

ORDINANCE NO. 1253

AN ORDINANCE AMENDING CHAPTER 153 OF THE CODE OF PRINEVILLE (“CODE”) TO CLARIFY AND EXPAND LAND USE PROCESS AND PROCEDURES.

WHEREAS, City of Prineville (“City”) staff compiled amendments to the City’s land use code (Chapter 153 of the Code) for review by the City Planning Commission at one workshops held on July 2, 2019; and

WHEREAS, pursuant to Section 153.233 of the Code, required notice was submitted to the Department of Land Conservation and Development and published once a week for two consecutive weeks prior to the hearing scheduled for July 16, 2019; and

WHEREAS, on July 16, 2019, the City Planning Commission held a public hearing and consented to the amendments and recommended the City Council approve the proposed amendments as shown on Exhibit A attached hereto and by this reference made a part hereof; and

WHEREAS, pursuant to Section 153.252.020 of the Code, required notice was published 10 days prior to the City Council hearing of a legislative change scheduled for August 13, 2019; and

WHEREAS, on August 13, 2019 the City Council held a public hearing on the amendments shown on Exhibit A; and

WHEREAS, the City Council’s approved the amendments to the code; and

NOW, THEREFORE, the people of the City of Prineville ordain as follows:

1. That Chapter 153 of the Code of Prineville is amended as shown on Exhibit A

Presented for the first time at a regular meeting of the City Council held on August 13, 2019, and the City Council finally enacted the foregoing ordinance this ____ day of August, 2019.

Stephen P. Uffelman
Mayor

ATTEST:

Lisa Morgan, City Recorder

CHAPTER 153: LAND DEVELOPMENT CODE
Updating Land Use Code Procedures

Table of Contents shall be amended as follows:

General Provisions

Section 153.017 shall be removed

Specific Zone Requirements

...

153.077 Marijuana & Medical Marijuana Overlay Zone (Chapter 153A & B)
153.078 Temporary Worker Housing (Chapter 153C)

...

Administration and Enforcement

153.250 Introduction, definitions, and permit process

...

153.254 Land use action applications

...

Section 153.005 shall be amended as follows:

153.005 COMPLIANCE.

A lot or parcel may only be used and a structure, or part of a structure, may only be constructed, reconstructed, altered, occupied or used as permitted by this chapter or other applicable City Ordinances. No dimensional requirement of these standards shall be violated after its terms become effective unless specifically provided for herein. No lot or parcel area, yard or other open space which is required by these standards for one use shall be used as the required area for another use.

Section 153.008 shall be amended as follows:

153.008 ZONING/OTHER DEVELOPMENT PERMIT APPROVAL.

Prior to the construction, alteration, reconstruction, expansion or change of use of any structure, lot or parcel for which a land use permit or other approval or license is required by this chapter or other applicable City Ordinances; a permit, approval or license shall be obtained from the city.

Section 153.009 shall be amended as follows:

153.009 COMPLIANCE WITH OTHER RULES AND REGULATIONS.

(A) Approval of any use or development proposal pursuant to the provisions of this chapter or other City Ordinances shall require compliance with and consideration of all applicable city, county, state and federal rules and regulations.

(B) The compliance shall be evident prior to the final approval of any affected land use or development proposal; or compliance may be set forth as a condition of final approval.

...

Section 153.015 shall be amended as follows:

153.015 AUTHORIZATION OF SIMILAR USES.

(A) The Planning Director, Designee or Planning Commission may authorize a use not specifically listed in the allowed uses of a zone if the use is of the same general type and impact as other uses permitted in the subject zone, unless the city finds the following:

...

(B) The application for and processing procedure for a similar use approval shall be as required by the use it is determined to be similar too.

(C) Similar changes of use that do not violate the Nonconforming use criteria 153.115 of this chapter and are of equal or lessor impact with regard to water, sewer, traffic, noise, odor and other potential nuisance factors, as determined by the Planning Director and City Engineer, do not require a land use permit. Sign off on a building permit or Certificate of Occupancy from the Building Department or a City License may be required. See section 153.135 for transferability of a conditional use.

