

**CITY OF BAY CITY
ORDINANCE 721**

**AN ORDINANCE MAKING AMENDMENTS TO CERTAIN SECTIONS OF THE
BAY CITY UNIFIED MUNICIPAL CODE, SPECIFICALLY PERTAINING TO
MINISTERIAL DECISIONS, LIMITED LAND USE DECISIONS, ZONING REVIEW
AND MODIFICATIONS**

WHEREAS, in 2023 Senate Bill 406 directed cities and unincorporated communities in Tillamook County to amend their development codes and comprehensive plan policies to enable additional housing; and

WHEREAS, the City of Bay City recognizes the OAR Division 660-008-0420 as an application to comply with housing laws; and

WHEREAS, the City of Bay City has deemed it preferential to modify the existing Municipal Code for compliance with the State model ordinance; and

WHEREAS, the City of Bay City has proposed these amendments to comply with SB 406, HB 2001, HB 2138 and SB 1537; and

WHEREAS, these amendments to be implemented into Chapter 10 of the City Municipal Code have been sent to the Oregon Department of Land Conservation and Development (DLCD) as required; and

WHEREAS, the Planning Commission held a first hearing on these amendments on March 18, 2026; and

WHEREAS, notice of adoption of this ordinance to be implemented into City Municipal Code has been posted and published in Bay City in accordance with Bay City Municipal Code 10.12.080 and 10.12.130 and Oregon law.

NOW THEREFORE, be it ordained by the City Council of the City of Bay City, in the State of Oregon, as follows:

SECTION 1: **AMENDMENT** “10.12.040 Types Of Land Use Applications And Review Procedures” of the Bay City Municipal Code is hereby *amended* as follows:

BEFORE AMENDMENT

10.12.040 Types Of Land Use Applications And Review Procedures

All land use and development permit applications and approvals, except building permits, shall be decided by using the procedures contained in this section. The procedure “type” assigned to

each application governs the decision-making process for that permit or approval.

- A. Type I Procedure (Staff Review or ministerial permits – Zoning Checklist). Type I decisions are made by the City Planning Official, or their designee, without public notice and without a public hearing. A Type I procedure is used in applying City standards and criteria that do not require the use of discretion (i.e., there are clear and objective standards). A Type I Procedure is identified with an “O” in the Allowable Use Matrix Section 10.06.025 and described in Section 10.12.050.
 - 1. Modified Type I Procedure. Some Type I decisions include provisions for an informational notice to be issued after approval, with no other changes to the Type I procedure. This modified Type I Procedure is identified with an “ON” in the Allowable Use Matrix Section 10.06.025 and described in Section 10.12.050 including notice requirements in Section 10.12.050.A.7.
- B. Type II Procedure (Administrative Review with Notice). Type II decisions are made by the City Planning Official, with public notice and an opportunity for appeal to the Planning Commission, but do not require a public hearing. Alternatively, the City Planning Official may refer a Type II application to the Planning Commission for its review and decision in a public meeting. A Type II Procedure is identified with an “O²” in the Allowable Use Matrix Section 10.06.025 and described in Section 10.12.060.
- C. Type III Procedure (Quasi-Judicial Review). Type III decisions apply to quasi-judicial applications review made by either the Planning Commission or City Council after a public hearing, with an opportunity for appeal; Type III decisions involve discretion and judgment in applying approval criteria. Type III procedures require public notice and one or more public hearings. A Type III Procedure is identified with a “C” in the Allowable Use Matrix Section 10.06.025 and described in Section 10.12.070. A Type III Procedure also includes a variance, a planned unit development, a subdivision, or a zone change.
- D. Type IV Procedure (Legislative Review). The Type IV procedure applies to legislative matters. Type IV procedure and legislative decisions are made by the City Council, taking into consideration a recommendation from the Planning Commission, and involve the adoption or amendment of policy by ordinance. Legislative decisions may also apply to applications involving a large geographic area containing many properties (e.g., adoption of regulations, zone changes, annexation, and comprehensive plan amendments). Type IV reviews are considered by the Planning Commission, which makes a recommendation to City Council. City Council makes the final decision on a legislative proposal through the enactment of an ordinance. Type IV procedures require public notice and more than one public hearing.

AFTER AMENDMENT

10.12.040 Types Of Land Use Applications And Review Procedures

All land use and development permit applications and approvals, except building permits, shall

be decided by using the procedures contained in this section. The procedure “type” assigned to each application governs the decision-making process for that permit or approval.

- A. Type I Procedure (Staff Review or ministerial permits – Zoning Checklist). Type I decisions are made by the City ~~Planning Official~~Planner, or their designee, without public notice and without a public hearing. A Type I procedure is used in applying City standards and criteria that do not require the use of discretion (i.e., there are clear and objective standards). A Type I Procedure is identified with an “O” in the Allowable Use Matrix Section 10.06.025 and described in Section 10.12.050.
 - 1. Modified Type I Procedure. Some Type I decisions include provisions for an informational notice to be issued after approval, with no other changes to the Type I procedure. This modified Type I Procedure is identified with an “ON” in the Allowable Use Matrix Section 10.06.025 and described in Section 10.12.050 including notice requirements in Section 10.12.050.A.7.
- B. Type II Procedure (Administrative Review with Notice). Type II decisions are made by the City ~~Planning Official~~Planner, with public notice and an opportunity for appeal to the Planning Commission, but do not require a public hearing. ~~Alternatively, the City Planning Official may refer a Type II application to the Planning Commission for its review and decision in a public meeting.~~ A Type II Procedure is identified with an “O²” in the Allowable Use Matrix Section 10.06.025 and described in Section 10.12.060. A Type II Land Use Application includes a Limited Land Use decision and a Zoning Review as described in OAR 660-08-0410 and Section 10.12.060 of the Bay City Municipal Code.
- C. Type III Procedure (Quasi-Judicial Review). Type III decisions apply to quasi-judicial applications review made by either the Planning Commission or City Council after a public hearing, with an opportunity for appeal; Type III decisions involve discretion and judgment in applying approval criteria. Type III procedures require public notice and one or more public hearings. A Type III Procedure is identified with a “C” in the Allowable Use Matrix Section 10.06.025 and described in Section 10.12.070. A Type III Procedure also includes a variance, a planned unit development, a subdivision, or a zone change.
- D. Type IV Procedure (Legislative Review). The Type IV procedure applies to legislative matters. Type IV procedure and legislative decisions are made by the City Council, taking into consideration a recommendation from the Planning Commission, and involve the adoption or amendment of policy by ordinance. Legislative decisions may also apply to applications involving a large geographic area containing many properties (e.g., adoption of regulations, zone changes, annexation, and comprehensive plan amendments). Type IV reviews are considered by the Planning Commission, which makes a recommendation to City Council. City Council makes the final decision on a legislative proposal through the enactment of an ordinance. Type IV procedures require public notice and more than one public hearing.

SECTION 2: AMENDMENT “10.12.060 Type II Procedures” of the Bay City Municipal Code is hereby *amended* as follows:

BEFORE AMENDMENT

10.12.060 Type II Procedures

The City Planner, or their designee, performs Administrative Staff Reviews through the Type II procedure, with public notice and an opportunity for appeal to the Planning Commission. Alternatively, the City Planner may refer a Type II application to the Planning Commission for its review and decision in a public meeting. Applications for projects requiring Administrative Review shall be made on forms provided by the City Planner.

A. Administrative Review with Notice

1. A Type II land use request must meet the requirements listed in subsection 10.12.100 of this Chapter.
2. A Type II land use request must meet the notice requirements as described in subsection 10.12.120 of this Chapter.

B. Architectural Review

1. Applications for the construction of new commercial, industrial, or the substantial renovation of existing commercial structures (over 50% market value) shall be reviewed by the City Planner to ensure that the design standards in Section 5.6 are met. Any building with a residential component shall not have a discretionary review.
2. A landscaping plan shall be submitted which shows existing and proposed trees, landscaping materials, and other features, in order to permit the Planning Commission to review the plan.
3. Parking, loading and storage areas shall be located in the rear of buildings wherever possible, unless it would conflict with adjoining residential uses. Landscaping shall be used to buffer commercial uses.

