

Exhibit B

18.04.090 Remedies.

In case a building or other structure is, or is proposed to be, located, constructed, maintained, repaired, altered or used, or any land is or is proposed to be used in violation of this title, the ~~board county court~~ or a person whose interest in real property in the county is or may be affected by the violation may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate or remove the unlawful location, construction, maintenance, repair, alteration or use. When a temporary restraining order is granted in a suit instituted by a person who is not exempt from furnishing bonds or undertakings under state law, the person shall furnish undertaking as provided in ORS [32.010](#) to [32.060](#). (Ord. 18 § 10.030, 2003)

18.08.080 H definitions.

“Habitable floor” means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a “habitable floor.”

“Hearing authority” means the ~~board county court~~, planning commission, or a hearings officer appointed by the ~~board court~~ under CCC [18.172.010](#)(2).

“Height of building” means the vertical distance from the average of the finished grade adjacent to the building walls to the average height of the highest roof surface.

“Height of wind energy system” means the vertical distance from the grade to the tip of a wind generator blade when the tip is at its highest point.

“High-value farmland” means land in a tract composed predominantly of soils that are:

(a) Irrigated and classified prime, unique, Class I or II; or

(b) Not irrigated and classified prime, unique, Class I or II; and

(c) High-value farmland includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture taken prior to November 4, 1993. “Specified perennials” means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees, or vineyards, but not including seed crops, hay, pasture or alfalfa.

“Historic area” means lands with sites, structures and objects that have local, regional, state-wide or national historical significance.

“Hog farm” means any premises where 25 or more hogs are maintained.

“Home occupation” means an occupation carried on within a dwelling and/or a residential accessory structure by a resident or employees depending on type pursuant to Chapter [18.160](#) CCC and is secondary to the residential use of the dwelling and/or the residential accessory structure. (Ord. 321 § 4, 2020; Ord. 309 § 1 (Exh. B), 2019)

18.08.270 Administrative terminology and construction.

(1) Terminology. The word “county” shall mean the county of Crook, Oregon. The words “*board of commissioners county court*” and “*board court*” shall mean the *Board of Commissioners county court* of the County of Crook. The words “planning commission” and “commission” shall mean the county planning commission of the county of Crook duly appointed by the *board county court*. The words “planning director,” “building official,” “county roadmaster,” “county clerk,” “county sanitarian,” “county surveyor,” “tax collector” and “assessor” shall mean the planning director, building official, county roadmaster, county clerk, county sanitarian, county surveyor, tax collector, and assessor of the county of Crook. “Planning director” shall mean the planning director or his designated representative.

(2) Construction. Words used in the present tense include the future tense; words used in the singular include the plural and words used in the plural include the singular; the word “shall” is mandatory; the word “may” is permissive; the masculine shall include the feminine and neuter. (Ord. 309 § 1 (Exh. B), 2019)

18.12.030 Zoning map.

A zoning map or zoning map amendment adopted by CCC [18.12.020](#) or by an amendment thereto shall be prepared by authority of the planning commission or be a modification by the *board county court* of a map or map amendment so prepared. The map or map amendment shall be dated with the effective date of the ordinance that adopts the map or map amendment. A certified print of the adopted map or map amendment shall be maintained in the office of the county clerk as long as this title remains in effect. (Ord. 280 § 2 (Exh. B), 2015; Ord. 18 § 2.030, 2003)

18.16.010 Use table.

Table 1 identifies the uses permitted in the EFU zone. This table applies to all new uses, expansions of existing uses, and changes of use when the expanded or changed use would require review, unless otherwise specified on Table 1. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this chapter. Due to the limited amount of high-value farmland in Crook County, the uses for high-value farmland are not listed in this section. If a use permitted in Table 1 is located on high-value farmland, the requirements of this chapter and the requirements of OAR Division 33 shall be used for review.

As used in Table 1:

(1) Use Type.

(a) “A” means the use allowed.

(b) “STS” means the use is subject to site plan review and any other listed criteria.

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

(d) “X” means the use is not allowed.

(2) Review Procedures.

(a) “P” means the use is permitted outright; uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this chapter.

(b) “Administrative” are permitted by right, requiring only nondiscretionary staff review to demonstrate compliance with the standards in this chapter. Permits subject to administrative review are limited to actions that do not require interpretation or the exercise of policy or legal judgment.

(c) “Notice and opportunity for public hearing” involve permits for which the application of review criteria requires the exercise of limited discretion. Decisions are made by the planning director. These decisions require a notice of decision and opportunity for appeal and public hearing.

(d) “Planning commission hearing” uses require a public hearing. Decisions are made by the planning commission, usually with an opportunity to appeal to the board of commissioners. These decisions involve the exercise of discretion and judgment when applying applicable land use and development criteria but implement established policy. Uses that are subject to this review procedure may be allowed subject to findings of compliance with applicable approval criteria and development standards. These decisions require a public notice prior to, and after, a decision.

(3) The “Subject To” column identifies any specific provisions of CCC [18.16.015](#) and other local requirements to which the use is subject.

Table 1. Use Table for Exclusive Farm Use (EFU) District

	Use	Use Type	Review Procedure	Subject To
1	Farm, Forest, and Natural Resource Uses			
1.1	Farm use.	A	P	
1.2	Propagation or harvesting of a forest product.	A	P	

Table 1. Use Table for Exclusive Farm Use (EFU) District

	Use	Use Type	Review Procedure	Subject To
1.3	Composting limited to accepted farming practices in conjunction with and auxiliary to farm use on the subject tract.	A	P	
1.4	A facility for the processing of farm products with a processing area of less than 2,500 square feet.	A	P	
1.5	Agricultural buildings customarily provided in conjunction with farm use.	STS	Administrative	
1.6	Creation of, restoration of, or enhancement of wetlands.	STS	Administrative	
1.7	A facility for the processing of farm products with a processing area of at least 2,500 square feet but less than 10,000 square feet.	STS	Notice and Opportunity for Hearing	18.16.015 (1)
1.8	A facility for the primary processing of forest products.	C	Planning Commission Hearing	18.16.015 (2)
2	Residential Uses			
2.1	Primary farm dwelling.	STS	Notice and Opportunity for Hearing	18.16.015 (25) 18.16.025
2.2	Relative farm help dwelling.	STS	Notice and Opportunity for Hearing	18.16.015 (3) 18.16.015(25)
2.3	Accessory farm dwelling.	STS	Notice and Opportunity for Hearing	18.16.015 (25) 18.16.030
2.4	Lot of record dwelling.	STS	Notice and Opportunity for Hearing	18.16.015 (25) 18.16.035

Table 1. Use Table for Exclusive Farm Use (EFU) District

	Use	Use Type	Review Procedure	Subject To
2.5	Nonfarm dwelling.	STS	Notice and Opportunity for Hearing	18.16.015 (25) 18.16.040
2.6	Replacement dwelling for historic property.	STS	Notice and Opportunity for Hearing	18.16.015 (25)
2.7	Replacement dwelling.	STS	Notice and Opportunity for Hearing	18.16.015 (25) 18.16.045
2.8	Temporary hardship dwelling.	C	Notice and Opportunity for Hearing	18.16.015 (4) 18.16.015(25) 18.16.020(1) and (2)
2.9	Residential home as defined in ORS 197.660 , in existing dwellings (limited to the EFU-2 and EFU-3 zones only).	C	Planning Commission Hearing	18.16.015 (25)
2.10	Room and board arrangements for a maximum of five unrelated persons in existing residences.	C	Notice and Opportunity for Hearing	18.16.015 (25)
3	Commercial Uses			
3.1	Dog training classes or testing trials.	STS	Notice and Opportunity for Hearing	18.16.015 (5)
3.2	Farm stand.	STS	Notice and Opportunity for Hearing	18.16.015 (6)
3.3	Winery.	STS	Notice and Opportunity for Hearing	18.16.050

Table 1. Use Table for Exclusive Farm Use (EFU) District

	Use	Use Type	Review Procedure	Subject To
3.4	Cider business.	STS	Notice and Opportunity for Hearing	18.16.050
3.45	Farm brewery.	STS	Notice and Opportunity for Hearing	18.16.052
3.5	Agri-tourism and other commercial events or activities that are related to and supportive of agriculture.	STS	Notice and Opportunity for Hearing	18.16.055
3.6	Parking of up to seven log trucks.	C	Notice and Opportunity for Hearing	
3.7	Home occupations.	C	Notice and Opportunity for Hearing	18.160.050
3.8	Commercial dog boarding kennels or dog training classes or testing trials that cannot be established under Use 3.1.	C	Planning Commission Hearing	
3.9	A landscape contracting business, as defined in ORS 671.520 , or a business providing landscape architecture services, as described in ORS 671.318 , if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.	C	Notice and Opportunity for Hearing	
3.10	Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under Use 1.6, but excluding activities in conjunction with a marijuana crop.	C	Planning Commission Hearing	18.16.015 (7)
3.11	Equine and equine-affiliated therapeutic and counseling activities.	C	Planning Commission Hearing	18.16.015 (9)

Table 1. Use Table for Exclusive Farm Use (EFU) District

	Use	Use Type	Review Procedure	Subject To
3.12	Guest ranch.	C	Planning Commission Hearing	18.16.015 (8)
4	Mineral, Aggregate, Oil and Gas Uses			
4.1	Exploration for and production of geothermal, gas, oil and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead.	STS	Administrative	
4.2	Operations for the exploration for minerals as defined by ORS 517.750 .	STS	Administrative	
4.3	Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted.	C	Planning Commission Hearing	
4.4	Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources.	C	Planning Commission Hearing	18.16.015 (11) 18.144
4.5	Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement.	C	Planning Commission Hearing	18.16.015 (10) 18.144
4.6	Processing of other mineral resources and other subsurface resources.	C	Planning Commission Hearing	
5	Transportation Uses			
5.1	Climbing and passing lanes within the right-of-way existing as of July 1, 1987.	STS	Administrative	
5.2	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no	STS	Administrative	

Table 1. Use Table for Exclusive Farm Use (EFU) District

	Use	Use Type	Review Procedure	Subject To
	removal or displacement of buildings would occur or no new land parcels result.			
5.3	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	STS	Administrative	
5.4	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	STS	Administrative	
5.5	Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.	C	Notice and Opportunity for Hearing	
5.6	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.	C	Notice and Opportunity for Hearing	
5.7	Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.	C	Planning Commission Hearing	
5.8	Transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065 .	C	Notice and Opportunity for Hearing	
5.9	Personal use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities.	C	Planning Commission Hearing	18.16.015 (12)
6	Utility/Solid Waste Disposal Facilities			