Section 153.017 shall be removed:

Section 153.030 shall be amended as follows:

153.030 CLASSIFICATION OF ZONES.

...

Section	Zone Title	Abbreviated Designation
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...

153.077	Marijuana & Medical Marijuana (Chapters 153A & 153B)	
153.078	Temporary Worker Housing (Chapter 153C)	

Section 153.032 shall be amended as follows:

153.032 ZONING MAP AND AMENDMENTS.

A Zoning Map or Zoning Map Amendment adopted by 153.230 et. seq., or by an amendment thereto, shall be prepared by authority of the City Planning Commission and the City Council, or as may otherwise be provided for by the Urban Growth Management Agreement (UGMA) adopted by the city and the county. The Map or Map Amendments shall be dated with the effective date of the adoption thereof by the jurisdiction designated by the UGMA, and shall be signed by the respective highest elected official and attested to by the respective planning official of the jurisdiction. The signed original, together with a copy thereof, shall be maintained on file in the offices of the City Planning Official, the City Recorder, the County Planning Official and the County Clerk.

Section 153.033 shall be amended as follows:

153.033 ZONE BOUNDARIES.

Unless otherwise specified, zone boundaries are section lines, subdivision lines, lot lines, center lines of streets and other rights-of-way or utilities, water courses, ridges or rimrocks, contour lines, other readily recognizable or identifiable natural features or such lines extended. Whenever uncertainty exists as to the exact boundary of a zone as shown on the Zoning Map(s) or amendments thereto, the following provisions shall control:

...

(C) If a zone boundary, as shown on the Zoning Map, divides a lot or parcel between two zones, the entire lot or parcel may be determined to be in the zone in which the greater area of the lot or parcel lies unless there is a specific statement set forth by this chapter or on the applicable Zoning Map as to the exact location of the boundary line, and if the adjustment is in compliance with the Comprehensive Plan use designating for the area. The property owner may also file for a declaratory ruling to determine the exact location of the zone boundary. The determination shall be made by the Planning Commission, subject to appeal by City Council.

...

Sections 153.230 - 233 shall be amended as follows:

153.230 AUTHORIZATION TO INITIATE AMENDMENTS.

An amendment to the Comprehensive Plan, text of this chapter or to a zone or plan map may be initiated by the City Council, by the City Planning Commission, by the City Planning Official, by any planning advisory committees duly appointed by the city, by any planning board established by this chapter or by an application of a property owner or the authorized agent thereof.

153.231 APPLICATION FOR AMENDMENTS.

An application for an amendment to the Comprehensive Plan, text of this chapter or to a zone or plan map by a property owner or the authorized agent thereof shall be filed with the City Planning Official on forms prescribed by the city and shall be accompanied by the required filing fee as established by the City Council. For all others authorized to initiate amendments, the City shall be the applicant.

(A) Criteria for Amendments – The burden of proof is upon the applicant. The applicant shall show the proposed change is:

1. In conformity with all applicable State statutes;
2. In conformity with Statewide planning goals and implementing administrative rules when determined to be applicable;
3. In conformity with the goals, objectives and policies of the City’s Comprehensive Plan;
4. Due to a change in circumstance or further studies justifying the amendment or mistake in the original zoning.

153.232 PUBLIC HEARINGS ON AMENDMENTS.

Unless initiated by Council, the City Planning Commission shall, at its earliest practicable meeting date following a 30 day completeness period, duly advertise and conduct a public hearing on the subject amendment application, and shall, at the conclusion of the hearing, recommend City Council; approve, approve with conditions or deny the proposed amendment. Within 30 days of the Commission's recommendation, the City Council (unless section 153.256.030 applies for plan amendments or zone changes) shall duly advertise and conduct a public hearing on the proposed amendment. The Commission or Council may continue a hearing in order to obtain additional information and input on a proposed amendment. The Council shall approve, approve with conditions or deny the proposed amendment. If the applicant fails to abide by the conditions or modifications attached to a rezoning of property, the City Council may, at a later date, rezone the affected property to its original zoning. (O.R.S. 227.175 (3) and (5))