C. Historic Structure Demolition Permits

1. Purpose. This section has two purposes:
 - a. to establish a review period during which efforts can be made to protect historic structures from demolition;
 - b. to review building permit applications for alterations of historic structures to ensure that the proposed alteration is consistent with the building's historic character.
2. Upon receipt of a building permit application to demolish a historic structure included in the Comprehensive Plan's inventory of Historic Buildings, the City shall place a 45-day hold on the issuance of the permit. During the 45-day period, the City shall:
 - a. Notify the State Historic Preservation Office of the proposed demolition.

- b. Advertise in a paper of general circulation the nature of the request and the historical values that would be lost by demolition.
 - c. Inform the applicant of the historic character of the building and the incentives associated with historic preservation.
 - d. If, after 45 days, the City Planner finds that substantial progress is being made in protecting the structure from demolition, the City Planner shall continue to hold on the demolition permit.
 - e. If, after 45 days, the City Planner finds that there is no possibility for protecting the structure, the City Planner shall authorize the issuance of the demolition permit.
- 3. Building permit applications for exterior alteration, or the construction of new structures or buildings in conjunction with a historic structure included in the Comprehensive Plan's inventory of historic buildings shall be referred to the City Planner for its review. The application shall be reviewed at the next regularly scheduled City Planner meeting following the receipt of the building permit application.
 - a. The City Planner will review the building permit application to ensure that the proposed alterations are compatible with the building's historic character.
 - b. In making this determination, the City Planner will consider the following criteria: maintenance of the building's predominant architectural character including such features as roof lines, porches, windows, or other exterior elements; compatibility of the materials to be used with existing building materials; and effect of the alterations on relationship of the building to its site.
 - c. The City Planner shall approve or deny the proposed alterations based on the above criteria. The City Planner may recommend changes in the proposal which would enable it to be approved.
- D. Partitioning, Property Line Adjustment: See Section 10.14 – Subdivision, Partitioning, Cluster, and Planned Development.
- E. Plan Review
 - 1. Purpose. The purpose and intent of the Plan Review is to bring those projects involving building design and the development of land under special review where development impacts that may cause a conflict between uses in the same adjoining district are be minimized, and to promote the general welfare by directing attention to site planning, and giving regard to the natural environment and the elements of creative design to assist in conserving and enhancing the appearance of the city, and to support the promotion and maintenance of healthful and safe conditions upon surrounding properties and neighborhoods, thereby affecting the public health, safety, and general welfare.
 - 2. Plan Review is intended to promote functional, safe, and attractive developments, which maximize compatibility with surrounding developments and uses and with the natural environment. Plan Review mitigates potential land use conflicts resulting from proposed development through specific

conditions attached by the review body. Plan Review focuses on the layout of a proposed development, including building placement, setbacks, location of parking areas, pedestrian access, external storage areas, external lighting (including LED), open areas, and landscaping.

AFTER AMENDMENT

10.12.060 Type II Procedures

The City Planner, or their designee, performs Administrative Staff Reviews through the Type II procedure, with public notice and an opportunity for appeal to the Planning Commission. Alternatively, the City Planner may refer a Type II application to the Planning Commission for its review and decision in a public meeting. Applications for projects requiring Administrative Review shall be made on forms provided by the City Planner.

A. Administrative Review with Notice

1. A Type II land use request must meet the requirements listed in subsection 10.12.100 of this Chapter.
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- a. Notify the State Historic Preservation Office of the proposed demolition.
 - b. Advertise in a paper of general circulation the nature of the request and the historical values that would be lost by demolition.
 - c. Inform the applicant of the historic character of the building and the incentives associated with historic preservation.
 - d. If, after 45 days, the City Planner finds that substantial progress is being made in protecting the structure from demolition, the City Planner shall continue to hold on the demolition permit.
 - e. If, after 45 days, the City Planner finds that there is no possibility for protecting the structure, the City Planner shall authorize the issuance of the demolition permit.
3. ~~Building~~ Zoning permit applications for exterior alteration, or the construction of new structures or buildings in conjunction with a historic structure included in the Comprehensive Plan's inventory of historic buildings shall be referred to the City Planner for its review. The application shall be reviewed at the next regularly scheduled City Planner meeting following the receipt of the ~~building~~ Zoning permit application.
 - a. The City Planner will review the ~~building~~ Zoning permit application to ensure that the proposed alterations are compatible with the building's historic character.
 - b. In making this determination, the City Planner will consider the following criteria: maintenance of the building's predominant architectural character including such features as roof lines, porches, windows, or other exterior elements; compatibility of the materials to be used with existing building materials; and effect of the alterations on relationship of the building to its site.
 - c. The City Planner shall approve or deny the proposed alterations based on the above criteria. The City Planner may recommend changes in the proposal which would enable it to be approved.
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 1. Purpose. The purpose and intent of the Plan Review is to bring those projects involving building design and the development of land under special review where development impacts that may cause a conflict between uses in the same adjoining district are be minimized, and to promote the general welfare by directing attention to site planning, and giving regard to the natural environment and the elements of creative design to assist in conserving and enhancing the appearance of the city, and to support the promotion and maintenance of healthful and safe conditions upon surrounding properties and neighborhoods, thereby affecting the public health, safety, and general welfare.
 2. Plan Review is intended to promote functional, safe, and attractive

developments, which maximize compatibility with surrounding developments and uses and with the natural environment. Plan Review mitigates potential land use conflicts resulting from proposed development through specific conditions attached by the review body. Plan Review focuses on the layout of a proposed development, including building placement, setbacks, location of parking areas, pedestrian access, external storage areas, external lighting (including LED), open areas, and landscaping.

3. A Plan Review shall meet the requirements listed in subsection G.2 through G.7 of this section.

F. Limited Land Use Decision

1. Method of review. Limited Land Use Decisions are subject to administrative review. The decision is made by the Planning Official with public notice and an opportunity to appeal.
2. Time allowed. The City shall complete its review within the timeframes specified in subsections (C) through (G), below, provided that in all cases the City shall take final action on Limited Land Use applications, including resolution of all appeals, within the number of days specified in the table below, unless the applicant requests an extension in writing. The total of all extensions may not exceed 245 days except to allow for mediation in accordance with ORS 227.178(11).

Project Type	Maximum Days*
<u>Limited Land Use Decisions for affordable housing projects meeting the following criteria: • Multi-unit residential building containing five or more residential units within the urban growth boundary; and • At least 50 percent of the residential units included in the development will be sold or rented as affordable housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater, that is subject to an affordable housing covenant, as provided in ORS 456.270 to 456.295, that maintains the affordability for a period of not less than 60 years from the date of the certificate of occupancy.</u>	<u>100 days from the date the City Planner deems the application complete for purposes of processing.</u>
<u>All other Limited Land Use</u>	<u>120 days from the date the City</u>

<u>Decisions</u>	<u>Planner deems the application complete for purposes of processing.</u>
	<u>*A city may extend these periods by no more than seven days in order to assure the sufficiency of its final order where the city has tentatively approved the application for development of residential structures.</u>

3. Application Requirements.

- a. Application Forms. Applications subject to Limited Land Use Review shall be made on forms provided by the Planning Official.
- b. Submittal Information. At a minimum, the application shall include all of the following information:
 - (1) The information requested on the application form;
 - (2) Plans and exhibits required for the specific approval(s) being sought; and
 - (3) The required fee.

