

WHEREAS, the Planning Commission voted to recommend approval of the attached amendments to the City Council based upon the findings contained in a Staff Report; and

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NOW THEREFORE, The City Council of the City of Phoenix **ORDAINS** as follows:

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Mayor

ATTEST:



City Manager/ Recorder



PO Box 330 • Phoenix, OR 97535

PLANNING DEPARTMENT

(541) 535-2050 • FAX (541) 535-5769

**TITLE: AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE
REGARDING MODIFICATION PROCEDURES, AMENDING
CHAPTER 4.4 AND 4.6**

FILE NUMBER: LDC: 14-08

APPLICANT: City of Phoenix

STAFF REPORT: Available April 15, 2014 at the City of Phoenix, 112 W 2nd Street (M-F, 8:00 am to 5:00 pm) or on the website (www.phoenixoregon.net). For more information, call City of Phoenix, Planning Office, (541)535-2050.

DATE OF PLANNING COMMISSION HEARING: May 12, 2014

I. PROJECT INFORMATION: In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to 1.) consolidate procedures for modifying approved plans; and; 2.) correct inconsistencies between the procedures.

The current process to modify an existing Conditional Use Permit is shown in two locations that contradict each other. This proposal brings the information to one location. It also reduces the requirements for a change of use that will not adversely impact adjoining property owners. This will reduce costs and time for those applicants.

II. PROPOSED AMENDMENTS: The proposed amendments are:

Chapter 4.4 - Conditional Use Permits

4.4.6 – Modification

Any expansion to, alteration of, or accessory use to a conditional use shall *follow procedures in Chapter 4.6.* ~~require Planning Commission or the Planning Director's approval of a modification to the original conditional Use Permit. If permitted, the modification shall be reviewed as a Site Plan Review. A minor modification may be reviewed using the Type II procedure. Type III review procedures to an approved Conditional Use Permit is considered one of the following:\~~

~~A. Modification to a structure that increases the square footage of a building or buildings included original site plan approved by 35% or more.~~

~~B. Revisions to parking alignment and/or related vehicle circulation patterns.~~

Chapter 4.6 -Modifications to Approved Plans and conditions of Approval

4.6.3 Major Modifications

A. Major Modifications Defined. The Planning Director shall determine that a major modification is required if one or more of the changes listed below are proposed:

1. A change in land use, *if new use will adversely impact adjoining properties or if no prior permit exists;*
2. An increase in the number of dwelling units;
3. A change in the type and/or location of access ways, drives, or parking area that affect off-site traffic;
4. An increase in the floor area proposed for non-residential use by more than 10 percent where previously specified;
5. A reduction of ~~more than 10~~ *25* percent of the area reserved for common open space and/or usable open space *so long as the resulting area satisfies the minimum open space requirement as established by the original approval;*
6. A reduction to specified setback requirements by more than 10 percent, or to a degree that the minimum setback standards of the land use district cannot be met; or
7. Changes similar to those listed in 1-6, which are likely to have an adverse impact on adjoining properties.

B. Major Modification Request. An applicant may request a major modification as follows:

1. If the Planning Director determines that the proposed modification is a major modification, the applicant shall submit an application for the major modification.
2. The modification request shall be subject to the same review procedure (Type I, II, or III) and approval criteria used for the initial project approval; however, the review shall be limited *in* scope to the modification request. For example, a request to modify a parking lot shall require Site Design Review only for the proposed parking lot and any changes to associated pathways, lighting, and landscaping. Notice shall be provided in accordance with the applicable review procedure.
3. *If no prior permit exists, the modification request shall be subject to the same review procedure (Type I, II or III) and approved criteria that would be used if this were a new development.*

4.6.4 Minor Modifications

A. Minor Modification defined. Any modification to a land use decision or approved development plan that is not within the description of a major modification as provided in Chapter 4.6.3 – Major Modifications, above, shall be considered a minor modification.

B. Minor Modification Request.

III. COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS: Amendments to the Phoenix Land Development Code must comply with Section 4.7.2 of the Phoenix Land Development Code, which states that legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to Section 4.7.2.B and 4.7.6, as applicable.

Section 4.7.2 – Demonstration of compliance with section 4.7.2.

FINDING: This proposed amendment will be reviewed by the Planning Commission at a noticed public hearing. Their recommendation will be presented to the Phoenix City Council at a noticed public hearing. The hearing by the Planning Commission was noticed by posting the information on the City of Phoenix website beginning March 25, 2014.

FINDING: The Department of Land Conservation and Development was notified with an application mailed February 24, 2014 and a Staff report email sent on March 25, 2014.

FINDING: A copy of all notifications is available at the City Planning Office.

Section 4.7.3.B.1 – Demonstration of compliance with all applicable Comprehensive Plan policies and map designations. Where this criterion cannot be met, a Comprehensive Plan amendment shall be a prerequisite to approval.

FINDING: The changes to the process for modifications to a current permit are in compliance with Comprehensive Plan policies. It is combining two sections which currently conflict. The new language will have the process in one location and will also clarify questions that have arisen.

Section 4.7.3.B.2 – Demonstration of compliance with all applicable standards and criteria of this Code and other applicable implementing ordinances.

FINDING: The proposed changes do not impact other applicable standards.

Section 4.7.3.B.3 – Evidence of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or Land Use Map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 – Transportation Planning Rule Compliance, applicable.

FINDING: The proposed change is not based on a mistake in the Comprehensive Plan or the Land Use Map. The proposed change does protect the operation of the State transportation facility.

Section 4.7.6 – Transportation Planning Rule, Subsection B, requires that amendments to land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.

FINDING: The new language will have no impact on transportation in Phoenix.

FINDING: The proposed amendments comply with Sections 4.7.3 and 4.7.6 of the Phoenix Development Code.

IV. RECOMMENDATION: Staff recommends that the Planning Commission review the requirement to modify a land use permit, take testimony and direct Staff on a recommendation to City Council.

EXHIBIT B
CHAPTERS 4.4.6 AND 4.6.3 OF THE CITY OF PHOENIX LAND DEVELOPMENT
CODE (PLCD), AS AMENDED BY ORDINANCE 955 ON JULY 21, 2014, SHALL READ
AS FOLLOWS:

Chapter 4.4 - Conditional Use Permits

4.4.6 – Modifications

Any expansion to, alteration of, or accessory use to a conditional use shall follow procedures in Chapter 4.6.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Chapter 4.6 -Modifications to Approved Plans and conditions of Approval

4.6.3 Major Modifications

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