Table 1. Use Table for Exclusive Farm Use (EFU) District

	Use	Use Type	Review Procedure	Subject To
6.1	Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505 .	A	P	
6.2	Land application of reclaimed water, agricultural or industrial process water or biosolids, or the on-site treatment of septage prior to the land application of biosolids.	STS	Notice and Opportunity for Hearing	18.16.015 (13)
6.3	Utility facility service lines.	STS	Administrative	18.16.015 (14)
6.4	Utility facilities necessary for public service, including associated transmission lines as defined in ORS 469.300 and wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height.	STS	Notice and Opportunity for Hearing	18.16.015 (15)
6.5	Transmission towers over 200 feet in height.	C	Planning Commission Hearing	18.124.110
6.6	Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities or photovoltaic solar power generation facilities.	C	Planning Commission Hearing	18.16.060 (1)
6.7	Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale.	C	Planning Commission Hearing	18.16.060 (2) 18.161
6.8	Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale.	C	Planning Commission Hearing	18.16.060 (3) 18.161
6.9	Disposal site for solid waste approved by the governing body and for which the Oregon Department of Environmental Quality has granted a permit under	C	Planning Commission Hearing	18.16.015 (17) 18.16.015(26)

Table 1. Use Table for Exclusive Farm Use (EFU) District

	Use	Use Type	Review Procedure	Subject To
	ORS 459.245 , together with equipment, facilities or buildings necessary for its operation.			
6.10	Composting facilities on farms or for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-093-0050 and 340-096-0060 .	C	Planning Commission Hearing	18.16.015 (16) 18.16.015 (26)
7	Parks/Public/Quasi-Public Uses			
7.1	Firearms training facility in existence on September 9, 1995.	STS	Notice and Opportunity for Hearing	
7.2	Fire service facilities providing rural fire protection services.	STS	Notice and Opportunity for Hearing	
7.3	On-site filming and activities accessory to on-site filming for 45 days or less as provided for in ORS 215.306 .	STS	Administrative	
7.4	A site for the takeoff and landing of model aircraft.	STS	Notice and Opportunity for Hearing	18.16.015 (18)
7.5	On-site filming and activities accessory to on-site filming for more than 45 days as provided for in ORS 215.306 .	C	Notice and Opportunity for Hearing	
7.6	Living history museum as defined in CCC 18.08.120 .	C	Planning Commission Hearing	18.16.015 (19) 18.16.015 (24)
7.7	Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.	C	Planning Commission Hearing	18.16.015 (20) 18.16.015 (24)

Table 1. Use Table for Exclusive Farm Use (EFU) District

	Use	Use Type	Review Procedure	Subject To
7.8	Public parks and playgrounds.	C	Planning Commission Hearing	18.16.015 (21) 18.16.015(24)
7.9	Public parks or park uses in an adopted park master plan.	STS	Administrative	18.16.015 (24)
7.10	Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210 .	C	Notice and Opportunity for Hearing	
7.11	A county law enforcement facility that lawfully existed on August 20, 2002 and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135 as provided for in ORS 215.283 (1).	X	Notice and Opportunity for Hearing	18.16.020
7.12	Operations for the extraction of water.	C	Planning Commission Hearing	
7.13	Churches and cemeteries in conjunction with churches.	STS	Notice and Opportunity for Hearing	18.16.015 (24) 18.16.015(26)
7.14	Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.	C	Planning Commission Hearing	18.16.015 (22) 18.16.015(24) 18.16.015(26)
7.15	Private parks, playgrounds, hunting and fishing preserves, and campgrounds.	C	Planning Commission Hearing	18.16.015 (23) 18.16.015(24) 18.16.015(26)
7.16	Golf courses.	C	Planning Commission Hearing	18.16.015 (24) 18.16.015(26) 18.16.015(27)

Table 1. Use Table for Exclusive Farm Use (EFU) District

	Use	Use Type	Review Procedure	Subject To
8	Outdoor Gatherings			
8.1	An outdoor mass gathering of more than 3,000 persons that is expected to continue for more than 24 hours but less than 120 hours in any three-month period, as provided in ORS 433.735 .	STS	Public Hearing with <i>Board of Commissioners</i> Crook County Court	5.04
8.2	Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period is subject to review by a county planning commission under ORS 433.763 .	STS	Planning Commission Hearing	
9	Destination Resort	C	Planning Commission Hearing	18.116

(Ord. 350 § 2 (Exh. A), 2025; Ord. 344 § 2 (Exh. A), 2024; Ord. 336 § 4 (Exh. C), 2023; Ord. 330 § 5 (Exh. D), 2022; Ord. 321 § 4, 2020; Ord. 317 § 1, 2020; Ord. 309 § 2 (Exh. C), 2019)

18.44.090 Limitations of conditional uses.

In addition to the standards and conditions that may be attached to the approval of conditional uses as provided by Chapter [18.160](#) CCC, the following limitations shall apply to conditional uses in an RR-1/RR-5 zone:

- (1) An application for a conditional use in an RR-1/RR-5 zone may be denied if, in the opinion of the planning commission, the proposed use is not related to or sufficiently dependent upon the recreational resource of the area.
- (2) An application for a conditional use in an RR-1/RR-5 zone may be denied if the applicant fails to demonstrate that a location in close proximity to the recreation resource to be served is essential to the public interest and to the full development of the recreation resource.
- (3) The planning commission may require establishment and maintenance of fire breaks, the use of fire-resistant materials in construction and landscaping, or may attach other similar conditions or limitations that will serve to reduce fire hazards or prevent the spread of fire to surrounding areas.
- (4) The planning commission may limit changes in the natural grade of land, or the alteration, removal or destruction of natural vegetation in order to prevent or minimize erosion or pollution.

(5) Compliance with the comprehensive plan shall be required for the approval of any application for a conditional use in an RR-1/RR-5 zone.

(6) An application for a mobile home pursuant to CCC [18.44.020](#)(2) can only be approved by unanimous vote of the commission, or by the simple majority vote by the *board* ~~county court~~ on appeal in the event that 66-2/3 percent, or more, of the property owners within 250 feet of the property in question object in writing, before the close of the public hearing, to the granting of the conditional use. (Ord. 280 § 9 (Exh. I), 2015; Ord. 18 § 3.080(9), 2003)

18.112.005 Purpose.

The purpose of this zoning district is to ameliorate the consequences of the establishment of the Juniper Acres Partitioning in 1962 by permitting a level of residential development that would not ordinarily be permitted in an exclusive farm use zone given the large number of private owners of numerous legally created parcels, and to modulate the timing of the residential development. The Crook County court (*now the board*) had established a task force to investigate solutions to fire suppression, road construction and maintenance issues in the subdivision. These issues of public health and safety have not been addressed and the court's order stating that it is premature to issue additional building permits in the Juniper Acres subdivision remains in effect (Order 2007-80), excepting building permits may be issued for (1) an alteration, restoration, or replacement of a lawfully established land use, (2) an accessory structure to an existing lawfully established land use, and (3) for a previously approved land use that has been determined by the county planning department to have been initiated (vested). Except as described above, the remaining sections of this chapter shall not apply until the *board* ~~court~~ determines that building permits can be issued. (Ord. 344 § 10 (Exh. I), 2024; Ord. 326 § 5 (Att. A), 2021; Ord. 18 § 3.230, 2003)

18.116.020 Applicability.

(1) The provisions of this chapter shall apply solely to development which meets the standards set forth in CCC [18.116.040](#) or [18.116.050](#). Development which meets the standards in CCC [18.116.040](#) shall be referred to hereafter as a "destination resort," and development which meets the standards in CCC [18.116.050](#) shall be referred to hereafter as a "small destination resort."

Where special standards or criteria are not specifically called out for small destination resorts, the standards for destination resorts shall apply. For a destination resort application, the standards and procedures of this chapter shall govern in cases where they conflict with the standards or procedures of the underlying zone. Other provisions of this title, made applicable by specific map designations such as the flood plain combining zone (FP), airport obstruction overlay zone, riparian protection zone, and sensitive bird habitat combining zone (SBH), or otherwise applicable under the terms of the county zoning ordinance, shall remain in full force and effect, except as otherwise specified herein.

(2) Destination resorts shall be allowed only on tracts mapped by the county as eligible for destination resort siting and designated as such in the comprehensive plan. The eligibility map (also known as the destination resort overlay) shall be based on reasonably available information,

and shall be the sole basis for determining whether tracts of land are eligible for destination resort siting pursuant to ORS [197.435](#) to [197.467](#) (i.e., without taking an exception to Goals 3, 4, 11 or 14).

(3) Effective July 1, 2008, the existing eligibility map may be amended through a legislative comprehensive plan amendment process. The amendment process shall occur no more than once every 36 months. Amendments of the eligibility map are subject to the criteria set out in ORS [197.455](#), Statewide Planning Goal 8, the Crook County Comprehensive Plan, this policy, and other criteria as may be established through subsequent amendments to the Crook County Comprehensive Plan and/or Crook County Code. An eligibility map amendment can be applied for as follows:

- (a) The ~~board Crook County court~~ may initiate, without payment of a fee, a legislative comprehensive plan amendment process at any time following adoption of Ordinance 206. The provisions of Chapter [18.168](#) CCC shall apply to the amendment process;
- (b) After the initial legislative comprehensive plan amendment, an individual may apply for a legislative comprehensive plan amendment by submitting an application form and the required supporting materials as prescribed by the planning director requesting properties be added or removed from the eligibility map. The county will consider applications for legislative plan amendments no sooner than 36 months after the initial legislative comprehensive plan amendment. The planning director shall retain any applications received until the expiration of the 36-month period and shall then schedule the matter for concurrent processing by the planning commission. The planning director shall establish the required application content and form and may adjust the application form as needed;
- (c) Submitting the filing fee for each application for a destination resort overlay map amendment as set by the ~~board county court~~;
- (d) Multiple applications shall be consolidated for the legislative hearing process required for comprehensive plan amendments pursuant to Chapter [18.168](#) CCC; and
- (e) Prior to the first public hearing, the county shall require a recommendation from either or both a technical advisory committee consisting of local, state, and federal agencies, and/or an approved appointed citizen advisory committee which meets the requirements of the county's comprehensive plan and Goal 1 of the Statewide Planning Goals. (Ord. 206 § 1, 2008; Ord. 18 § 12.020, 2003)

18.116.080 Application procedures and contents.

- (1) Before submitting a development plan for approval, an applicant proposing a destination resort shall conduct a preapplication conference with the planning department to obtain general information, guidelines, procedural requirements, advisory opinions, and technical assistance for the project concept.
- (2) Following a preapplication conference, the applicant shall submit a development plan for review by the planning commission. Fifteen copies of the development plan shall be submitted to the

planning department along with a filing fee set by the ~~board~~ ~~Crook County court~~ to defray costs incidental to the review process.

(3) The development plan shall contain the following elements:

(a) Illustrations and graphics to scale, identifying:

(i) The location and total number of acres to be developed as a destination resort;

(ii) The subject area and all adjacent tax lots, with existing zoning;

(iii) Types and general location of proposed development and uses, including residential and commercial uses;

(iv) A general depiction of the characteristics of the site, including:

(A) Goal 5 resources on the county's comprehensive plan inventory;

(B) Riparian vegetation within 100 feet of natural lakes, rivers, streams, and designated significant wetlands;

(C) Water areas, including streams, lakes, ponds and designated significant wetlands;

(D) Boundaries of the 100-year flood plain, if present on the site;

(E) Slopes exceeding 25 percent;

(F) Existing topography.

(v) Proposed methods of access to the development, identifying the main vehicular circulation system within the resort and an indication of whether streets will be public or private;

(vi) Major trail systems;

(vii) The approximate location and number of acres proposed as open space, buffer area or common area. Areas proposed to be designated as "open space," "buffer area" or "common area" should be conceptually illustrated and labeled as such;

(viii) List of proposed recreational amenities and approximate location.