4. Completeness Review.

- a. The City Planner shall review the application submittal and advise the applicant in writing whether the application is complete or incomplete within 30 calendar days after the city receives the application submittal.
- b. If an application for a Limited Land Use Decision is incomplete, the City Planner shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete upon receipt by the City Planner of:
 - (1) All of the missing information;
 - (2) Some of the missing information and written notice from the applicant that no other information will be provided; or
 - (3) Written notice from the applicant that none of the missing information will be provided.
- c. If an applicant requests review under different standards as provided in subsection (E)(2) the applicable timelines for completeness review restart as if a new application were submitted on the date of the request. The application shall not be deemed complete until the City Planner determines that additional information is not required under subsection (2) of this section or the applicant makes a submission under subsection (2) of this section in response to a City Planner's request.
- d. On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required

under subsection (2) and has not submitted some or all of the information or provided written notice that none of the missing information will be provided.

5. Applicable Standards and Criteria. Approval or denial of an application shall be based upon the applicable standards and criteria as follows.

- a. Except as provided in subsection (2), the approval or denial of an application that was complete when first submitted or deemed complete pursuant to subsection (D)(3) shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
- b. Up to the issuance of Notice of Pending Limited Land Use Decision (subsection (F)), an applicant may submit a written request to apply newly adopted standards (those operative at the time of the request) to a submitted land use application. If an applicant requests review under newly adopted standards:
 - (1) Any applicable timelines for completeness review and final decisions restart as if a new application were submitted on the date of the request.
 - (2) Submission of additional information may be required if the request affects or changes information in the application.
 - (3) Additional fees may be required to cover those additional costs incurred by the city to accommodate the request.
 - (4) The applicant may not make more than one request under this subsection (E)(2).

6. Notice of Pending Limited Land Use Decision. The purpose of the notice of pending decision is to provide a 14-day comment period during which nearby property owners and affected agencies can submit written comments on the application before the City Planner issues their decision.

- a. The City Planner shall mail notice of a pending Limited Land Use Decision to the following individuals and agencies.
 - (1) All owners of record of real property within a minimum of 250 feet of the of the entire contiguous site for which the application is made;
 - (2) Any neighborhood or community organization recognized by the governing body and whose boundaries include the site; and
 - (3) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies. The failure of another agency to respond with written comments on a pending application shall not invalidate an action or permit approval made by the City under this Code.
- b. The notice of pending Limited Land Use Decision shall briefly summarize the local decision making process for the Limited Land

Use Decision being made and shall contain all of the following information:

- (1) Deadline (date and time) for submitting written comments, which must be at least 14 days prior to the scheduled decision date, the place where written comments are to be submitted, and the name and phone number of the city's contact person;
 - (2) Street address or other easily understood geographical reference to the subject property;
 - (3) List, by commonly used citation, of the applicable criteria for the decision;
 - (4) Statement that all evidence relied upon by the City Planner to make their decision is in the public record and is available for public review. Copies of this evidence can be obtained at a reasonable cost from the City;
 - (5) Statement explaining that issues which may provide the basis for an appeal to the Land Use Board of Appeals must be raised in writing prior to the expiration of the comment period. Such issues must be raised with sufficient specificity to enable the decision maker to respond to the issue; and
 - (6) Statement that after the comment period closes, the City will issue its decision and the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.
- c. The City Planner shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and demonstrate that the notice was mailed to the parties listed in subsection (1) and was mailed within the time required by law.
- (1) Notice of Decision. At the conclusion of the comment period, the City Planner shall review the comments received and prepare a decision approving, approving with conditions, or denying the application based on the applicable standards and criteria. Within 7 days of making a Limited Land Use Decision, the City Planner shall mail a notice of that decision.
 - (A) The City Planner shall mail notice of a Limited Land Use Decision to the following individuals and agencies.
 - (a) Applicant;
 - (b) Property owner (if different);
 - (c) Building Official;
 - (d) Those individuals or agencies who provided

- written comments on the proposal; and
 - (e) Those individuals or agencies who requested a copy of the decision.
 - (B) The Notice of Decision shall contain all of the following information:
 - (a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
 - (b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area (a copy of assessor's map may be used);
 - (c) A statement of where the City's decision can be obtained;
 - (d) The date the decision shall become final, unless appealed; and
 - (e) A statement that all persons entitled to notice may appeal the decision to City's appeal body pursuant to subsection (H) by the date specified on the notice.
- 7. Effective Date. Unless the conditions of approval specify otherwise, a Limited Land Use Decision becomes effective 14 days after the City mails the decision notice, unless the decision is appealed.
- 8. Appeal of a Limited Land Use Decision. A Limited Land Use Decision made by the City Planner may be appealed to the Appeal Body designated by the City to hear appeals of decisions made by the City Planner.
 - a. Who may appeal. The following people have legal standing to appeal Limited Land Use Decision:
 - (1) The applicant or owner of the subject property;
 - (2) Any person who was entitled to written notice of the decision; and
 - (3) Any other person who participated in the proceeding by submitting written comments on the application to the City by the specified deadline.
 - b. Appeal filing procedure.
 - (1) Notice of appeal. Any person with standing to appeal, as provided in subsection a, above, may appeal a Limited Land Use Decision by filing a Notice of Appeal according to the following procedures.
 - (2) Time for filing. A Notice of Appeal shall be filed with the

City Planner within the timeframe specified on the Notice of Decision.

(3) Content of Notice of Appeal. The Notice of Appeal shall be accompanied by the required filing fee and shall contain:

(A) An identification of the decision being appealed, including the date of the decision;

(B) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;

(C) A statement explaining the specific issues being raised on appeal; and

(D) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period.

c. Scope of appeal. The appeal of a Limited Land Use Decision shall be a hearing de novo before the Appeal Body. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Limited Land Use Decision, but may include other relevant evidence and arguments. The hearing Appeal Body shall allow additional evidence, testimony, or argument concerning any relevant standard, criterion, condition, or issue.

d. Appeal Hearing Procedure. Hearings on appeals of Limited Land Use Decisions shall follow the city's procedures used for public hearings.

G. Zoning Review

1. Method of review.

a. Limited Land Use Decision. Zoning Review applications for proposed developments meeting one or more of the following criteria require Limited Land Use approval:

(1) Development with more than 50 units;

(2) Site size greater than 1 acre (43,560 square feet) in size; or

(3) Applicant is requesting a Modification pursuant to Section H of this section.

b. Ministerial Decision. Zoning Review applications for all other proposed developments require Ministerial approval.

2. Requirements. Zoning Reviews may be processed concurrently with a building permit application or submitted in advance of a Zoning permit application. In either case, a Zoning permit shall not be issued until the Planning Official has approved a Zoning Review for the proposed project.

3. Zoning Review Application Requirements.

a. The applicant has the responsibility to obtain the property owner's permission for the request.

b. Applicants must submit information showing that the proposal

complies with this Code, including:

- (1) Information requested on the application form. A Ministerial Type I Zoning Review submitted concurrently with a City Zoning building permit application does not require a separate application form;
- (2) The applicable housing type. In instances where a development can meet the definition of more than one housing type, the applicant shall specify the housing type on the application;
- (3) A site plan and elevations as specified in subsection (D) which provides sufficient detail to determine the standards are met; and
- (4) Service provider letters or other documentation demonstrating that sufficient infrastructure is available or will be available prior to certificate of occupancy to serve the proposed development, based on applicable public works standards.

c. Applications must be filed with the required fee, based on the applicable local fee schedule.

4. Site Plan and Building Elevation Requirements.

a. The site or development plan must be drawn accurately to scale and must show the following existing and proposed information:

- (1) All property lines with dimensions and total lot area;
- (2) North arrow and scale of drawing;
- (3) Adjacent streets, access (driveways), curbs, sidewalks, and bicycle routes;
- (4) Existing Goal Protected Resources, if any are present on the site;
- (5) Easements and on-site utilities;
- (6) Existing and proposed development with all dimensions, including floor area and building footprint (if applicable);
- (7) Distances of all existing and proposed development to property lines;
- (8) Types and location of outdoor area and required usable open space (if required);
- (9) Percentage of the site proposed for outdoor area coverage;
- (10) Motor vehicle and pedestrian access and circulation systems, including connections off-site, and associated dimensions; and
- (11) Motor vehicle and bicycle parking areas and design, number of spaces, and loading areas.

b. Building elevations showing required entries and windows and

associated dimensions.