153.233 PUBLIC NOTICE REQUIREMENTS.

Notwithstanding any other public notice requirements that may be set forth in this chapter or by applicable state statutes or administrative rules, the following public notice requirements shall apply to applications for an amendment to the text of this chapter or to an application for a zoning amendment provided for by this subchapter. (O.R.S. 227.175(3) and (5))

(A) Notice of a public hearing regarding an amendment to the text of this chapter or to a zoning or plan map shall be made at least 10 days prior to the initial public hearing for each hearings body in accordance with 153.252.020. Notice shall be published in a newspaper of general circulation in the city and/or other media readily available to the public. (B) In addition to the notice requirements set forth by division (A) of this section, for an amendment that proposes to rezone property or effect the permissible uses of a property, individual notice shall be mailed or otherwise delivered to the owner of each lot or parcel of property affected at least 20 days but not more than 40 days prior to the hearing. If such rezoning is for a single lot or parcel, notice shall also be mailed to all property owners within 250 feet of the exterior boundaries of the subject property ORS 227.186.

...
(E) Notice of an application for a proposed zoning amendment, together with a copy or description of the proposed amendment, shall be provided to the State Department of Land Conservation and Development (DLCD) at least 35 days prior to first evidentiary hearing. (OAR 660-018-0020)

Section 153.250 – 250.030 shall be amended to read as follows:

153.250 INTRODUCTION, DEFINITIONS, AND PERMIT PROCESS

153.250.010. Introduction and application.

...

(B) The provisions of Section 153.250 do not apply to the issuance, suspension, or revocation of any on-site sewage disposal, building, electrical or plumbing permits except as they relate to the Planning Department consideration of permitted uses.

153.250.020. Definitions.

...

Development. Means all human caused change to improved or unimproved real estate including but not limited to: buildings, fences, decks, placement or replacement of manufactured or other structures, subdividing or partitioning property, parking and loading areas, landscaping, roadways, paved or graveled areas, grading, excavation or drilling operations and areas devoted to storage of equipment and materials.

Development action. Includes decisions that do not require exercise of discretion and are based on clear and objective criteria including the following applications:

(A) Those applications involving the standards in other portions of the Land Usage Ordinance (Section 150 -152).

(B) Boundary or lot line adjustments including lot consolidations;

(C) Land use permit extensions;

(D) Sign permits;

(E) Setback and lot coverage determinations;

(1) Single family homes, duplexes

(2) Residential additions and accessory structures

(F) Temporary use permits;

(G) Other nondiscretionary approvals requiring the application of clear and objective criteria.

...

Land use action. Includes any consideration for approval of a quasi-judicial plan amendment or zone change and any consideration for approval of a land use permit not determined to be a development action. Land use actions include the following applications:

(A) Conditional Use Permits;

(B) Alteration or Repair of a Nonconforming Use;

(C) Variance;

(D) Text or map amendment;

(E) Declaratory Ruling;

(F) Subdivision;

(G) Partition;

(H) Site and Design Review; and

(I) Other applications which require the exercise of discretion or policy judgement in applying and/or interpreting applicable criteria.

Land use permit. Includes any approval of a development or use of land under the standards of City ordinances.

...

Party. Any person appearing on the record at a hearing (including appeals) or presenting written evidence in conjunction with an administrative action or hearing shall have standing and shall be a party. A person whose participation consists only of signing a petition shall not be considered a party.

...

153.250.030. Permit processing: Outright, Type I & II.

Uses set forth by this chapter may be classified as an Outright use or a Type I or II conditional use. If the classification is not set forth and the use is not classified as a similar use by the Planning Director, all such uses shall be processed in accordance with the type II processing requirements set forth hereinafter. Per section 153.254.020 any land use action may be referred to the Planning Commission or Hearings Officer by the Planning Director.

(A) **Outright.** Uses marked by an "O" in the City's use tables. Outright uses may be processed in 4 different ways at the discretion of the Planning Director as follows:

(1) **Similar changes of use.** This decision is made when uses comply with the similar use criteria in 153.015(C). No land use permit or notice is required, a written decision may be issued to acknowledge this.