(b) A conceptual water and sewer facilities master plan for the site, including a master plan study prepared by a professional engineer certified in the state of Oregon, describing:

(i) An estimate of water demands for the destination resort at maximum build-out;

(ii) Availability of water for estimated demands at the destination resort, including (1) identification of the proposed source; (2) identification of all available information on ground and surface waters relevant to the determination of adequacy of water supply for the destination resort; (3) a copy of any water right application or permit submitted to or issued by the Oregon Water Resources Department (OWRD), including a description of any mitigation measures proposed to satisfy OWRD standards or requirements;

(iii) A water conservation plan including an analysis of available measures, which are commonly used to reduce water consumption. This shall include a justification of the chosen water conservation plan. The water conservation plan shall analyze a wastewater disposal plan utilizing beneficial use of reclaimed water to the extent practicable. For the purposes of subsection (3)(b) of this section, beneficial uses may include, but are not limited to:

(A) Agricultural irrigation or irrigation of golf courses and greenways;

(B) Establishment of artificial wetlands for wildlife habitation;

(C) Groundwater recharge.

(c) A conceptual site drainage plan;

(d) A solid waste management plan;

(e) An open space management plan, including:

(i) An explanation of how the open space management plan will ensure that at least 50 percent of the resort is dedicated to open space at all times;

(ii) Proposed conservation easements to protect significant Goal 5 sites pursuant to CCC [18.116.040](#)(8).

(f) A description of measures intended to mitigate significant project impacts on fish and wildlife and other natural values present in the open space areas;

(g) A traffic study which addresses: (1) impacts on affected county, city, and state road systems, and (2) transportation improvements necessary to mitigate any such impacts. The study shall be prepared by a licensed traffic engineer in coordination with the affected road authority (either the county department of public works or the Oregon Department of Transportation, or both);

(h) A written statement addressing how the proposed destination resort satisfies the standards of CCC [18.116.040](#) or [18.116.050](#), and the approval criteria of CCC [18.116.100](#);

(i) A description of any proposed development or design standards, together with an explanation of why the standards are adequate to minimize significant adverse impacts on adjacent land uses within 500 feet of the boundaries of the parcel on which the destination resort is to be developed;

(j) A description of the proposed method of providing all utility systems, including the preliminary or schematic location and sizing of the utility systems;

(k) A description of the proposed order and schedule for phasing (if any) of all development including an explanation of when facilities will be provided and how they will be secured, proportional to the level of development, if not completed prior to the closure of sale of individual lots or units;

(l) A description of the proposed method for providing emergency medical facilities and services and public safety facilities and services, including fire and police protection. (Ord. 18 § 12.080, 2003)

18.116.090 Development plan review procedure.

(1) Review of the development plan shall be in accordance with the provisions of the planning commission review procedure (Chapter [18.172](#) CCC).

(2) The planning commission may attach any conditions (including requirements for improvement assurances) it deems necessary to the development plan approval when directly related to applicable standards and criteria and supported by substantial evidence in the whole record.

(3) The planning commission shall issue a final order of its decision on the development plan. The planning commission's decision may be appealed to the ~~board county court~~. (Ord. 18 § 12.090, 2003)

18.116.100 Approval criteria.

The planning commission or ~~the board county court~~ shall approve a development plan for a destination resort if it determines that all of the following criteria are met:

(1) The tract where the development is proposed is eligible for destination resort siting, as depicted on the acknowledged destination resort overlay map.

(2) The development plan contains the elements required by CCC [18.116.080](#).

(3) The proposed development meets the standards established in CCC [18.116.040](#) or [18.116.050](#), qualifying as a destination resort or a small destination resort, respectively.

(4) The uses included in the destination resort are either permitted uses listed in CCC [18.116.060](#), or accessory uses listed in CCC [18.116.070](#) that are ancillary to the destination resort and consistent with the purposes of this chapter.

(5) The development will be reasonably compatible with surrounding land uses, particularly farming and forestry operations. The destination resort will not cause a significant change in farm or forest practices on surrounding lands or significantly increase the cost of accepted farm or forest practices.

(6) The development will not have a significant adverse impact on fish and wildlife, taking into account mitigation measures.

(7) The traffic study required by CCC [18.116.080](#)(3)(g) illustrates that the proposed development will not significantly affect a transportation facility or will comply with subsection (7)(b) of this section.

(a) A resort development will significantly affect a transportation facility for purposes of this approval criterion if it would, at any point within a 20-year planning period:

- (i) Change the functional classification of the transportation facility;
 - (ii) Result in levels of travel or access which are inconsistent with the functional classification of the transportation facility; or
 - (iii) Reduce the performance standards of the transportation facility below the minimum acceptable level identified in the applicable transportation system plan (TSP).
- (b) If the traffic study required by CCC [18.116.080\(3\)\(g\)](#) illustrates that the proposed development will significantly affect a transportation facility, the applicant for the destination resort shall assure that the development will be consistent with the identified function, capacity, and level of service of the facility through one or more of the following methods:
- (i) Limiting the development to be consistent with the planned function, capacity and level of service of the transportation facility;
 - (ii) Providing transportation facilities adequate to support the proposed development consistent with Chapter [660](#) OAR, Division [12](#); or
 - (iii) Altering land use densities, design requirements or using other methods to reduce demand for automobile travel and to meet travel needs through other modes.
- (c) Where the option of providing transportation facilities is chosen in accordance with subsection (7)(b)(ii) of this section, the applicant shall be required to provide the transportation facilities to the full standards of the affected authority as a condition of approval. Timing of such improvements shall be based upon the timing of the impacts created by the development, as determined by the traffic study or the recommendations of the affected road authority.
- (8) The water and sewer facilities master plan required by CCC [18.116.080\(3\)\(b\)](#) illustrates that proposed water and sewer facilities can reasonably serve the destination resort.
- (9) The development complies with other applicable standards of the county zoning ordinance. (Ord. 336 § 9 (Exh. H), 2023; Ord. 18 § 12.100, 2003)

18.132.010 Minimum standards for manufactured dwellings.

(1) Generally.

- (a) A manufactured dwelling permitted as a single-family dwelling on an individual lot shall be in compliance with the following standards and regulations as a minimum.
- (b) A manufactured dwelling is defined as a residential trailer, mobile home, or manufactured home as listed in CCC [18.08.130](#).
- (c) The manufactured dwelling shall meet the state and/or federal construction requirements in effect at the time of construction.

(2) Standards for Manufactured Dwelling Siting.

- (a) The manufactured dwelling shall be installed according to Chapter [15.04](#) CCC.
- (b) The manufactured dwelling shall have all wheels, axles, hitch mechanisms, and transient lights removed.
- (c) The manufactured dwelling shall have continuous perimeter skirting of finished wood, vinyl, metal, masonry, concrete, or masonry block. Skirting will provide access in accordance with Chapter [15.04](#) CCC.
- (d) All plumbing, electric and gas service connections shall be made according to the manufacturer's instructions and Chapter [15.04](#) CCC.
- (e) The manufactured dwelling shall meet all Federal Emergency Management Agency (FEMA) standards if placed in a designated flood plain.
- (f) Off-street parking shall meet the requirements of CCC [18.128.010](#)(1)(a). Construction of the off-street parking facilities shall be completed within 90 days following placement of the unit upon the site.
- (g) Before a manufactured dwelling is occupied it shall pass the building department's final building inspection and shall be connected to a sanitary sewage disposal system approved by the environmental health department or State Division of Environmental Quality.
- (h) The manufactured dwelling shall be used solely for the purpose of a residential dwelling. Use of a manufactured dwelling for storage is prohibited.
- (i) Upon removal of the manufactured dwelling, the owner of the property shall remove the foundation and all accessory structures and additions to the manufactured dwelling and shall disconnect sewer, water and other utilities. A demolition/removal permit from the Crook County community development department will be required.
- (ii) This condition shall not apply in the event the owner applies to the community development department to have the manufactured dwelling replaced on the original foundation site by another approved dwelling unit within one year of the original unit's removal.
- (iii) In the event the owner fails to file an application with the community development department for a replacement dwelling and fails to accomplish said work within one year from the date on which the manufactured dwelling is moved from its foundation, the county may perform such work and place a lien against the property for the cost of such work. Said lien may be initiated by the ~~board~~ *county court*.

(3) Manufactured Dwellings Accessory Structures.

- (a) Accessory structures, including porches, steps, awnings, cabanas, carports, or any other structure or addition that depends in part on the manufactured dwelling for support, or in any manner is immediately adjacent to or attached to the manufactured dwelling, are allowed subject

to Chapter [15.04](#) CCC. Ramadas (over-home shelters against sun or rain) shall not be allowed on new applications.

(b) Additions may be attached to a manufactured dwelling, providing that such additions are structurally compatible with the manufactured dwelling, comply with other applicable requirements, and Chapter [15.04](#) CCC.

(c) Additions of habitable space shall not exceed 30 percent of the total living space of a manufactured dwelling.

(4) Placement Standards for Manufactured Dwellings.

(a) Manufactured dwellings constructed no more than 15 years prior to the date of application are permitted as a dwelling where a dwelling is allowed.

Manufactured dwellings constructed more than 15 years prior to the date of application shall not be allowed for placement in Crook County except as allowed under subsection (4)(b) of this section or by exception by the Crook County community development director.

This provision applies to new site plan applications submitted after the date of the ordinance codified in this chapter (November 13, 2019).

(b) All manufactured dwellings, which were manufactured in accordance with the laws in effect at the time of construction, are allowed in all permitted mobile home parks.

(c) Manufactured dwellings are prohibited in any historic district or on any historic site.

(d) Manufactured dwellings are allowed as a replacement to an existing nonconforming dwelling destroyed by fire or other natural act, or as an upgrade of an existing manufactured dwelling in accordance with this chapter (see CCC [18.156.010](#)). (Ord. 314 § 1 (Att. A), 2019; Ord. 280 § 16 (Exh. P), 2015; Ord. 18 § 4.100, 2003)

18.136.010 Historic buildings and sites protection.

(1) Alteration/Demolition Permits. A permit is required for alteration or demolition of any structure listed in the county's plan inventory of historic resources as a "significant" historic resource.

(a) Alteration means any addition to, removal of, or change in the exterior part of a structure, and shall include modification of the surface texture, material, or architectural detail of the exterior part of the structure, but shall not include paint color.

(b) Nothing in this subsection shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature on any property covered herein that does not involve a change in design, material, or external appearance thereof.

(c) Nor does this subsection prevent the construction, reconstruction, alteration, restoration, demolition, or removal of any such feature when a building official determines that such emergency action is required for public safety due to an unsafe or dangerous condition.

(2) Review Procedure.

(a) Application. A property owner or his authorized agent may initiate a request for a permit for alteration or demolition of an historic structure by filing an application with both the appropriate building official and the county's designated planning official.

(b) Public Review Process. The county's designated planning official shall initiate a public review process on the subject permit request within 10 days of receipt thereof as follows:

(i) Provide individual written notice of such application to the following:

(A) Property owners within 250 feet.