5. Criteria. The City Planner's evaluation of a Zoning Review application will determine whether minimum code requirements have been or will be met.
6. Expiration of Approvals. An approval under this section expires if:
 - a. Within 2 years of the date of the final decision, a Zoning building permit has not been issued for approved development.
 - b. Within 2 years of the date of the issuance of a Zoning building permit, if the approved development has not commenced.
7. Extension. The City Planner, upon written request by the applicant, may grant an extension of the approval period not to exceed one year; provided that:
 - a. No changes are made on the original approved plan;
 - b. The applicant provides evidence demonstrating substantial progress toward commencing construction on the site within the next year; and
 - c. The applicant provides evidence demonstrating that failure to obtain Zoning building permits and substantially begin construction within 2 years of Zoning Review approval was beyond the applicant's control.

H. Modification

1. Method of review. An applicant may request one or Modifications of the standards in this chapter of Bay City Municipal Code. The approval criteria for a Modification requires the use of discretion, therefore applications for Modifications are subject to the Limited Land Use Decision procedure in this section. Requested Modifications shall be submitted and reviewed concurrently with a Zoning Review application.
2. Modification Application Requirements.
 - a. In addition to the information required for the Zoning Review application, applicants requesting one or more Modifications must submit a written statement for each requested Modification explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail.
 - b. Applications must be filed with the required fee, based on the applicable local fee schedule.
3. Criteria. A Modification to a standard will be approved if the applicant demonstrates that the following criteria have been met.
 - a. Granting the Modification will equally or better facilitate housing production, affordability, and choice under Goal 10.
 - b. Granting the Modification will not impact the provision of sufficient infrastructure.
 - c. The proposed development will equally or better address all of the considerations in Tables below applicable to the standard(s) to be modified.
 - d. Any significant negative impacts resulting from the Modification are mitigated to the extent practical.

e. Considerations for granting a modification:

For Modifications of standards relating to:	Considerations for granting a Modification include:
Setbacks, building height, building floor area, lot coverage and floor area ratio	<u>The proposed modification(s) do not decrease setbacks or increase building height, building floor area, lot coverage or floor area ratio by more than 5% – 10%. In addition, the impact of the mass/bulk of proposed buildings on neighboring uses, including opportunities to minimize those impacts through design. For garage entrance setbacks (driveway length), the impact of the driveway on the public right-of-way and pedestrian environment.</u>
Minimum density, lot size	<u>Whether the proposal will help the city meet its housing production, affordability, and accessibility goals. The proposed modification(s) do not decrease lot size by more than 10%.</u>
<u>Minimum or maximum vehicle parking</u>	<u>Minimum or maximum vehicle parking</u>
<u>Bicycle parking, amount and design and location of spaces</u>	<u>Whether the reduction in amount or changes in design ensure bicycle parking that is adequate and user-friendly; or why the standard(s) are not appropriate for the proposed project context or location. The minimum number of spaces, for a reduction not greater than one-half space per residential unit.</u>
<u>Entry orientation and pedestrian access</u>	<u>Opportunities to support pedestrian friendly neighborhoods, on-site pedestrian access, and pedestrian connections to the street.</u>

<u>Entry orientation and required percentage of windows and doors</u>	<u>How the proposed building façade(s) will contribute to a safe and comfortable pedestrian-oriented environment on the abutting street or why this is not appropriate in this location.</u>
Cottage orientation	<u>Opportunities to ensure that an adequate number of cottages have a direct relationship to the common courtyard and that the common courtyard provides shared community space for the cottage cluster.</u>
<u>Transitions to residential entrances</u>	<u>Opportunities to provide separation and transitions between private entrance areas and the public realm.</u>
<u>Off-street parking design; driveway and garage design</u>	<u>The impact of parking and vehicle access on the public right-of-way and pedestrian environment on- and off-site, and opportunities to minimize those impacts through design.</u>
<u>Required outdoor area and usable open space; common courtyards</u>	<u>Ensuring livable design for residents, including access to light, air, open space, and active or passive recreation amenities; supporting shared community space for residents; and enabling culturally-sensitive amenities. The proposed modification(s) do not decrease open space by more than 25%.</u>
<u>Screening of parking areas and trash storage</u>	<u>Opportunities to minimize the impact of parking areas or trash storage on the pedestrian environment; and, for trash storage, opportunities to minimize the impact on abutting residential properties.</u>

Screening from arterials

Opportunities to minimize noise and air quality impacts from abutting transportation facilities on residents.

4. Approval of modifications.

- a. Within 30 days after receiving a complete application, Bay City shall notify the applicant whether the application is deemed complete to make a review, and provide this notification concurrently with an application completeness determination.
- b. If the city notifies the applicant that any proposed modification is not ready for review, the applicant may submit additional evidence for evaluation under this subsection within 30 days following the notice.
- c. Bay City shall make a final decision on an application for a modification.
- d. A denial of an application for a modification must be in a brief written statement that explains the criteria and standards considered relevant to the decision, states the facts relied on in rendering the decision and explains the justification for the decision based on the stated criteria, standards and facts.
- e. The decision does not require notice.
- f. A final decision on an application for a modification is made under this section as a limited land use decision. Only the applicant may appeal the decision.

5. Expiration of Approvals. An approval under this section expires if:

- a. Within 2 years of the date of the final decision, a City Zoning permit has not been issued for approved development.
- b. Within 2 years of the date of the issuance of a building permit, if the approved development has not commenced.

SECTION 3: AMENDMENT “10.12.070 Type III Procedures” of the Bay City Municipal Code is hereby *amended* as follows:

BEFORE AMENDMENT

10.12.070 Type III Procedures

A. Quasi-Judicial Review

1. Application Requirements.

- a. Application Forms. Applications requiring Quasi-Judicial review shall be made on forms provided by the City Planning Official.
- b. Submittal Information. The City Planning Official shall advise the applicant on application submittal requirements. At a minimum, the application shall include all of the following information:
 - (1) The information requested on the application form;
 - (2) Plans and exhibits required for the specific approval(s) being sought;
 - (3) A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail;
 - (4) Information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable; and
 - (5) The required fee.

2. Procedure.

a. Mailed and Posted Notice.

- (1) The City shall mail public notice of a public hearing on a Quasi-Judicial application at least 20 days before the hearing date to the individuals and organizations listed below. The City Planning Official shall prepare an affidavit of notice, which shall be made a part of the file. The affidavit shall state the date that the notice was mailed. Notice shall be mailed to:
 - (A) All owners of record of real property located within a minimum of 100 feet of the subject site;
 - (B) Any person who submits a written request to receive a notice; and
 - (C) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies. At a minimum, the City Planning Official shall notify the road authority if different than the City of Bay City. The failure of another agency to respond with written comments on a pending application shall not

invalidate an action or permit approval made by the City under this Code.

- (2) At least 14 days before the first hearing, the City Planning Official or designee shall post notice of the hearing on the project site in clear view from a public right-of-way using a poster format prescribed by the City Planning Official
- (3) At least 14 days before the first hearing, the City shall publish notice of the hearing on the City website, and/or have said notice published in a newspaper with local circulation.

b. Content of Notice. Notice of a Quasi-Judicial hearing to be mailed and published per subsection 1 above shall contain all of the following information:

- (1) A summary of the proposal and the relevant approval criteria, in sufficient detail to help the public identify and locate applicable code requirements;
- (2) The date, time, and location of the scheduled hearing;
- (3) The street address or other clear reference to the location of the proposed use or development;
- (4) A disclosure statement that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to the City Council, Land Use Board of Appeals, or Circuit Court, as applicable, on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;
- (5) A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards shall be available for review at the office of the City Planning Official, and that copies shall be provided at a reasonable cost;
- (6) A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
- (7) A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and
- (8) A statement that after the public hearing closes, the City will issue its decision, and the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.