(2) **Ministerial.** This decision is made when there are clear and objective standards and criteria that requires no exercise of discretion. These decisions are neither a land use decision nor a limited land use decision as defined in ORS 197.015. The Planning Director may choose to provide a ministerial decision in writing or through a signature on a building permit with no land use application or notice required.. A planning number may be assigned with plans attached. A sign off worksheet may be developed for implementation. Examples include, but are not limited to the following:

(a) Residential development such as sheds, breeze ways, architectural projections, solar panels, parking and access areas or covered patios and similar development that won't create a significant impact and is well within setback and lot coverage standards.

(b) Commercial or Industrial development that won't create a significant impact in the area or to the use as a whole, such as small storage or utility buildings or parking and access areas on large commercial or industrial developments.

(3) **Application without notice.** This decision is made and processed as a Development action as defined in 153.250.020. These uses require a land use application but are not subject to notice requirements as a land use action.

(4) **Application with notice.** This decision is made and processed as a Land use action as defined in 153.250.020, without a public hearing. The City Planning Official shall provide notice of the application in accordance with the administrative notice requirements of 153.254.030. (ORS 197.015 Limited Land Use Decision).

(B) **Type I conditional use.** Uses marked by a "T1" in the City's use tables. This decision is made and processed as a Land use action as defined in 153.250.020. The City Planning Official shall provide individual written notice of the application in accordance with the administrative notice requirements of 153.254.030. If no objection is received within the response period the Planning Official may make the final decision on the subject proposal without a public hearing. If one or more objections are received within the response period based on applicable criteria that cannot be resolved by the parties, the

subject application shall be referred to the Planning Commission or Hearings Officer for a public hearing. Notice and hearing shall be provided in accordance with 153.255. The applicant shall be required to pay any additional hearing fees prior to scheduling the public hearing.

(C) Type II conditional use. Uses marked by a "T2" in the City's use tables. This decision is made and processed as a Land use action as defined in 153.250.020, with a public hearing. An application for a type II conditional use shall be subject to review by the Planning Commission or Hearings Officer in accordance with the public hearing requirements of 153.255.

Section 153.251.010 shall be amended as follows:

153.251.010 Application requirements

...

(B) Applications for development actions or land use actions shall:

...

(C) Failure to include any of the required information may lead to a determination that the application is incomplete and may be rejected.

(D) Acceptance of the application indicates only that the application is ready for processing and review. It does not represent an acceptance of a complete application.

(E) Applications for uses or developments not specifically listed in the allowed uses of a zone or permitted by another chapter or authorized under 153.015 will not be accepted.

Section 153.251.030 & 153.251.040 shall be amended as follows:

153.251.030 Incomplete applications

(A) If an application is incomplete, the Planning Director or designee shall, within 30 days of receipt of the application, notify the applicant in writing of exactly what information is missing.

(B) The applicant shall have 30 days from the date of notice to supply the missing information, continue to pursue a decision without the information or withdraw the application.

(C) If the applicant fails to respond within 30 days, at the discretion of the Planning Director, the City may return the application or continue through to final decision. If the application is returned a refund may be granted in accordance with 153.251.040.

(D) If the applicant or the applicant's representative or apparent representative makes a misstatement of fact on the application regarding property ownership, authority to submit the application, acreage, or any other fact material to the acceptance of the application, and such misstatement is relied upon by the Planning Director or designee or Hearings Body in making a decision whether to accept the application, the Planning Director or designee may upon notice to the applicant and subject to an applicant's right to a hearing declare the application void.

153.251.040 Withdrawal of application

An application may be formally withdrawn in writing by the property owner, the applicant, or applicant’s representative at any time prior to the City’s final written decision. Receipt by the City of a written request to withdraw the applications is final. Such request shall include a written statement waiving any statutory rights to pursue a writ of mandamus as provided under state law. A withdrawn application that is resubmitted to the City will be treated as a new application.

...

Section 153.252.010 & 153.252.020 & 153.252.040 shall be amended as follows:

153.252.010 Hearing required.

No legislative change shall be adopted without review and approval by the City Council. Public hearings before the Planning Commission shall be set at the discretion of the Planning Director, unless otherwise required by state law.

153.252.020 Notice.

(A) Published Notice.