(B) Planning commission members.

(C) County historical review committee and/or county historical society as such may be applicable.

(D) State Historic Preservation Office.

(E) Other identifiable potentially affected person or parties.

(ii) Such notice shall provide for a minimum of 10, but not more than 20 days for all persons or parties to respond relative to the subject application.

(iii) If no objection is received within said response period, the county's planning official may take action on the subject application for approval, approval with amendments or conditions, denial, or referral to the county planning commission or county historical review committee as applicable for public hearing.

(iv) If one or more objections are received, referral for public hearing shall be mandatory.

(c) Decision. If not referred for public hearing, the county's planning official shall render a decision on an application within 10 days of closure of the public response period. A copy of such decision shall be mailed to the applicant, the owners of the affected property, the county planning commission, the State Historic Preservation Office, and other persons specifically requesting such notification. Said mailing shall be within five working days following the date of the decision.

(d) Planning Official Action.

(i) Alteration. In the case of an application for alteration of an historic structure, the planning official shall:

(A) Approve the request as submitted;

(B) Approve the request with modifications or conditions; or

(C) Deny the request;

(D) As may be applicable, the planning official shall refer the application to the county historical review committee or county historical society, or both, and to the State Historical Preservation Office for review and written recommendation prior to taking action thereon.

(ii) Demolition. In the case of an application for demolition of an historic structure, the planning official shall authorize either:

(A) Immediate issuance of the permit; or

(B) Delay issuance of the permit for a period up to 90 days. During this period, the planning official, in conjunction with the ~~board~~ *county court*, the county historical committee, the county historical society and SHPO, shall attempt to determine if public or private acquisition and preservation is feasible or if other alternatives are possible which could be carried out to prevent demolition of the structure;

(C) The planning official shall authorize immediate issuance of a demolition permit if it is found that all of the following is evident:

1. Structure cannot be economically rehabilitated;
2. A program or project does not exist which may reasonably result in preservation of the structure;
3. Delay of the permit would result in unnecessary and substantial hardship to the applicant and/or property owner; and
4. Issuance will not act to the substantial detriment of the public interest and welfare considering the significance of the structure and the economic, cultural and energy consequences of demolition.

(iii) Criteria – Exterior Alteration. The county planning official shall approve an application for exterior alteration if the proposed alteration is determined to be harmonious and compatible with the appearance and character of the historical building and shall disapprove any application if found detrimental as being unsightly, grotesque, or adversely affecting the architectural significance, the integrity or historical appearance, the educational or historical value of the building. The following guidelines apply to exterior alterations to historical buildings:

(A) Retention of original construction so far as practicable, and the preservation of original exterior materials and details.

(B) Height. Additional stories may be added to historical buildings; provided, that:

1. Zoning height limitations are met.
2. Does not exceed that which was traditional for the style of the building.
3. Added height does not alter the traditional scale and proportions of the building style.
4. Added height is visually compatible with adjacent historic buildings.

(C) Bulk. Horizontal additions may be added to historical buildings; provided, that:

1. The bulk of the addition does not exceed that which was traditional for the building style.
2. The addition maintains the traditional scale and proportion of the building style.
3. The addition is visually compatible with adjacent historic buildings.
4. Visual Integrity of Structure. The lines of columns, piers, spandrels, and other primary structural elements shall be maintained so far as practicable.
5. Scale and Proportion. The scale and proportion of altered or added building elements, the relationships of voids to solids (windows to walls) shall be visually compatible with the traditional architectural character of the historic buildings in the area.
6. Materials, Color and Texture. The materials, colors and textures used in the alteration or addition shall be visually compatible with the traditional architectural character of the historic buildings of the area.
7. Signs, Lighting and Other Appurtenances. Signs, exterior lighting, and other appurtenances such as walls, fences, awnings and landscaping shall be visually compatible with the traditional architectural character of the historic buildings of the area. (Ord. 18 § 4.200, 2003)

18.144.070 Enforcement procedures.

(1) In addition to any other remedy available by law, the county may establish a violation of this chapter or of any condition imposed on a permit issued under this chapter in the following manner:

- (a) Upon determining that a violation has occurred, the planning director shall issue a notice of violation and assessment of fine to the permittee. The notice of violation shall be sent to the permittee and to the owner of record of the affected property by certified mail, return receipt requested. The notice of violation shall explain the nature of the violation and the process for contesting the violation. The planning director shall consider the factors set out in subsection (1)(d) of this section in assessing a fine.
- (b) Within 10 days of receipt of the notice of violation, the permittee may contest the violation by filing an answer with the planning department and requesting a hearing on the violation. Without requesting a hearing, a permittee may admit the violation and offer argument and evidence on mitigation of the proposed fine. In the event an answer is not filed within 10 days, the violation shall be established and a fine may be imposed. The fine shall not exceed the amount assessed in the notice of violation.
- (c) A hearing on any contested notice of violation shall be held before the planning commission. The planning commission shall conduct the hearing in the manner provided for in ORS [215.402](#) to [215.438](#).
- (d) The county has the burden of proof in establishing the existence of a violation. If the planning commission determines that a violation occurred, it shall impose a fine. The planning commission

may order suspension of the mining activity if the suspension is warranted under ORS [215.296](#)(7). The maximum amount of the fine shall be \$500.00 for each violation. In determining the amount of the fine, the planning commission shall consider:

- (i) The past history of the person incurring the penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation;
- (ii) Any prior violations of ordinances or permits applicable to the site;
- (iii) The economic and financial conditions of the person incurring the penalty;
- (iv) The gravity and magnitude of the violation;
- (v) Whether the violation was repeated or continuous;
- (vi) Whether the cause of the violation was an unavoidable accident, negligence or an intentional act;
- (vii) The permittee's cooperativeness and efforts to correct the violation.

(e) Any party to the planning commission proceedings may appeal the decision of the planning commission to the ~~board county court~~ by filing a notice of appeal within 10 days of issuance of the final decision of the planning commission. The appeal shall be on a planning department form and shall state specifically how the planning commission failed to make a decision consistent with the required criteria. The decision of the ~~board county court~~ on the appeal shall be final.

(2) Any permit issued under this title may be revoked by the planning director if it has been established (by uncontested notices of violations or by decisions on contested violations or both) that the permittee has committed, within any three-year period, more than two violations of a condition imposed by the permit for the protection of accepted farm or forest practices on surrounding lands or more than three violations of any other condition or if the permittee fails to pay a fine levied for violation of this chapter or conditions imposed on a mining permit within 15 days after the decision to levy the fine became final.

(3) Any permit issued under this title may be revoked by the planning commission after hearing if the planning commission finds that:

- (a) The permittee provided false or misleading material information, or omitted disclosure of a material fact, in the permit application or materials submitted in support of the application; or
- (b) The permittee is intentionally conducting mining operations in violation of federal, state or county laws or regulations applicable to mining operations which results in a substantial injury to persons or interests protected by the law or regulation. An intentional violation shall not exist if the permittee disputes the violation and continues the alleged unlawful conduct while litigating the existence of the purported violation.

(4) The planning commission shall conduct a revocation hearing using the procedures set out in ORS [197.763](#). The county shall bear the burden of proof in any such proceeding that sufficient

grounds for revocation exist. An appeal of the planning commission action may be taken in the manner provided for in subsection (1)(e) of this section. (Ord. 18 § 11.070, 2003)

18.148.030 Definitions.

As used in this chapter:

- (1) “Facility” means any real or personal property, including appurtenances thereto and fixtures thereon, associated with a given use.
- (2) “Farming practice” means the cultivation, growing, harvesting, processing or selling of plants or animals of any kind, which lawfully may be grown, processed and sold, including, but not limited to, fish, livestock, poultry, grapes, Christmas trees and nursery stock.
- (3) “Forest practice” has the meaning given that term by ORS [527.620](#).
- (4) “Nonresource use” means any facility, activity or other use of land which does not constitute a resource use, including but not limited to residential use, and also including any aggregate mining use which is not conducted in accordance with a program complying with Goal 5.
- (5) “Resource use” means any current or future generally accepted aggregate mining, farming, ranching or forest practice or facility conducted in compliance with applicable Crook County ordinances.
- (6) “Generally accepted” means either:
 - (a) A practice or facility which is conducted or used in compliance with applicable federal and state laws and county ordinances; or
 - (b) If there is no applicable federal or state law, a practice or facility which an average person in Crook County who is regularly involved in the same type of resource use would reasonably expect to occur or exist in a truly rural setting. The Crook County *Board of Commissioners* ~~court~~ may, as it deems necessary, establish resource user peer review boards consisting of five persons each, three of whom regularly are involved in a resource use within the county, to advise the board as to generally accepted practices or facilities with respect to that resource use.
- (7) “Resource use” does not include:
 - (a) The willful growing of unlawful, infested, infected or diseased plants or animals.
 - (b) Trespass which involves actual physical intrusion onto the property of another by a person or by a person’s animals. (Ord. 76 § 3, 1993)

18.160.050 Standards governing conditional uses.

A conditional use shall comply with the standards of the zones in which it is located and with the standards and conditions set forth in this section.

(1) Airports, Aircraft Landing Fields, Aircraft Charter, Rental, Service and Maintenance Facilities Not Located in an Aircraft Approach Zone. The planning director or planning commission shall find that the location and site design of the proposed facility will not be hazardous to the safety and general welfare of surrounding properties, and that the location will not unnecessarily restrict existing and future development of surrounding lands as designated by the comprehensive plan.

(2) Automobile Wrecking Yard or Junkyard. In considering a conditional use application for an automobile wrecking yard or junkyard, the planning director or planning commission shall require that it be enclosed and screened from public view by a sight-obscuring fence not less than six feet in height. If applicable, the planning director or planning commission shall be assured that the proposal is in conformance with applicable state regulations.

(3) Cemeteries. The planning director or planning commission shall require evidence and shall find that the terrain and soil types of a proposed location are suitable for interment, and that the nature of the subsoil and drainage will not have a detrimental effect on ground water sources or domestic water supplies in the area of the proposed use.

(4) Church, Hospital, Nursing Home, Convalescent Home, Retirement Home.

(a) Such uses may be authorized as a conditional use only after consideration of the following factors:

(i) Sufficient area provided for the building, required yards and off-street parking (related structures and uses such as a manse, parochial school or parish house are considered separate principal uses and additional lot area shall be required therefor).

(ii) Location of the site relative to the service area.

(iii) Probable growth and needs therefor.

(iv) Site location relative to land uses in the vicinity.

(v) Adequacy of access to and from principal streets together with the probable effect on the traffic volumes of abutting and nearby streets.

(b) Such uses or related buildings shall be at least 30 feet from a side or rear lot line.

(c) Such uses may be built to exceed the height limitations of the zone in which they are located to a maximum height of 50 feet if the total floor area of the building does not exceed the area of the parcel or lot and if the yard dimensions in each case are equal to at least two-thirds of the height of the principal structure.

(5) Clinics, Clubs, Lodges, Fraternal Organizations, Community Centers and Grange Halls, Golf Courses, Grounds and Buildings for Games or Sports, Country Clubs, Swimming, Boating, Tennis Clubs, and Similar Activities, Governmental Structures and Land Use, Parks, Playgrounds. In considering the above, the planning director or planning commission may authorize the conditional use after assurance that the following is to be provided:

(a) Adequate access from principal streets.