3. Conduct of the Public Hearing. Conduct of the public hearing shall follow the process identified in Section 1.02.080.

4. Burden of Proof. The burden is on the applicant to demonstrate compliance with the criteria. The more drastic the change or the greater the proposal or the

greater the impact of the proposal in an area, the greater is the burden upon the proponent. The requested proposal must be supported by proof that:

- a. It conforms to all applicable City Charter and Chapter requirements.
 - b. There is a public need for the approval.
 - c. The public need will be best served by granting the proposal (if the proposal is for zone change, proof must be submitted that the public need will be best served by changing the classification of the particular piece of property in question as compared with other available property).
 - d. If other areas have been previously designated for a use of development submitted in the proposal, there is a necessity for introducing the proposal into an area not previously contemplated and that the property owners there should bear the burden, if any, of introducing that proposal into their area.
5. Effective Date of Decision. Unless the conditions of approval specify otherwise, a Quasi-Judicial Decision becomes effective 20 days after the City mails the decision notice, unless the decision is appealed pursuant to subsection 10.12.070 subsection 6.
6. Appeal of Planning Commission Decision. The Planning Commission's decision may be appealed to the City Council as follows:
- a. The following people have legal standing to appeal:
 - (1) The applicant or owner of the subject property; and
 - (2) Any other person who testified orally or in writing during the subject public hearing before the close of the public record.
 - b. Appeal filing procedure.
 - (1) Notice of appeal. Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type III Quasi-Judicial Decision by filing a Notice of Appeal according to the following procedures.
 - (2) Time for filing. A Notice of Appeal shall be filed with the City Planning Official within the timeframe specified on the Notice of Decision; typically, this will be within 10 days of the date the Notice of Decision is mailed.
 - (3) Content of notice of appeal. The Notice of Appeal shall be accompanied by the required filing fee and shall contain:
 - (A) An identification of the decision being appealed, including the date of the decision;
 - (B) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
 - (C) A statement explaining the specific issues being raised on appeal; and
 - (D) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period.

- c. Scope of appeal. The appeal of a Type III Quasi-Judicial Decision shall be a hearing *de novo* before the City Council. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Quasi-Judicial Decision, but may include other relevant evidence and arguments. The hearing appeal body may allow additional evidence, testimony, or argument concerning any applicable standard, criterion, condition, or issue.
- 7. Record of the Public Hearing.
 - a. The official public hearing record shall include all of the following information:
 - (1) All materials considered by the hearings body;
 - (2) All materials submitted by the City Planning Official to the hearings body regarding the application;
 - (3) The minutes of the hearing;
 - (4) The final written decision; and
 - (5) Copies of all notices given as required by this article, and correspondence regarding the application that the City mailed or received.
 - b. The meeting minutes shall be filed in hardcopy form with the City Planning Official. The minutes and other evidence presented as a part of the hearing shall be part of the record.
 - c. All exhibits received and displayed shall be marked to provide identification and shall be part of the record.
- 8. Effective Date and Appeals to State Land Use Board of Appeals. A Quasi-Judicial Decision, as applicable, is effective the date the City mails the decision notice. Appeals Decision or Appeal of City Council decisions under this section shall be filed with the state Land Use Board of Appeals pursuant to ORS 197.805 - 197.860

AFTER AMENDMENT

10.12.070 Type III Procedures

A. Quasi-Judicial Review

1. Application Requirements.

- a. Application Forms. Applications requiring Quasi-Judicial review shall be made on forms provided by the City ~~Planning Official~~Planner.
- b. Submittal Information. The City ~~Planning Official~~Planner shall advise the applicant on application submittal requirements. At a minimum, the application shall include all of the following information:
 - (1) The information requested on the application form;
 - (2) Plans and exhibits required for the specific approval(s) being

sought;

- (3) A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail;
- (4) Information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable; and
- (5) The required fee.

2. Procedure.

a. Mailed and Posted Notice.

- (1) The City shall mail public notice of a public hearing on a Quasi-Judicial application at least 20 days before the hearing date to the individuals and organizations listed below. The City ~~Planning Official~~ Planner shall prepare an affidavit of notice, which shall be made a part of the file. The affidavit shall state the date that the notice was mailed. Notice shall be mailed to:
 - (A) All owners of record of real property located within a minimum of ~~100~~ 250 feet of the subject site;
 - (B) Any person who submits a written request to receive a notice; and
 - (C) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies. At a minimum, the City ~~Planning Official~~ Planner shall notify the road authority if different than the City of Bay City. The failure of another agency to respond with written comments on a pending application shall not invalidate an action or permit approval made by the City under this Code.
- (2) At least 14 days before the first hearing, the City ~~Planning Official~~ Planner or designee shall post notice of the hearing on the project site in clear view from a public right-of-way using a poster format prescribed by the City ~~Planning Official~~ Planner.
- (3) At least 14 days before the first hearing, the City shall publish notice of the hearing on the City website, and/or have said notice published in a newspaper with local circulation.

b. Content of Notice. Notice of a Quasi-Judicial hearing to be mailed and published per subsection 1 above shall contain all of the following information:

- (1) A summary of the proposal and the relevant approval criteria, in sufficient detail to help the public identify and locate applicable code requirements;

- (2) The date, time, and location of the scheduled hearing;
 - (3) The street address or other clear reference to the location of the proposed use or development;
 - (4) A disclosure statement that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to the City Council, Land Use Board of Appeals, or Circuit Court, as applicable, on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;
 - (5) A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards shall be available for review at the office of the City ~~Planning Office~~Planner, and that copies shall be provided at a reasonable cost;
 - (6) A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
 - (7) A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and
 - (8) A statement that after the public hearing closes, the City will issue its decision, and the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.
3. Conduct of the Public Hearing. Conduct of the public hearing shall follow the process identified in Section 1.02.080.
4. Burden of Proof. The burden is on the applicant to demonstrate compliance with the criteria. The more drastic the change or the greater the proposal or the greater the impact of the proposal in an area, the greater is the burden upon the proponent. The requested proposal must be supported by proof that:
- a. It conforms to all applicable City Charter and Chapter requirements.
 - b. There is a public need for the approval.
 - c. The public need will be best served by granting the proposal (if the proposal is for zone change, proof must be submitted that the public need will be best served by changing the classification of the particular piece of property in question as compared with other available property).
 - d. If other areas have been previously designated for a use of development submitted in the proposal, there is a necessity for introducing the proposal into an area not previously contemplated and that the property owners there should bear the burden, if any, of introducing that proposal into their area.
5. Effective Date of Decision. Unless the conditions of approval specify

otherwise, a Quasi-Judicial Decision becomes effective 20 days after the City mails the decision notice, unless the decision is appealed pursuant to subsection 10.12.070 subsection 6.

6. Appeal of Planning Commission Decision. The Planning Commission's decision may be appealed to the City Council as follows:

a. The following people have legal standing to appeal:

- (1) The applicant or owner of the subject property; and
- (2) Any other person who testified orally or in writing during the subject public hearing before the close of the public record.

b. Appeal filing procedure.

- (1) Notice of appeal. Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type III Quasi-Judicial Decision by filing a Notice of Appeal according to the following procedures.
- (2) Time for filing. A Notice of Appeal shall be filed with the City ~~Planning Official~~Planner within the timeframe specified on the Notice of Decision; typically, this will be within 10 days of the date the Notice of Decision is mailed.
- (3) Content of notice of appeal. The Notice of Appeal shall be accompanied by the required filing fee and shall contain:
 - (A) An identification of the decision being appealed, including the date of the decision;
 - (B) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
 - (C) A statement explaining the specific issues being raised on appeal; and
 - (D) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period.

c. Scope of appeal. The appeal of a Type III Quasi-Judicial Decision shall be a hearing *de novo* before the City Council. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Quasi-Judicial Decision, but may include other relevant evidence and arguments. The hearing appeal body may allow additional evidence, testimony, or argument concerning any applicable standard, criterion, condition, or issue.