(1) Notice of a legislative change shall be made at least 10 days prior to the initial public hearing for each hearings body. Notice shall be published in a newspaper of general circulation in the city and/or other media readily available to the public.

(2) The notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration.

...

(C) Individual Notice. Individual notice to property owners, as defined in 153.251.010(A), shall be provided at the discretion of the Planning Director, except as required by 153.233 for zone amendments. ORS 227.186.

153.252.040 Hearings Body.

...

(B) At the discretion of the City Council, any legislative change initiated by the City Council may be reviewed by the Planning Commission prior to action being taken.

Section 153.253.020(A) shall be amended as follows:

153.253.020 Decision.

(A) Development action applications acted upon without notice or hearing shall be approved, approved with conditions or denied by the Planning Director or his designee within 30 days of the application's acceptance by the Planning Director.

...

Section title 153.254 shall be amended as follows:

153.254 LAND USE ACTION APPLICATIONS

Section 153.254.010(A)(B)(C) shall be removed.

Section 153.254.020 – 254.050 shall be amended as follows:**153.254.020 Action on land use action applications.**

(A) The Planning Director or designee may decide upon a land use action application administratively either with prior notice, as prescribed under 153.254.030 or without prior notice, as prescribed under 153.254.040 or may refer the application to the Planning Commission or Hearings Officer for a hearing. The Planning Director or designee shall take such action within 30 days of the date the application is deemed complete. (See 153.251.030 for incomplete applications). This time limit may be waived at the option of the applicant.

...

(C) Amendment applications per section 153.232 or other instances where a hearing is required by State law or by other ordinance provisions shall be referred to a hearing before the Planning Commission or Hearings Officer.

153.254.030 Administrative land use decisions with prior notice.

(A) Notice of a complete application shall be sent within 10 days of submittal of the application to persons entitled to notice under 153.255.030. Such notice shall include all the information specified under 153.255.040(A) except for the information specified in 153.255.040(A)(7) and (10).

(B) Any person may comment in writing on the application within 14 days from the date notice was mailed or a longer period as specified in the notice.

(C) The Planning Director or designee's decision to approve, deny or send to a hearing shall be made within 30 days after an application is accepted as complete. This time limit may be waived by the written consent of the applicant.

(D) Notice of the Planning Director or designee's decision and the appeal period shall be sent to all parties and to all members of the Planning Commission. The Planning Commission shall have the authority to call up any decision of the Planning Director or designee within the appeal period in accordance with section 153.258.010. (E) The applicant and all persons commenting in writing as provided in this section constitute parties to the administrative decision. Any party can appeal the decision in accordance with 153.258 (Appeals).

153.254.040 Administrative decision without prior notice.

The procedures for administrative decisions without prior notice shall be the same as those set forth in 153.254.030, except that only the notice of decision and appeal period shall be given containing the information required under 153.255.040.

153.254.050 Final action in land use actions.

(A) Except as otherwise provided, the City shall take final action, including consideration of appeals to the City Council, in land use actions within 120 days after the application is deemed complete. ORS 227.178

(B) The periods set forth in 153.254.050 during which a final decision on an application must be made may be extended for a reasonable period of time at the written request of the applicant.

Section 153.254.060 shall be removed

Section 153.254.070 shall be amended as follows:

153.254.060 Modification of application.

(A) An applicant may modify an application at any time during the approval process up until the issuance of an administrative decision, or the close of the record for an application reviewed under a hearings process.

...

Section 153.255.010 – 255.040 shall be amended as follows:

153.255.010 Filing of staff report for hearing.

(A) At the time an application, that in the judgment of the Planning Director or designee requires a hearing, and is deemed complete, a hearing date shall be set.

(B) A staff report shall be completed 7 days prior to a hearing. If the report is not completed by such time, the hearing shall be held as scheduled, but any party may at the hearing or in writing prior to the hearing request a continuance of the hearing to a date that is at least 7 days after the date the initial staff report is complete.

(C) A copy of the staff report shall be made available to the applicant, and to such other persons who request a copy and shall be filed with the Planning Commission or Hearings Officer based on local procedure.

...