(b) Adequate off-street parking.

(c) Adequate building and site design provisions to minimize noise and glare from the building and site.

(6) Dog Pounds and Kennels. The planning director or planning commission may allow dog pounds or kennels as a conditional use based upon:

(a) Noise requiring sound proofing insulation of the structure.

(b) Smell or odor.

(c) Number of animals for the area and the distance from the nearest neighbor and structure.

(d) Adequate facilities for the number of animals, square feet per animal including exercise area.

(e) Access road and parking.

(f) Shall comply with any additional conditions of approval established by the approval authority under CCC [18.160.030](#).

(7) Home occupations, when permitted as a conditional use and conducted as an accessory use, shall be subject to the following limitations:

(a) In all nonexclusive farm use zones and in the county's EFU 1 and 2 (exclusive farm use) zones on parcels 20 acres or less:

(i) The home occupation is to be secondary to the main use of the property as a residence and shall be conducted only by the residents of such dwelling within the same dwelling or in an accessory building on the same property.

(ii) Structural alterations shall be allowed to accommodate the home occupation when required by law or only after the plans for such alterations have been reviewed and approved by the planning director or planning commission. Such structural alterations shall not detract from the outward appearance of the building or change the appearance of the building from a dwelling or otherwise permitted accessory building.

(iii) One nonilluminated sign not to exceed six square feet and bearing only the name and occupation of the resident shall be permitted.

(iv) No materials or mechanical equipment shall be allowed which are detrimental to residential use of the property or adjoining residences because of vibration, noise, dust, smoke, odor, interference with radio or television reception or other factors.

(v) No materials or commodities shall be delivered to or from the property, which are of such bulk or quantity as to require delivery by a commercial vehicle or trailer not including a licensed parcel service (such as, but not limited to, UPS, Systems 99 and FedEx) or the United States Mail. All

parking of allowed delivery vehicles or customer vehicles shall be in a manner and frequency as to cause no disturbance or inconvenience to nearby residents. The proposed home occupation should allow for on-site parking.

(vi) Home occupations shall not include freight depots, building materials business, ice or cold storage plants, machine shop or related activities, veterinary clinics, kennels, laboratories, storage of hazardous chemicals, any processes requiring the rendering of fats or oils, animal slaughtering, concrete or redi-mix manufacture or distribution plants, wrecking yards, quarries, gravel pits, subsurface or surface mining, commercial feed lot, stock yards, railroad facilities, lumber and other wood products manufacturing, agricultural product storage and processing plants, bulk petroleum products storage and distribution or any other manufacturing process which would violate subsection (7)(a)(v) of this section.

(vii) Only one person may be employed other than members of the immediate family.

(viii) The home occupation shall be limited to 30 percent of the dwelling or 400 square feet, whichever is less.

(ix) For any use permitted by this section on a lot adjacent to or across the street from a residential use or lot in a residential zone, there shall not be any odor, dust, fumes, glare, flashing lights, noise, or other similar types of possible nuisances which are perceptible (without instruments) more than 200 feet in the direction of the affected residential use or lot in a residential zone.

(x) Shall comply with any additional condition of approval established by the approval authority under CCC [18.160.030](#).

(xi) A bed and breakfast facility that is operated in association with a winery or cider business and is sited as a home occupation on the same tract as a winery or cider business established pursuant to CCC [18.16.050](#) is permitted to:

(A) Serve meals at the bed and breakfast facility or at the winery or cider business; and

(B) Prepare and serve up to two meals per day to the registered guests of the bed and breakfast facility.

(b) In the county's EFU 1 and 2 zones on parcels greater than 20 acres:

(i) The home occupation is to be secondary to the main use of the property as a residence and shall be conducted only by the residents of such dwelling within the same dwelling or in an accessory building on the same property.

(ii) Structural alterations shall be allowed to accommodate the home occupation when required by law or only after the plans for such alterations have been reviewed and approved by the planning commission. Such structural alterations shall not detract from the outward appearance of the building or change the appearance of the building from a dwelling or otherwise permitted accessory building.

(iii) One nonilluminated sign not to exceed six square feet and bearing only the name and occupation of the resident shall be permitted.

(iv) No materials or mechanical equipment shall be allowed which are detrimental to residential use of the property or adjoining residences because of vibration, noise, dust, smoke, odor, interference with radio or television reception or other factors.

(v) All parking of allowed delivery vehicles or customer vehicles shall be in a manner and frequency as to cause no disturbance or inconvenience to nearby residents. The proposed home occupation should allow for on-site parking.

(vi) No more than five full-time or part-time persons may be employed.

(vii) Shall not unreasonably interfere with residential uses permitted in the zone in which the property is located.

(viii) For any use permitted by this section on a lot adjacent to or across the street from a residential use or lot in a residential zone, there shall not be any odor, dust, fumes, glare, flashing lights, noise, or other similar types of possible nuisances which are perceptible (without instruments) more than 200 feet in the direction of the affected residential use or lot in a residential zone.

(ix) Shall comply with any additional conditions or approval established by the approval authority under CCC [18.160.030](#).

(x) A bed and breakfast facility that is operated in association with a winery or cider business and is sited as a home occupation on the same tract as a winery or cider business established pursuant to CCC [18.16.050](#) is permitted to:

(A) Serve meals at the bed and breakfast facility or at the winery or cider business; and

(B) Prepare and serve up to two meals per day to the registered guests of the bed and breakfast facility.

(c) In the county's EFU-3 zone, a home occupation shall:

(i) Be operated by a resident or employee of a resident of the property on which the business is located.

(ii) Employ on the site no more than five full-time or part-time persons at any given time.

(iii) Be operated substantially in:

(A) The dwelling; or

(B) Other buildings normally associated with uses permitted in the zone in which the property is located, except that such other buildings may not be utilized as bed and breakfast facilities or rental units unless they are legal residences.

(iv) Not unreasonably interfere with other uses permitted in the zone in which the property is located.

(v) When a bed and breakfast facility is sited as a home occupation on the same tract as a winery or cidery established pursuant to CCC [18.16.050](#) and is operated in association with the winery:

(A) The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and

(B) The meals may be served at the bed and breakfast facility or at the winery or cidery.

(vi) The home occupation shall be accessory to an existing, permanent dwelling on the same parcel.

(vii) No materials or mechanical equipment shall be used which will be detrimental to the residential use of the property or adjoining residences because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or other factors.

(viii) All off-street parking must be provided on the subject parcel where the home occupation is operated.

(ix) Employees must use an approved off-street parking area. (ii) Customers visiting the home occupation must use an approved off-street parking area. No more than [2-5] vehicles from customers/visitors of the home occupation can be present at any given time on the subject parcel.

(x) Retail sales shall be limited or accessory to a service.

(xi) One nonilluminated sign not to exceed six square feet and bearing only the name and occupation of the resident shall be permitted.

(xii) No materials or commodities shall be delivered to or from the property, which are of such bulk or quantity as to require delivery by a commercial vehicle or trailer not including a licensed parcel service (such as, but not limited to, UPS, Systems 99 and FedEx) or the United States Mail. All parking of allowed delivery vehicles or customer vehicles shall be in a manner and frequency as to cause no disturbance or inconvenience to nearby residents.

(xiii) Prohibited Home Occupations.

(A) Retail sales or professional services, other than by appointment only.

(B) Auto or vehicle oriented activities (repair, painting, detailing, wrecking, transportation services, or similar activities).

(8) Landfill, Solid Waste Disposal Site. The planning director or planning commission may authorize a landfill or other solid waste disposal site as a conditional use, subject to the following standards:

(a) The proposed site shall not create a fire hazard, litter, insect or rodent nuisance, or air or water pollution in the area.

(b) The proposed site shall be located in or as near as possible to the area being served.

(c) The proposed site shall be located at least one-fourth mile from any existing dwelling, home or public road (except the access road).

(d) The proposed site shall be provided with a maintained access road (all weather).

(9) Mining, Quarrying or Other Extraction Activity.

(a) Plans and specifications submitted to the planning director or planning commission for approval must contain sufficient information to allow the planning director or planning commission to consider and set standards pertaining to the following:

(i) The most appropriate use of the land.

(ii) Setback from the property line.

(iii) The protection of pedestrians and vehicles through the use of fencing and screening.

(iv) The protection of fish and wildlife habitat and ecological systems through control of potential air and water pollutants.

(v) The prevention of the collection and the stagnation of water of all stages of the operation.

(vi) The rehabilitation of the land upon termination of the operation.

(b) Surface mining equipment and necessary access roads shall be constructed, maintained and operated in such a manner as to eliminate, as far as is practicable, noise, vibration or dust which may be injurious or annoying to persons or other uses in the vicinity.

(c) The comments and recommendations of all appropriate natural resource agencies of the state and federal government shall be sought.

(d) A rock crusher, washer or sorter shall not be located closer than 500 feet from a residential or commercial use.

(10) Commercial Use or Accessory Use Not Wholly Enclosed Within a Building, Retail Establishment, Office, Service Commercial Establishment, Financial Institution or Personal or Business Service Establishment on a Lot Abutting or Across the Street from a Lot in a Residential Zone. In any zone, a commercial use or accessory use not wholly enclosed within a building or a retail establishment, office, service commercial establishment, financial institution, or personal or business service establishment on a lot abutting or across the street from a lot in a residential zone may be permitted as a conditional use subject to the following standards:

(a) A sight-obscuring fence of evergreen hedge may be required by the planning director or planning commission when, in the director's or its judgment, such a fence or hedge or combination thereof is necessary to preserve the values of nearby properties or to protect the aesthetic character of the neighborhood or vicinity.

(b) In addition to the requirements of the applicable zone, the planning director or planning commission may further regulate the placement and design of signs and lights in order to preserve the values of nearby properties; to protect them from glare, noise or other distractions; or to protect the aesthetic character of the neighborhood or vicinity.

(c) In order to avoid unnecessary traffic congestion and hazards, the planning director or planning commission may limit access to the property.

(11) Commercial Amusement Establishment. A commercial amusement establishment may be authorized after consideration of the following factors:

(a) Adequacy of access from principal streets together with the probable effect of traffic volumes of abutting and nearby streets.

(b) Adequacy of off-street parking.

(c) Adequacy of building and site design provisions to maintain a reasonable minimum of noise and glare from the building and site.

(12) Mobile Home Park. A mobile home park shall be built to state standards in effect at the time of construction, the following provisions, and any additional conditions set forth in the planning director or planning commission's approval prior to occupancy:

(a) Evidence shall be provided that the park will be eligible for a certificate of sanitation as required by state law.

(b) The space provided for each mobile home shall be provided with piped potable water and electrical and sewerage connections.

(c) The number of spaces for mobile homes shall not exceed 12 for each acre of the total area in the mobile home park; except that the planning director or planning commission may vary this density as follows:

(i) If dedicated open space equals 50 percent or more of the total area of the park, a maximum 10 percent increase in units per acre may be granted.

(ii) If in addition to subsection (12)(c)(i) of this section a maintained playground area with approved equipment, such as goal posts, swings, slides, etc., is provided, the maximum increase in units per acre may be increased an additional five percent.