7. Record of the Public Hearing.

a. The official public hearing record shall include all of the following information:

- (1) All materials considered by the hearings body;
- (2) All materials submitted by the City ~~Planning Official~~Planner to the hearings body regarding the application;
- (3) The minutes of the hearing;
- (4) The final written decision; and

- (5) Copies of all notices given as required by this article, and correspondence regarding the application that the City mailed or received.
 - b. The meeting minutes shall be filed in hardcopy form with the City ~~Planning Office~~Planner. The minutes and other evidence presented as a part of the hearing shall be part of the record.
 - c. All exhibits received and displayed shall be marked to provide identification and shall be part of the record.
8. Effective Date and Appeals to State Land Use Board of Appeals. A Quasi-Judicial Decision, as applicable, is effective the date the City mails the decision notice. Appeals Decision or Appeal of City Council decisions under this section shall be filed with the state Land Use Board of Appeals pursuant to ORS 197.805 - 197.860

SECTION 4: **AMENDMENT** “10.12.080 Type IV Procedures” of the Bay City Municipal Code is hereby *amended* as follows:

BEFORE AMENDMENT

10.12.080 Type IV Procedures

A. Legislative Review

1. Timing of Requests. The City Council may establish a schedule for when it will accept legislative code amendment or plan amendment requests, or the City Council may initiate its own legislative proposals at any time. Legislative requests are not subject to the 120-day review period under ORS 227.178.
2. Application Requirements.
 - a. Application forms. Legislative applications shall be made on forms provided by the City Planning Official.
 - b. Submittal Information. The application shall contain all of the following information:
 - (1) The information requested on the application form;
 - (2) A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
 - (3) The required fee, except when City of Bay City initiates request; and
 - (4) One copy of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.

3. Procedure. Hearings on Legislative Land Use requests are conducted similar to City Council hearings on other legislative proposals, except the notification procedure for Legislative Land Use requests must conform to state land use laws (ORS 227.175), as follows:
 - a. The City Planning Official shall notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments (zone change, rezoning with annexation, or comprehensive plan amendment) at least 35 days before the first public hearing at which public testimony or new evidence will be received. The notice shall include a DLCD Certificate of Mailing.
 - b. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance for any zone change, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - (1) Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one Comprehensive Plan land use designation to another), see ORS 227.186 for instructions;
 - (2) Any affected governmental agency;
 - (3) Any person who requests notice in writing; and
 - (4) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
 - c. At least 10 days before the scheduled City Council public hearing date, public notice shall be published in a newspaper of general circulation in the city.
 - d. For each mailing and publication of notice, the City Planning Official shall keep an affidavit of mailing/publication in the record.
4. Final Decision and Effective Date. A Legislative Land Use decision, if approved, shall take effect and shall become final as specified in the enacting ordinance or, if not approved, upon mailing of the notice of decision to the applicant. Notice of a Legislative Land Use decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development within 20 business days after the City Council decision is filed with the City Planning Official. The City shall also provide notice to all persons as required by other applicable laws.
- B. Annexation Areas annexed to the City shall be zoned the same as the contiguous zone within the City Limits, except where the annexed area adjoins two or more zones, the least intensive zone shall apply unless findings of fact are presented in the Planning Commission or City Council and adopted which support the more intensive zoning designation. In establishing the zoning for annexed areas, the procedure used for Comprehensive Plan, Zone Change and Amendments Section 10.17 shall be followed.

AFTER AMENDMENT

10.12.080 Type IV Procedures

A. Legislative Review

1. Timing of Requests. The City Council may establish a schedule for when it will accept legislative code amendment or plan amendment requests, or the City Council may initiate its own legislative proposals at any time. Legislative requests are not subject to the 120-day review period under ORS 227.178.
2. Application Requirements.
 - a. Application forms. Legislative applications shall be made on forms provided by the City ~~Planning Official~~Planner.
 - b. Submittal Information. The application shall contain all of the following information:
 - (1) The information requested on the application form;
 - (2) A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
 - (3) The required fee, except when City of Bay City initiates request; and
 - (4) One copy of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.
3. Procedure. Hearings on Legislative Land Use requests are conducted similar to City Council hearings on other legislative proposals, except the notification procedure for Legislative Land Use requests must conform to state land use laws (ORS 227.175), as follows:
 - a. The City ~~Planning Official~~Planner shall notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments (zone change, rezoning with annexation, or comprehensive plan amendment) at least 35 days before the first public hearing at which public testimony or new evidence will be received. The notice shall include a DLCD Certificate of Mailing.
 - b. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance for any zone change, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - (1) Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one Comprehensive Plan land use designation to another), see ORS 227.186 for instructions;
 - (2) Any affected governmental agency;

- (3) Any person who requests notice in writing; and
 - (4) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
 - c. At least 10 days before the scheduled City Council public hearing date, public notice shall be published in a newspaper of general circulation in the city.
 - d. For each mailing and publication of notice, the City ~~Planning~~ ~~Official~~ Planner shall keep an affidavit of mailing/publication in the record.
4. Final Decision and Effective Date. A Legislative Land Use decision, if approved, shall take effect and shall become final as specified in the enacting ordinance or, if not approved, upon mailing of the notice of decision to the applicant. Notice of a Legislative Land Use decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development within 20 business days after the City Council decision is filed with the City ~~Planning-Official~~ Planner. The City shall also provide notice to all persons as required by other applicable laws.
- B. Annexation Areas annexed to the City shall be zoned the same as the contiguous zone within the City Limits, except where the annexed area adjoins two or more zones, the least intensive zone shall apply unless findings of fact are presented in the Planning Commission or City Council and adopted which support the more intensive zoning designation. In establishing the zoning for annexed areas, the procedure used for Comprehensive Plan, Zone Change and Amendments Section 10.17 shall be followed.

SECTION 5: AMENDMENT “10.12.130 Notice” of the Bay City Municipal Code is hereby *amended* as follows:

BEFORE AMENDMENT

10.12.130 Notice

A. Procedure for Mailed Notice

- 1. Mailed notice shall be sent to property owners within the following distances from the exterior boundary of the subject property:
 - a. Legislative change to this Chapter: none;
 - b. Quasi-judicial change to this Chapter: two hundred fifty feet;
 - c. Conditional use: two hundred fifty feet;
 - d. Variance and setback reduction: one hundred feet;

- e. Planning Commission review: one hundred feet;
 - f. Cutting and filling: one hundred feet;
 - g. Plan Review Type II: one hundred feet.
- 2. Mailed notice shall be sent to the applicant.
- 3. Addresses for a mailed notice required by this title all be obtained from the county assessor's Real Property Tax records. The failure of a property owner to receive notice shall not invalidate an action if a good faith attempt was made to comply with the requirements of this title for notice.
- 4. Mailed notice shall contain the information contained in Section 10.12.130.C.
- B. Procedure for Published Notice
 - 1. Notice for legislative changes shall be given for the proposed actions by publication in a newspaper of general circulation within the City.
 - 2. Published notice shall contain the information contained in Section 10.12.130.C.
- C. Notice of Hearing. Notice of a hearing shall contain the following information:
 - 1. The name of the property owner and applicant, if different from the property owner, and the city's case file number;
 - 2. The date, time, place of the hearing, and who is holding the public hearing;
 - 3. A description of the location of the property for which a permit or other action is pending, including the street address and a subdivision lot and block designation, or the tax map designation of the county assessor;
 - 4. A concise description of the proposed action;
 - 5. A listing of the applicable criteria from this title and the comprehensive plan known to apply to the application at issue;
 - 6. A statement that a failure, by the applicant or other parties to the hearing, to raise an issue in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision makers an opportunity to respond to the issue precludes appeal based on that issue;
 - 7. A statement 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 the reasonable cost;
 - 8. A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost;
 - 9. The name of a city representative to contact and the telephone number where additional information may be obtained;
 - 10. A general explanation of the requirements for submission of testimony and the procedure for the conduct of hearings; and
 - 11. All other information as may be required by law.
- D. Time of Notice Where required, notice shall be mailed, published, and posted twenty days prior to the hearing requiring the notice, or as may be required by law, or if two or more evidentiary hearings are allowed, ten (10) days before the first evidentiary hearing.
- E. Date of Public Hearing A public hearing shall be held within forty days of the filing of

a complete application, or as otherwise required by law.