153.255.020 Hearings Body.

(A) The following shall serve as the hearings body:

- (1) Planning Commission or Hearings Officer.
- (2) City Council

(B) The Hearing's Body order shall be as set forth in 153.255.020(A), except that the Council may call up any application for review without the necessity of an application going before the Planning Commission or Hearing Officer.

153.255.030 Notice of hearing.

(A) Individual Mailed Notice.

(1) Except as otherwise provided for herein, notice of a land use application shall be mailed at least 20 days prior to the hearing. Written notice shall be sent by mail to the following persons:

- (a) The applicant.
- (b) Owners of record of property as shown on the most recent property tax assessment roll of property located within 100 feet of the property that is the subject of the notice where any part of the subject property is within an urban growth boundary;
- (c) The owner of a public use airport if the airport is located within 10,000 feet of the subject property.
- (d) The tenants of a mobile home park when the application is for the rezoning of any part or all of a mobile home park.
- (e) Any neighborhood or community organization formally recognized by the City Council, whose boundaries include the site.

(2) The failure of a property owner to receive mailed notice shall not invalidate any land use approval if the City can show by affidavit that such notice was given.

(B) Published Notice. In addition to notice by mail, notice of an initial hearing shall be published at least 10 days prior to the hearing in a newspaper of general circulation in the City and/or other media readily available to the public.

153.255.040 Contents of notice.

(A) All mailed notices of a land use action hearing shall:

...

(5) State that any person may comment in writing and include a general explanation of the requirements for submission of testimony and the procedures for conduct of testimony.

...

(9) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a reasonable cost.

(10) State that a copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing and will be provided at reasonable cost.

(B) All mailed and published notices for hearings shall contain a statement that recipients may request a copy of the staff report.

Section 153.255.100 shall be amended as follows:

153.255.100 Hearings procedure.

A hearing shall be conducted as follows:

...

(E) The Hearings Body shall list applicable substantive criteria, explain that testimony and evidence must be directed toward that criteria or other criteria in the comprehensive plan or land use regulations that the person believes to apply to the decision, and that failure to address an issue with sufficient specificity to afford the decision-maker and the parties an opportunity to respond precludes appeal to City Council or the Land Use Board of Appeals on that issue.

(F) Order of presentation:

- (1) Open the hearing.
- (2) Staff report & any Public Agency.
- (3) Applicants' presentation & those in Support.
- (4) Opponents' presentation & others in opposition.
- (5) Neutral Comments and questions
- (6) Applicants' rebuttal.
- (7) Process may continue at the Hearings Body's discretion.
- (8) Staff comments.
- (9) Questions from or to Staff or the Hearings Body may be entertained at any time at the Hearings Body's discretion.
- (10) Close the hearing.
- (11) Hearings Body deliberation, comments to or from Staff are permitted.

(G) The record shall be available for public review at the hearing.

Section 153.256.010 shall be amended as follows:

153.256.010 Decision.

(A) Approval, approval with conditions or denial of a land use action shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based upon the criteria standards and facts set forth.

...

(D) No building permit shall be issued until a decision is final. Appeal of a final decision to LUBA does not affect the finality of a decision for purposes of issuing building permits.

Section 153.258.020 shall be amended as follows:

153.258.020 Filing appeals

...

(B) Unless a request for reconsideration has been filed, the notice of appeal and appeal fee must be received at the offices of the City of Prineville Planning Department no later than 5:00 PM on the 12 day following mailing of the decision. If a decision has been modified on reconsideration, an appeal must be filed no later than 5:00 PM on the 12 day following mailing of the decision as modified. Notices of Appeals may not be received by facsimile machine.

(C) If the City Council is the Hearings Body and the City declines review, a portion of the appeal fee may be refunded. The amount of any refund will depend upon the actual costs incurred by the City in reviewing the appeal.

Section 153.258.040 shall be amended as follows:

153.258.040 Transcript requirement

...

(B) Appellants shall submit the transcript to the Planning Department no later than 10 days after the date notice of appeal was filed or within 10 days after the audio was given to the appellant, whichever is later. Unless excused under this section, an appellant's failure to provide a transcript shall cause the Council to decline to consider the appellant's appeal further and shall, upon notice mailed to the parties, cause the lower Hearings body's decision to become final.