(iii) If in addition to subsections (12)(c)(i) and (ii) of this section an approved recreation/community building is provided, an additional 10 percent increase of units/acre may be allowed (maximum total increase possible equals 25 percent).

(d) A mobile home shall occupy not more than 40 percent of the contiguous space provided for the exclusive use of the occupants of the mobile homes and exclusive of space provided for the common use of tenants, such as roadways, general use structures, parking spaces, walkways, and area for recreation and landscaping.

(e) No mobile home in the park shall be located closer than 15 feet from another mobile home or from a general use building in the park. No mobile home accessory building or other building or structure on a mobile home space shall be closer than 10 feet from a mobile home accessory building or other building or structure on another mobile home space. No mobile home or other building or structure shall be within 25 feet of a public street property boundary or 10 feet of another property boundary.

(f) A mobile home permitted in the park shall meet the following standards as determined by an inspection by the building official:

(i) It shall have a state insignia indicating compliance with all rules of any relevant agency in effect at the time of manufacture and including compliance for reconstruction or equipment installation made after manufacture.

(ii) Notwithstanding deterioration, which may have occurred due to misuse, neglect, accident or other cause, the mobile home shall meet the state standards for mobile home construction evidenced by the insignia.

(iii) It shall contain not less than 225 square feet of space as determined by measurement of the exterior of the unit exclusive of any trailer hitch device.

(iv) It shall contain a water closet, lavatory, shower or tub, and a sink in a kitchen or other food preparation space.

(g) A mobile home permitted in the park shall be provided with a continuous skirting, and if a singlewide unit, shall be tied down with devices that meet state standards for tie-down devices.

(h) The land which is used for park purposes shall be surrounded, except at entry and exit places, by a sight-obscuring fence or hedge not less than six feet in height. The fence or hedge shall be maintained in a neat appearance.

(i) If the park provides spaces for 50 or more mobile home units, each vehicular way in the park shall be named and marked with signs, which are similar in appearance to those used to identify public streets. A map of the named vehicular ways shall be provided to the fire department.

(j) If a mobile home space or permanent structure in a park within the urban growth boundary is more than 500 feet from a public fire hydrant, the park shall have water supply mains designed to serve fire hydrants and hydrants shall be provided within 500 feet of such space or structure. Each hydrant within the park shall be located on a vehicular way and shall conform in design and capacity to the public hydrants in the city.

(k) Open Space. A minimum of at least 2,500 square feet plus 100 square feet per mobile home space shall be provided for a recreational play area group or community activities. (No play area is required if the individual mobile home spaces contain in excess of 4,000 square feet.) The planning director or planning commission may require this area to be protected from streets, parking areas or the like, by a fence or the equivalent. Unless otherwise approved, no required open space area

shall contain less than 2,500 square feet. Recreation areas shall be improved with grass, plantings, surfacings or buildings suitable for recreational use. No recreation facility created within a mobile home park wholly to satisfy the requirements of this section shall be open to, or offered in itself to, the general public.

(l) **Parking Space Requirement.** A parking space shall be provided for each mobile home space on the site. In addition, guest parking spaces shall also be provided in every mobile home park within 200 feet of the mobile home spaces served and at a ratio of one parking space for each two mobile home spaces. Parking spaces shall have durable and dustless surfaces adequately maintained for all weather use and shall be properly drained.

(m) All mobile home parks over 10 acres in size shall be located so as to have access on a street designated as a collector street.

(n) All trailer parks containing a total site area of 20 acres or more shall provide a secondary access to the trailer park. Such secondary access shall enter the public street system at least 150 feet from the primary access.

(o) Lighting shall be installed along the access ways of the trailer park and the recreation area with lights of 100 watts or better not over 100 feet apart. Wires for service to light poles and trailer spaces shall be underground.

(p) Roadways within the park shall be improved with an all weather dustless surface and shall be not less than 30 feet in width if parking is permitted on the margin of the roadway, or less than 20 feet in width if parking is not permitted on the edge of the roadway and an adequate designated area is provided and improved for guest parking and tenant recreational vehicles (such area shall be designed and improved to provide not less than one parking space per each two spaces in the park).

(q) No mobile home park shall be created on a site less than one acre.

(13) **Multifamily Dwelling Complex.** A multifamily dwelling complex shall comply with the following provisions, and any additional conditions set forth in the planning director or planning commission's approval, and shall be constructed pursuant thereto prior to occupancy:

(a) The number of units permitted by the applicable zone per gross square footage of a site may be increased as follows:

(i) If dedicated open space, which is developed and landscaped, equals 50 percent or more of the total area of the site, a maximum 10 percent increase in the number of units may be granted.

(ii) If in addition to subsection (13)(a)(i) of this section a maintained playground area with approved equipment, such as goal posts, swings, slides, etc., is provided, the number of units permitted may be increased five percent.

(iii) If in addition to subsections (13)(a)(i) and (ii) of this section an approved recreation community building is provided, an additional 10 percent increase of units may be granted. (Maximum total increase possible is 25 percent.)

(b) There shall be no outdoor storage of furniture, tools, equipment, building materials or supplies belonging to the occupants or management of the complex.

(c) If such a complex or any unit thereof is more than 500 feet from a public fire hydrant, such shall be provided at appropriate locations on a vehicular way and shall conform in design and capacity to the public hydrants in the city.

(d) A minimum of at least 2,500 square feet plus 100 square feet per dwelling unit shall be provided for a recreation play area, group or community activities. Such area shall be improved with grass, plantings, surfacings, equipment or buildings suitable for recreational use. The planning director or planning commission may require this area to be protected from streets, parking areas, or the like, by a fence or the equivalent. (No play area is required if more than 70 percent of the area is preserved as open space and is sufficiently developed and landscaped.)

(e) All such complexes with more than 20 dwelling units shall be located so as to have access on a street designated as a collector unless otherwise approved by the planning director or planning commission.

(f) All such complexes shall provide at least two accesses.

(g) All roadways and parking areas shall be paved, and roadways shall not be less than 20 feet in width, except as approved by the planning director or planning commission.

(h) A sight-obscuring fence or evergreen hedge may be required by the planning director or planning commission when, in the director's or its judgment, such screening is necessary to preserve the values of nearby properties, protect the aesthetic character of the neighborhood or vicinity, and to provide security for occupants of the subject complex.

(i) All accessory structures associated with such a complex shall be set back 50 feet from the property line of an abutting single-family residential lot or use.

(14) Recreation Vehicle Park. A recreation vehicle park shall be built to state standards in effect at the time of construction, with the following provisions and any additional conditions set forth in the planning director or planning commission's approval prior to occupancy:

(a) The space provided for each recreation vehicle shall be not less than 700 square feet exclusive of any space used for common areas, such as roadways, general use structures, walkways, parking spaces for vehicles other than recreation vehicles and landscaped areas.

(b) Roadways shall be not less than 30 feet in width if parking is permitted on the margin of the roadway, or less than 20 feet in width if parking is not permitted on the edge of the roadway, shall be paved with asphalt, concrete or similar impervious surface and designed to permit easy access to each recreation vehicle space.

(c) A space provided for a recreation vehicle shall be covered with crushed gravel or paved with asphalt, concrete, or similar material and be designed to provide runoff of surface water. The part of the space which is not occupied by the recreation vehicle, not intended as an accessway to the recreation vehicle or part of an outdoor patio, need not be paved or covered with gravel provided the area is landscaped or otherwise treated to prevent dust or mud.

(d) A recreation vehicle space shall be provided with piped potable water and sewage disposal service. A recreation vehicle staying in the park shall be connected to the water and sewage service provided by the park if the vehicle has equipment needing such service.

(e) A recreation vehicle space shall be provided with electrical service.

(f) Trash receptacles for the disposal of solid waste materials shall be provided in convenient locations for the use of guests of the park and located in such number and be of such capacity that there is no uncovered accumulation of trash at any time.

(g) Repealed by Ord. 297.

(h) The total number of parking spaces in the park, exclusive of parking provided for the exclusive use of the manager or employees of the park, shall be equal to one space per recreation vehicle space. Parking spaces shall be covered with crushed gravel or paved with asphalt, concrete or similar material.

(i) The park shall provide toilets, lavatories and showers for each sex in the following ratios: for each 15 recreation vehicle spaces or any fraction thereof: one toilet, one urinal, one lavatory and one shower for men; and two toilets, one lavatory and one shower for women. The toilets and showers shall afford privacy and the showers shall be provided with private dressing rooms. Facilities for each sex shall be located in separate buildings, or if in the same building, shall be separated by a soundproof wall.

(j) The park shall provide one utility building or room containing one clothes washing machine, one clothes drying machine and 15 square feet of space for clothes drying lines for each 10 recreation vehicle spaces or any fraction thereof, unless such facilities are available within a distance of three miles and are adequate pursuant to these standards.

(k) Building spaces required by subsections (14)(i) and (j) of this section shall be lighted at all times of night and day, shall be ventilated, shall be provided with heating facilities which shall maintain a room temperature of 68 degrees Fahrenheit, shall have floors of waterproof material, shall have sanitary ceiling, floor and wall surfaces and shall be provided with adequate floor drains to permit easy cleaning.

(l) Except for the access roadway into the park, shall be screened on all sides by a sight-obscuring hedge or fence not less than six feet in height, unless otherwise approved by the planning director or planning commission.

(m) The park shall be maintained in a neat appearance at all times. Except for vehicles, there shall be no outside storage of materials or equipment belonging to the park or to any guest of the park.

(n) Evidence shall be provided that the park will be eligible for a certificate of sanitation as required by state law.

(15) Radio, Television Tower, Utility Station or Substation.

(a) In a residential zone, all equipment storage on the site may be required to be within an enclosed building.

(b) The use may be required to be fenced and provided with landscaping.

(c) The minimum lot size for a public utility facility may be waived on finding that the waiver will not result in noise or other detrimental effect to adjacent property.

(d) Transmission towers, poles, overhead wires, pumping stations, and similar gear shall be so located, designed and installed as to minimize their conflict with scenic values.

(16) Schools.

(a) Nursery schools shall have at least 100 square feet of outdoor play area per child. A sight-obscuring fence at least four feet but not more than six feet high shall separate the play area from abutting lots.

(b) Elementary schools shall provide a basic site area of five acres plus one additional acre for each 100 pupils of predicted ultimate enrollment.

(c) Secondary schools shall provide a basic site area of 10 acres plus one additional acre for each 100 pupils of predicted ultimate enrollment.