F. All requirements of ORS 197.797 and all time limits imposed by statute shall apply to City land use proceedings adopted by the Council or as otherwise required by law.

G. For Legislative hearings, the City Planner shall notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments (zone change, rezoning with annexation, or comprehensive plan amendment) at least 35 days before the first public hearing at which public testimony or new evidence will be received. The notice shall include a DLCD Certificate of Mailing. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance for any zone change, a notice shall be prepared in conformance with ORS 227.175 and mailed to:

1. Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one Comprehensive Plan land use designation to another), see ORS 227.186 for instructions;
2. Any affected governmental agency;
3. Any person who requests notice in writing; and
4. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
 - a. At least 10 days before the scheduled City Council public hearing date, public notice shall be published in a newspaper of general circulation in the city.
 - b. For each mailing and publication of notice, the City Planning Official shall keep an affidavit of mailing/publication in the record.

H. For a Quasi- Judicial Mailed and Posted Notice.

1. The City shall mail public notice of a public hearing on a Quasi-Judicial application at least 20 days before the hearing date to the individuals and organizations listed below. The City Planning Official shall prepare an affidavit of notice, which shall be made a part of the file. The affidavit shall state the date that the notice was mailed. Notice shall be mailed to:
 - a. All owners of record of real property located within a minimum of 100 feet of the subject site;
 - b. Any person who submits a written request to receive a notice; and
 - c. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies. At a minimum, the City Planning Official shall notify the road authority if different than the City of Bay City. The failure of another agency to respond with written comments on a pending application shall not invalidate an action or permit approval made by the City under this Code.
2. At least 14 days before the first hearing, the City Planning Official or designee shall post notice of the hearing on the project site in clear view from a public right-of-way using a poster format prescribed by the City Planning Official.
3. At least 14 days before the first hearing, the City shall publish notice of the

hearing on the City website, and/or have said notice published in a newspaper with local circulation.

4. Content of Notice. Notice of a Quasi-Judicial hearing to be mailed and published per subsection 1 above shall contain all of the following information.
 - a. A summary of the proposal and the relevant approval criteria, in sufficient detail to help the public identify and locate applicable code requirements;
 - b. The date, time, and location of the scheduled hearing;
 - c. The street address or other clear reference to the location of the proposed use or development;
 - d. A disclosure statement that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to the City Council, Land Use Board of Appeals, or Circuit Court, as applicable, on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;
 - e. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards shall be available for review at the office of the City Planning Official, and that copies shall be provided at a reasonable cost;
 - f. A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
 - g. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and
 - h. A statement that after the public hearing closes, the City will issue its decision, and the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.
- I. Any staff report used at the hearing shall be available at least seven (7) days prior to the hearing. If additional documents or evidence are provided by any party, the City may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by an applicant shall result in a corresponding extension of any state imposed time limitations.
- J. Burden and Nature of Proof Except for a determination of the applicability of these provisions, the burden of proof is upon the proponent. The proposal must be supported by proof that it conforms to the applicable provisions of this Chapter, especially the specific criteria set forth for the particular type of decision under consideration.
- K. Notification of State and Federal Agencies The city shall forward a copy of the final decision, including the findings and required conditions, within seven working days,

to the appropriate state and/or federal agencies where a use or activity involves a state or federal permit which requires a determination of consistency with the local comprehensive plan. The response shall contain a statement of whether or not approval of the permit would be consistent with the comprehensive plan, the reasons the development is or is not so considered, and standards and conditions which should apply if a state or federal permit is granted.

- L. Final action on Application for Permit or Zone Change Request The city shall take final action on an application for a permit or zone change with one hundred twenty days of the receipt of a complete application, or such other time as required by law. The one hundred twenty-day period does not apply to an amendment to the comprehensive plan or zoning ordinance, or the adoption of a new land use regulation. At the request of the applicant, the one hundred twenty-day period may be extended for a reasonable period of time.
- M. Enforcement The City Recorder shall have the power and principal responsibility for enforcing provisions of this title. Neither the building official nor any other public employee or official of the city shall issue any permit or license for any use, activity or structure which violates provisions of this title. Any permit or license issued in conflict with the provisions of this title, intentionally or otherwise, shall be void.
- N. Building Permits Before issuing a permit for the construction, reconstruction or alteration of a structure, it will be the responsibility of the City Planner and his or her designee to make sure that provisions of this title will not be violated.

AFTER AMENDMENT

10.12.130 Notice

A. Procedure for Mailed Notice

1. Mailed notice shall be sent to property owners within the following distances from the exterior boundary of the subject property:
 - a. Legislative change to this Chapter: none;
 - b. Quasi-judicial change to this Chapter: two hundred fifty feet;
 - c. Conditional use: two hundred fifty feet;
 - d. Variance and setback reduction: one hundred feet;
 - e. Planning Commission review: one hundred feet;
 - f. Cutting and filling: one hundred feet;
 - g. Plan Review Type II: one hundred feet.
2. Mailed notice shall be sent to the applicant.
3. Addresses for a mailed notice required by this title all be obtained from the county assessor's Real Property Tax records. The failure of a property owner to receive notice shall not invalidate an action if a good faith attempt was made to comply with the requirements of this title for notice.
4. Mailed notice shall contain the information contained in Section 10.12.130.C.

B. Procedure for Published Notice

1. Notice for legislative changes shall be given for the proposed actions by publication in a newspaper of general circulation within the City.
2. Published notice shall contain the information contained in Section 10.12.130.C.

C. Notice of Hearing. Notice of a hearing shall contain the following information:

1. The name of the property owner and applicant, if different from the property owner, and the city's case file number;
2. The date, time, place of the hearing, and who is holding the public hearing;
3. A description of the location of the property for which a permit or other action is pending, including the street address and a subdivision lot and block designation, or the tax map designation of the county assessor;
4. A concise description of the proposed action;
5. A listing of the applicable criteria from this title and the comprehensive plan known to apply to the application at issue;
6. A statement that a failure, by the applicant or other parties to the hearing, to raise an issue in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision makers an opportunity to respond to the issue precludes appeal based on that issue;
7. A statement 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 the reasonable cost;
8. A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost;
9. The name of a city representative to contact and the telephone number where additional information may be obtained;
10. A general explanation of the requirements for submission of testimony and the procedure for the conduct of hearings; and
11. All other information as may be required by law.

D. Time of Notice Where required, notice shall be mailed, published, and posted twenty days prior to the hearing requiring the notice, or as may be required by law, or if two or more evidentiary hearings are allowed, ten (10) days before the first evidentiary hearing.

E. Date of Public Hearing A public hearing shall be held within forty days of the filing of a complete application, or as otherwise required by law.

F. All requirements of ORS 197.797 and all time limits imposed by statute shall apply to City land use proceedings adopted by the Council or as otherwise required by law.

G. For Legislative hearings, the City Planner shall notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments (zone change, rezoning with annexation, or comprehensive plan amendment) at least 35 days before the first public hearing at which public testimony or new evidence will be received. The notice shall include a DLCD Certificate of Mailing. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any

element thereof, or to adopt an ordinance for any zone change, a notice shall be prepared in conformance with ORS 227.175 and mailed to:

1. Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one Comprehensive Plan land use designation to another), see ORS 227.186 for instructions;
2. Any affected governmental agency;
3. Any person who requests notice in writing; and
4. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
 - a. At least 10 days before the scheduled City Council public hearing date, public notice shall be published in a newspaper of general circulation in the city.
 - b. For each mailing and publication of notice, the City ~~Planning Official~~ Planner shall keep an affidavit of mailing/publication in the record.