...

Section 153.258.060 shall be amended as follows:

153.258.060 Scope of review

(A) Before Planning Commission or Hearings Officer. Review on appeal shall be de novo.

(B) Before the Council.

...

(b) If the audio of the hearing below, or a portion thereof, is unavailable due to a malfunctioning of the recording device during that hearing, whether review on the record would be hampered by the absence of a transcript of all or a portion of the hearing below; or

...

Section 153.259.010 shall be amended as follows:

153.259.010 Expiration of approval.

(A) Scope.

(1) Except as otherwise provided herein, this section shall apply to and describe the duration of all approvals of land use permits provided for under the standards of City Ordinances; including the City of Prineville Land Development Ordinance and the various zoning ordinances administered by City of Prineville.

...

(B) Duration of Approvals.

(1) Except as otherwise stated in a decision of approval, provided under this section or under applicable zoning ordinance provisions, all land use permits are void 1 year after the date the decision of approval becomes final if the use approved in the permit is not initiated within that time period as defined in 153.259.020.

(2) Except as otherwise stated in the decision of approval, provided under applicable ordinance provisions, preliminary approval of plats or master plans shall be void after 1 year from the date of approval, unless the final plat has been submitted to the Planning Department for final approval within that time period, or an extension is sought under 153.259.010(C), or the preliminary plat or master plan approval has been initiated as defined herein.

...

(D) Procedures.

(1) The Planning Director shall make the determination whether a land use decision has been initiated based on the criteria listed in 153.259.020. A dispute over whether a land use has been initiated shall be processed as a declaratory ruling.

(2) Approval of an extension granted under 153.259.010(c) is an administrative decision, is not a land use decision described in ORS 197.015 and is not subject to appeal as a land use decision and shall be processed under 153.250 as a development action.

...

Section 153.259.030 shall be amended as follows:

153.259.030 Modification of approval

(A) Modification

(1) An applicant may apply to modify an approval at any time after a period of 6 months has elapsed from the time a land use action approval has become final.

(2) Unless otherwise allowed under section 153.020(H) for Revision of plans, or other particular zoning ordinance provision, the grounds for filing a modification shall be that a change of circumstances since the issuance of the approval makes it desirable to make changes to the proposal, as approved. A modification shall not be filed as a substitute for an appeal or to apply for a substantially new proposal or one that would have significant additional impacts on surrounding properties.

(3) An application to modify an approval shall be directed to one or more discrete aspects of the approval, the modification of which would not amount to approval of a substantially new proposal or one that would have significant additional impacts on surrounding properties. Any proposed modification, as defined in this section, shall be reviewed only under the criteria applicable to that particular aspect of the proposal. Proposals that would modify an approval in a scope greater than allowable as a

modification shall be treated as an application for a new proposal. Modifications shall not be accepted in such cases where a variance would be required.

(4) An application for a modification shall be processed in the same manner as the original approval unless criteria for that use has changed.

(B) Alteration of an Approved Plan

(1) Minor alterations of an approved site plan, design or preliminary plat shall be processed as a Development Action. Examples of such alterations include:

(a) Minor shifting of building location such that no setback is violated.

(b) Minor shifting of street alignments or easements which do not add or delete intersections or diminish road connectivity.

(c) Minor amendments to lot lines such that no new lots are created and all lots continue to meet lot size and frontage requirements.

(d) Minor changes to landscaping species or location of plant materials such that there is no change to the aesthetic improvement qualities of the landscaping.

(e) Minor changes to the building design including roof line.

(f) Minor amendments to phasing plans that would have no adverse effect on the phasing of public improvements.

(2) Proposed alterations shall be submitted in writing to the City Planning Department for approval. The Planning Director shall grant approval to the proposed if it is determined that the change does not substantially alter the approval previously given, or the final conditions of approval. If the Director determines that the proposed change does constitute a substantial alteration or a violation of the conditions the proposal shall be processed as a modification or in the same manner as a new application.

(3) An Alteration can only be considered if there are non-substantive changes in the outward appearance of the development, impact on the surrounding properties is minimal, and the alteration is consistent with the conditions of the original approval and applicable criteria.