(17) Transmission Towers. An application for a wireless telecommunications facility will be approved upon findings that:

(a) The facility will not be located on land that at the time of application has irrigation water rights available;

(b) The applicant has considered other sites in its search area that would have less visual impact as viewed from nearby residences than the site proposed and has determined that any less intrusive sites are either unavailable or do not provide the communications coverage necessary. To meet this criterion, the applicant must demonstrate that there has been a good faith effort to colocate his or her antennas on existing monopoles in the area served. The applicant can demonstrate this by submitting a statement from a qualified engineer that indicates the necessary service cannot be provided by colocation within the area to be served. County reserves the right to have a qualified engineer of its own choosing review and endorse the findings of applicant's engineer. In such cases, the concurrence of county's engineer shall be necessary to establish the required findings. The term "search area" refers to a geographic area within which the applicant seeks to establish a facility;

(c) The facility, including support structures, is sited using trees, vegetation, and topography to the maximum extent practicable to screen the facility from view of nearby residences;

(d) No antenna arrays will be allowed to be installed to exceed the height of the tower or monopole. Towers or monopoles shall not be sited in locations where there is no vegetative (including native high desert sagebrush or juniper stands), structural or topographic screening available;

(e) In all cases, the applicant shall site the facility in a manner to minimize its impact on scenic views and shall site the facility using trees, vegetation, and topography in order to screen it to the maximum extent practicable from view from protected roadways. Towers or monopoles shall not be sited in locations where there is no vegetative (including native high desert sagebrush or juniper stands), structural or topographic screening available. All ground-based equipment, including any equipment shelters or cabinets and security fencing, shall be screened from view from residences on abutting properties and from properties on the opposite side of a public road. The applicant can accomplish this by screening the perimeter of a lease area with plant materials appropriate for the location. The lessee shall be required as a condition of an approval to continuously maintain all introduced and preexisting landscape material;

(f) Telecommunication towers or monopoles shall be finished with a nonreflective surface in color which will blend with the surroundings and minimize visual impact, as approved by the planning director or planning commission;

(g) Any required aviation lighting is shielded from surrounding buildings to the maximum extent allowed by FAA and/or ODOT – Aeronautics regulations;

(h) The form of lease for the site does not prevent the possibility of colocation of additional carriers on the same facility;

(i) Any tower or monopole over 50 feet in height shall be designed in a manner that it can carry the antennas of at least one additional wireless carrier. This criterion may be satisfied by submitting the statement of a licensed structural engineer licensed in Oregon that the monopole or tower has been designed with sufficient strength to carry such an additional antenna array and by elevation drawings of the proposed tower or monopole that identify an area designed to provide the required spacing between antenna arrays of different carriers;

(j) Any approval of a wireless telecommunications facility shall include a condition that if the facility is left unused or is abandoned by all wireless providers located on the facility for more than one year the facility shall be removed by the permittee;

(k) An application for a conditional use permit for only a support structure such as a tower or monopole may only be approved with the condition that the county will not issue any building permits for the support structure or any ground-based equipment buildings until the applicant provides the planning department with a copy of a signed lease agreement between the owner of the support structure and a personal wireless service provider;

(l) The planning director or planning commission, or in the event of an appeal, the ~~board~~ *county court* may attach additional conditions of approval;

(m) The applicant shall provide an agreement and security, in accordance with CCC [17.40.080](#) and [17.40.090](#), sufficient to pay for the removal of the tower;

(n) The planning director or planning commission may retain a technical consultant(s) for the purpose of evaluating the application;

(o) The telecommunication tower shall be to the maximum extent designed to resemble natural features (e.g., trees and vegetation);

(p) A telecommunication tower shall be not located or designed in such a manner as to significantly impact scenic values;

(q) The approval of a wireless telecommunication facility shall not include any covenant, promise, or agreement that prohibits or restricts any person or entity from engaging in direct or indirect competition with providers of cellular service, specialized mobile radio (SMR) service, personal communication service (PCS) service, paging service, or any other form of telecommunication service provided to the public.

(18) Eating and Drinking Establishments. The planning director or planning commission may authorize an eating and drinking establishment as a conditional use based upon the following criteria:

(a) Hours of operation may be regulated based on an establishment's proximity to residential neighborhoods or schools, the concentration of establishments in an area serving alcoholic beverages or for other reasons that may arise based on the location of the establishment.

(b) Modification of the conditional use permit may be required whenever the use is intensified or is expanded in square footage.

(c) Alcoholic beverage service in approved outdoor seating areas may be permitted as allowed by the OLCC. The separation shall clearly suggest that alcohol is not allowed outside the seating area. Outdoor seating areas adjacent to residential uses may be limited or restricted by the planning director or planning commission. The additional criteria will also apply to outdoor seating areas:

(i) Size Limitations. Outdoor seating areas shall not exceed the indoor seating area or seating capacity of the restaurant or tavern.

(ii) Parking Required. Parking in compliance with CCC [18.128.010](#)(6)(e) shall be provided for all outdoor seating areas.

(iii) Music. No outdoor music or entertainment shall be provided after 11:00 p.m., or such earlier time as the planning director or planning commission may establish.

(iv) Trash. All trash located within the outdoor dining area, on the restaurant or tavern property, and adjacent streets, sidewalks, and properties shall be picked up and properly disposed of immediately after closing.

(d) License approval by OLCC.

(e) Adequate access from principal streets.

(f) Adequate off-street parking.

(g) Adequate building and site design provisions to minimize noise and glare from the building and site.

(19) Commercial Power Generating Facilities. A commercial power generating facility that is a conditional use in the applicable zone is governed by the general criteria and conditions in CCC [18.160.020](#) and [18.160.030](#) and the provisions of Chapter [18.161](#) CCC.

(20) Noncommercial Energy Systems. A noncommercial energy system that is a conditional use in the applicable zone is governed by the general conditional use criteria and conditions in CCC [18.160.020](#) and [18.160.030](#) and the provisions of Chapter [18.162](#) CCC. (Ord. 317 §§ 3 – 5, 2020; Ord. 309 § 2 (Exh. C), 2019; Ord. 297 § 2, 2016; Ord. 296 § 11 (Exh. I), 2016; Ord. 245 § 1, 2011; Ord. 236 § 3 (Exh. C), 2010; Ord. 229 § 1 (Exh. A), 2010; Ord. 222 § 1 (Exh. A), 2010; Ord. 201 § 1, 2008; Ord. 18 Amd. 61 §§ 4, 5, 6, 2003; Ord. 18 § 6.050, 2003)

18.168.010 Legislative hearings.

(1) When the ~~board court~~ or an agency of the ~~board court~~ is required by state statute or this title to conduct a hearing on legislative matters, it shall hold the hearing in accordance with the applicable procedures of this chapter.

(2) “Legislative matters” generally involve a broad public policy decision that applies to other than an individual property owner. These include, without limitation, amendments to the text of the comprehensive plan, zoning ordinance, or the subdivision ordinance and changes to the comprehensive plan map and/or zoning maps not directly affecting individual property owners. (Ord. 236 § 4 (Exh. D), 2010; Ord. 18 § 8.010, 2003)

18.168.020 Authorization to initiate amendments.

The application for a hearing on any legislative matter may be initiated by any of the following:

(1) Property owners by written application on forms provided by the director and upon payment of the required fee;

(2) Planning commission on its own motion; or

(3) The ~~board County court~~ on its own motion and order. (Ord. 236 § 4 (Exh. D), 2010; Ord. 18 § 8.020, 2003)

18.168.050 Number and manner of hearings.

(1) Subject to subsection (4) of this section, the planning commission shall conduct no less than one public hearing on the proposed legislative matter.

(2) The planning commission shall, within 20 working days after the last hearing, issue a written recommendation to the ~~board court~~ for approval, approval as modified, or disapproval. The written recommendation shall also contain a statement of findings of fact and conclusion, which supports the recommendation.

(3) The ~~board county court~~, after receiving the written recommendation from the planning commission, shall schedule and conduct a public hearing on the proposed legislative matter. The public hearing may be conducted as described in CCC [18.172.081](#).

(4) If an ordinance is initiated by the governing body, it shall, unless waived by a majority vote of the ~~board county court~~, prior to enactment, request a report and recommendation regarding the ordinance from the planning commission. The planning commission shall submit the report and recommendation by the date and time stated in the request. Such date and time shall be reasonable. (Ord. 236 § 4 (Exh. D), 2010; Ord. 18 § 8.050, 2003)

18.172.005 Definitions.

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

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

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

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

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

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

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

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

(8) Department. The Crook County community development department.

(9) Director. The Crook County community development director or the director's designated representative.

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

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

(12) Hearing Authority. The ~~board county court~~, planning commission, or a hearings officer appointed by the ~~board county court~~ under CCC [18.172.010\(2\)](#).

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

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

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

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

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

(a) The applicant;

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

(c) A person who makes an appearance before the approval authority or hearing authority.

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

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

(20) Quasi-Judicial. A land use action or decision that requires discretion or judgment in applying the standards or criteria of this code to an application for approval of a development or land use proposal. (Ord. 330 § 10 (Exh. I), 2022; Ord. 317 § 6, 2020)

18.172.010 Quasi-judicial hearing authority.

(1) The ~~board county court~~ hereby designates that the hearing authority to conduct hearings in a quasi-judicial capacity in order to make land use decisions is the planning commission.

(2) Whenever the ~~board county court~~ determines it necessary, the ~~board court~~ may appoint a hearings officer to have the same authority and powers as the planning commission.

(3) The ~~board county court~~ may appoint agents to issue permits and to otherwise assist the director in the processing of applications.

(4) “Quasi-judicial” zone changes or plan amendments generally refer to a plan amendment or zone change directly affecting individual property owners and involve the application of existing policy to a specific factual setting. (The distinction between legislative and quasi-judicial actions must ultimately be made on a case-by-case basis with reference to case law on the subject.) (Ord. 330 § 10 (Exh. I), 2022; Ord. 317 § 6, 2020; Ord. 18 § 9.010, 2003)

18.172.050 Filing fees.

All fees described in this section shall hereafter be set annually as determined by the ~~board county court~~.

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

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

(3) Refunds.

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

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

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

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

(e) The applicant may file with the ~~board county court~~ an appeal of a determination by the director to deny a refund or a partial refund of a land use application fee. The ~~board county court~~ may grant a refund or a partial refund of a land use application fee upon good cause shown by the applicant.

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

(4) Fees charged for processing permits shall be no more than the actual or average cost of providing that service. (Ord. 330 § 10 (Exh. I), 2022; Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 155 § 1, 2005; Ord. 18 § 9.050, 2003)

18.172.070 Notice of public hearing.

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

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

(a) To the applicant; and

(b) To the owners of record of property on the most recent tax assessment roll of property located:

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

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

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

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

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

(b) Any other person, agency, or organization that may be designated by the ~~board county court~~ or its agencies;

(c) An owner of a “public use airport” as defined by state law;

(d) The tenants of a mobile home or manufactured dwelling park when the application is for rezoning all or part of such park;

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

(4) Notice of any quasi-judicial matter shall be mailed at least:

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

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

(5) The notice shall:

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

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

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

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

(e) State that the failure to raise an issue in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue;

(f) Include the name of the director or assigned representative to contact and the telephone number where additional information may be obtained;

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

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

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

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

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

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

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

(a) Crook County Courthouse;

(b) City of Prineville City Hall; and

(c) The United States Post Office located in Prineville, Oregon. (Ord. 330 § 10 (Exh. I), 2022; Ord. 317 § 6, 2020; Ord. 303 § 1 (Exh. C), 2017; Ord. 236 § 5 (Exh. E), 2010; Ord. 18 § 9.070, 2003)

18.172.080 Members of the planning commission.

(1) Members of the Planning Commission.

(a) The planning commission shall consist of seven members appointed by the ~~board county court~~ for four-year terms, or until their respective successors are appointed and qualified.

(b) Any vacancy on the planning commission shall be appointed by the ~~board county court~~ for the unexpired term.

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

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

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

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

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

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

(i) During the temporary absence or disability of a member of the planning commission, the chair shall select a commissioner pro tem to serve during the absence or disability of the absent member. At the chair's request, a commissioner pro tem shall be selected from a list of one or more commissioners pro tem and be appointed by the *board county court*.

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

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

(4) Procedures.

(a) The planning commission shall meet at least once a month, at such time and place as may be fixed by the planning commission or the department.

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

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

(5) Recommendation to *Board of Commissioners County Court*. All recommendations and suggestions made to the *board county court* by the planning commission shall be in writing.

(6) Advisory Committees.

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

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

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

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

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

(9) Expenditures. The planning commission shall have no authority to make expenditures on behalf of the county, or to obligate the county for the payment of any sums of money, except as herein provided, and then only after the *board county court* shall have first authorized such expenditures by appropriate resolution, which resolution shall provide administrative method by which such funds shall be drawn and expended. (Ord. 330 § 10 (Exh. I), 2022; Ord. 321 § 4, 2020; Ord. 317 § 6, 2020; Ord. 298 § 1 (Exh. A), 2016; Ord. 266 § 2, 2013; Ord. 236 § 5 (Exh. E), 2010; Ord. 212 § 2, 2009; Ord. 18 § 9.080, 2003)

18.172.081 Public hearings and order of proceedings.

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

(2) Personal Conduct.

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

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

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

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

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

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

(5) Disclosure of Ex Parte Contacts.

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

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

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

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

(b) If the hearing authority or member thereof is unable to render a fair and impartial decision, or recommendation in the case of the planning commission, they must recuse themselves from the proceedings.

(c) Communication between the director and the hearing authority or a member thereof is not considered an ex parte contact.

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

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

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

(9) Potential Conflicts of Interest. No member of the hearing authority may participate in a hearing or a decision upon an application when the effect of the decision would be to the private pecuniary benefit or detriment of the member or the member's relative or any business in which the member or a relative of the member is associated unless the pecuniary benefit arises out of:

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

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

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

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

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

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

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

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

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

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

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

(h) Allow the applicant to withdraw and cancel the application. Subsequent to the cancellation of the application, if the applicant wishes to proceed with the same or different proposal requiring a land use application, a new application may be submitted and the new application must be processed in compliance with all the provisions of this chapter.

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

- (a) Date of the hearing;
- (b) Department file number;
- (c) Nature, purpose, and type of the hearing;
- (d) When applicable, the parties that may participate in the hearing and/or issues to which the hearing is limited;
- (e) Identification of the address and assessor's map and tax lot number of, or other easily understood geographical reference to, the subject property, if applicable;
- (f) Order of the proceedings, including reasonable time limits on oral presentations by parties;
- (g) For a quasi-judicial application, a statement disclosing any pre-hearing ex parte contacts;
- (h) A statement disclosing any personal knowledge, bias, prejudgment, or personal interest on the part of the hearing authority;
- (i) Call for any challenges to the hearing authority's qualifications to hear the matter. Any such challenges must be stated at the commencement of the hearing, and the hearing authority must decide whether they can proceed with the hearing as provided in subsection (9) of this section;
- (j) List of the applicable approval standards and criteria for the application;
- (k) Statement that testimony, arguments, and evidence must be directed toward applicable approval standards and criteria, or other standards and criteria in the Crook County land use regulations or comprehensive plan that the person testifying believes to apply to the decision;
- (l) Statement that failure to raise an issue accompanied by statements or evidence with sufficient detail to give the hearing authority and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue;
- (m) Statement that the failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the hearing authority to respond to the issue precludes an action for damages in circuit court;
- (n) Statement that prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments, or testimony regarding the application. The hearing authority must grant the request by either continuing the public hearing or leaving the record open for additional written evidence, arguments, or testimony in accordance with subsection (16) of this section; and
- (o) Statement that the decision of the approval authority may be appealed in accordance with CCC [18.172.110](#).

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

- (a) The director will present the staff report;
- (b) Allow agency comments;
- (c) The applicant will be heard first;
- (d) Allow persons in favor of the proposal to be heard;
- (e) Allow persons neutral to the proposal to be heard;
- (f) Allow persons opposed to the proposal to be heard;
- (g) Allow applicant opportunity to respond or address any presented material;
- (h) Allow the director to present any further comments or information in response to the testimony and evidence;
- (i) Allow applicant to waive or maintain their seven-day final argument;
- (j) Conclude or continue the public hearing;
- (k) Present motion for deliberations or set time and date certain.

(14) Questions. The hearing authority at any point during the hearing may ask questions of the director or parties.

Questions by parties, interested persons, or the director may be allowed by the hearing authority at their discretion.

Questions must be directed to the hearing authority; questions posed directly to the director or any party are not allowed.

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

(15) Presenting and Receiving Evidence. No oral testimony will be accepted after the close of the hearing. Written testimony may be received after the close of the hearing only in accordance with subsections (16) and (18) of this section.

(16) Continuances and Leaving the Record Open.

(a) Grounds.

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

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

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

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

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

(iii) The grant of a continuance or record extension in any other circumstance shall be at the discretion of the hearing authority.

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

(c) Continuances.

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

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

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

(iv) If the hearing is other than initial hearing, any continuances are at the discretion of the hearing authority.

(d) Leaving the Record Open.

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

(e) A continuance or leaving the record open that is granted under this section shall be subject to the 150-day time limit unless the continuance or extension is requested or otherwise agreed to by the applicant. When the record is left open or a continuance is granted after a request by an

applicant, the time period during which the 150-day clock is suspended shall include the time period made available to the applicant and any time period given to parties to respond to the applicant's submittal.

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

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

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

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

(19) Conclusion of Hearing.

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

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

(c) The decision and findings must be completed in writing and signed by the hearing authority within 30 days of the closing of the record for the last hearing. A longer period of time may be taken to complete the findings and decision if the applicant provides written consent to an extension to any applicable timelines in which the county must process the application for an amount of time that is equal to the amount of additional time it takes to prepare the findings.

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

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

(i) All oral and written evidence submitted to the hearing authority;

(ii) All materials submitted by the director to the hearing authority regarding the application;

(iii) A recording of the hearing;

(iv) The final written decision; and

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

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

(21) Decision and Findings Mailing. Upon a written decision adopting findings being signed by the approval authority, the director will mail/email to the applicant and all parties a copy of the decision and findings, or, if the decision and findings exceed five pages, the director will mail/email notice of the decision. (Ord. 330 § 10 (Exh. I), 2022; Ord. 323 § 6 (Att. A), 2021; Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 18 § 9.081, 2003)

18.172.110 Appeals.

(1) Every land use decision relating to the provisions of this title made by the director, planning commission, or hearing officer is subject to review when appealed within 12 calendar days of the date the decision was mailed in accordance with state statutes and the following provisions.

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

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

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

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

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

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

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

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

(8) Appellate Body.

(a) The appellate body for appeals from administrative determinations of the director shall be the planning commission.

(b) The appellate body for appeals from final decisions of the planning commission shall be the *Board of Commissioners* ~~county court~~, unless the *board* ~~county court~~ orders the appeal be sent directly to the Oregon Land Use Board of Appeals as the final decision of the county.

(c) Appeals from decisions of the *board* ~~county court~~ shall be in conformance with the applicable ORS provisions.

(9) Filing Requirements.

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

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

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

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

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

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

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

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

(iv) The written notice of appeal and proper filing fee must be received at the office of the Crook County community development department within 12 calendar days of the decision, no later than 4:00 p.m. on the twelfth day.

(10) Notice and Hearing of the Appeal.

(a) If the director determines that the facts stated in the notice of appeal meet the requirement for a hearing, a time and date shall be set for such hearing.

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

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

(d) For an appeal of a planning commission decision to the *board* ~~county court~~, at least 10 calendar days prior to the appeal hearing, the hearing authority shall give notice of time, place and the particular nature of the appeal. Notice shall be published in the newspaper and be sent by mail to

the appellant(s), to the applicant (if different) and those persons who testified at the subject hearing where a hearing was held and affected parties in accordance with this section.

(e) For an appeal of an administrative decision to the planning commission, the notice requirements of CCC [18.172.070](#) shall apply.

(11) Transcript. The appellant shall provide a copy of the transcript of the relevant portions of the planning commission proceedings appealed from to the department seven calendar days before the hearing date set by the ~~board county court~~. The ~~board county court~~, in its sole discretion, may waive the requirement that the appellant provide a transcript for the appeal hearing. A request to waive the transcript requirement shall be made in writing to the community development department no later than 14 days after filing appeal is filed. Nothing herein prevents the ~~board county court~~ from waiving the transcript requirement on its own motion.

(12) Scope and Standard of Review of Appeal.

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

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

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

(iii) The transcript of the relevant portions of the planning commission hearing.

(iv) The written final decision of the planning commission and the petition of appeal.

(v) Written argument (without introduction of new or additional evidence) may be submitted prior to the close of the appeal hearing by the applicant, appellant, and other parties of record. At the appellate body's discretion, they can elect to allow oral argument at the appeal hearing.

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

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

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

(14) A decision made on remand is a new decision and may be appealed as described in subsections (1) through (13) of this section. (Ord. 336 § 8 (Exh. G), 2023; Ord. 330 § 10 (Exh. I), 2022; Ord. 321 § 4, 2020; Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 231 § 1 (Exh. A), 2010; Ord. 18 § 9.110, 2003)

18.172.120 Remand by the Board of Commissioners ~~county court~~.

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

- (1) Notice of the hearing shall be provided in accordance with CCC [18.172.110](#)(10)(d).
- (2) Participants at the remand hearing shall be limited to Crook County staff, the applicant and the appellant(s) from the prior appeal. The hearings body may elect, in its discretion, to expand those who may participate in the remand hearing upon its own motion.
- (3) The remand hearing shall be limited solely to the issues identified in the remand order from the appellate body.
- (4) The remand hearing shall be limited to new evidence and testimony regarding the issues in subsection (3) of this section. (Ord. 330 § 10 (Exh. I), 2022; Ord. 317 § 6, 2020)

18.172.130 Remand by the Land Use Board of Appeals.

When a final decision of the ~~board county court~~ or other land use decision is remanded by the Land Use Board of Appeals:

- (1) A remand hearing shall be held when:
 - (a) Requested by the applicant or appellant in writing, and upon payment of the applicable fee, if any, in accordance with ORS [215.435](#).
 - (b) The ~~board county court~~ on its own motion initiates a remand hearing.
- (2) Remand Procedures.
 - (a) Notice of a remand hearing shall be as provided by CCC [18.172.110](#)(10)(d).
 - (b) The remand hearing shall be limited to staff, the applicant and appellants from the prior LUBA appeal. However, the ~~board county court~~ may expand those who may participate in the remand hearing upon the ~~board's county court's~~ own motion.

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

(d) The remand hearing shall be limited to new evidence and testimony regarding the issues in subsection (2)(c) of this section. (Ord. 330 § 10 (Exh. I), 2022; Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010)