H. For a Quasi- Judicial Mailed and Posted Notice.

1. The City shall mail public notice of a public hearing on a Quasi-Judicial application at least 20 days before the hearing date to the individuals and organizations listed below. The City ~~Planning Official~~ Planner shall prepare an affidavit of notice, which shall be made a part of the file. The affidavit shall state the date that the notice was mailed. Notice shall be mailed to:
 - a. All owners of record of real property located within a minimum of 100 feet of the subject site;
 - b. Any person who submits a written request to receive a notice; and
 - c. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies. At a minimum, the City ~~Planning Official~~ Planner shall notify the road authority if different than the City of Bay City. The failure of another agency to respond with written comments on a pending application shall not invalidate an action or permit approval made by the City under this Code.
2. At least 14 days before the first hearing, the City ~~Planning Official~~ Planner or designee shall post notice of the hearing on the project site in clear view from a public right-of-way using a poster format prescribed by the City ~~Planning Official~~ Planner.
3. At least 14 days before the first hearing, the City shall publish notice of the hearing on the City website, and/or have said notice published in a newspaper with local circulation.
4. Content of Notice. Notice of a Quasi-Judicial hearing to be mailed and published per subsection 1 above shall contain all of the following information.
 - a. A summary of the proposal and the relevant approval criteria, in sufficient detail to help the public identify and locate applicable code requirements;

- b. The date, time, and location of the scheduled hearing;
 - c. The street address or other clear reference to the location of the proposed use or development;
 - d. A disclosure statement that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to the City Council, Land Use Board of Appeals, or Circuit Court, as applicable, on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;
 - e. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards shall be available for review at the office of the City ~~Planning Official~~ Planner, and that copies shall be provided at a reasonable cost;
 - f. A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
 - g. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and
 - h. A statement that after the public hearing closes, the City will issue its decision, and the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.
- I. Any staff report used at the hearing shall be available at least seven (7) days prior to the hearing. If additional documents or evidence are provided by any party, the City may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by an applicant shall result in a corresponding extension of any state imposed time limitations.
- J. Burden and Nature of Proof Except for a determination of the applicability of these provisions, the burden of proof is upon the proponent. The proposal must be supported by proof that it conforms to the applicable provisions of this Chapter, especially the specific criteria set forth for the particular type of decision under consideration.
- K. Notification of State and Federal Agencies The city shall forward a copy of the final decision, including the findings and required conditions, within seven working days, to the appropriate state and/or federal agencies where a use or activity involves a state or federal permit which requires a determination of consistency with the local comprehensive plan. The response shall contain a statement of whether or not approval of the permit would be consistent with the comprehensive plan, the reasons the development is or is not so considered, and standards and conditions which should apply if a state or federal permit is granted.
- L. Final action on Application for Permit or Zone Change Request The city shall take final action on an application for a permit or zone change within one hundred twenty days of the receipt of a complete application, or such other time as required by law.

The one hundred twenty-day period does not apply to an amendment to the comprehensive plan or zoning ordinance, or the adoption of a new land use regulation. At the request of the applicant, the one hundred twenty-day period may be extended for a reasonable period of time.

- M. Enforcement The City Recorder shall have the power and principal responsibility for enforcing provisions of this title. Neither the building official nor any other public employee or official of the city shall issue any permit or license for any use, activity or structure which violates provisions of this title. Any permit or license issued in conflict with the provisions of this title, intentionally or otherwise, shall be void.
- N. Building Permits Before issuing a permit for the construction, reconstruction or alteration of a structure, it will be the responsibility of the City Planner and his or her designee to make sure that provisions of this title will not be violated.

SECTION 6: **AMENDMENT** “10.12.140 Appeals” of the Bay City
Municipal Code is hereby *amended* as follows:

BEFORE AMENDMENT

10.12.140 Appeals

- A. Appeal of Administrative Decision. An administrative decision may be appealed to the City Planning Commission.
- B. Appeal of Planning Commission Decision. The Planning Commission’s decision may be appealed to the City Council as follows:
 - 1. The following have legal standing to appeal:
 - a. The applicant or owner of the subject property; and
 - b. Any other person who testified orally or in writing during the subject public hearing before the close of the public record.
 - 2. Appeal filing procedure.
 - a. Notice of appeal. Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type III Quasi-Judicial Decision by filing a Notice of Appeal according to the following procedures.
 - b. Time for filing. A Notice of Appeal shall be filed with the City Planning Official within the timeframe specified on the Notice of Decision; typically, this will be within 10 days of the date the Notice of Decision is mailed.
 - c. Content of notice of appeal. The Notice of Appeal shall be accompanied by the required filing fee and shall contain:
 - (1) An identification of the decision being appealed, including the date of the decision;
 - (2) A statement demonstrating the person filing the Notice of

- Appeal has standing to appeal;
 - (3) A statement explaining the specific issues being raised on appeal; and
 - (4) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period.
- 3. Scope of appeal. The appeal of a Type III Quasi-Judicial Decision shall be a hearing de novo before the City Council. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Quasi-Judicial Decision, but may include other relevant evidence and arguments. The hearing appeal body may allow additional evidence, testimony, or argument concerning any applicable standard, criterion, condition, or issue.

AFTER AMENDMENT

10.12.140 Appeals

- A. Appeal of Administrative Decision. An administrative decision may be appealed to the City Planning Commission.
- B. Appeal of Planning Commission Decision. The Planning Commission's decision may be appealed to the City Council as follows:
 - 1. The following have legal standing to appeal:
 - a. The applicant or owner of the subject property; and
 - b. Any other person who testified orally or in writing during the subject public hearing before the close of the public record.
 - 2. Appeal filing procedure.
 - a. Notice of appeal. Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type III Quasi-Judicial Decision by filing a Notice of Appeal according to the following procedures.
 - b. Time for filing. A Notice of Appeal shall be filed with the City ~~Planning Official~~Planner within the timeframe specified on the Notice of Decision; typically, this will be within 10 days of the date the Notice of Decision is mailed.
 - c. Content of notice of appeal. The Notice of Appeal shall be accompanied by the required filing fee and shall contain:
 - (1) An identification of the decision being appealed, including the date of the decision;
 - (2) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
 - (3) A statement explaining the specific issues being raised on appeal; and
 - (4) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period.

3. Scope of appeal. The appeal of a Type III Quasi-Judicial Decision shall be a hearing de novo before the City Council. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Quasi-Judicial Decision, but may include other relevant evidence and arguments. The hearing appeal body may allow additional evidence, testimony, or argument concerning any applicable standard, criterion, condition, or issue.

SECTION 7: AMENDMENT “10.14.200 Property Line Adjustments” of the Bay City Municipal Code is hereby *amended* as follows:

BEFORE AMENDMENT

10.14.200 Property Line Adjustments

A Property Line Adjustment is the modification of a lot boundary when no lot is created. The City Planning Official reviews applications for Property Line Adjustments pursuant to the Type I procedure under Section 10.12.050.

- A. Submission Requirements See application submission requirement table in Section 10.12.
- B. Approval Criteria. The City Planning Official shall approve or deny a request for a property line adjustment in writing, based on all of the following criteria:
 1. Parcel Creation. No additional parcel or lot is created by the property line adjustment;
 2. Lot standards. All lots and parcels conform to the applicable lot standards of the zoning district including lot area, dimensions, setbacks, and coverage. As applicable, all lots and parcels shall conform to applicable overlay standards in Section 10.07 Overlay Zones and Special Districts; and
 3. Access and Road authority Standards. All lots and parcels conform to the standards or requirements of Section 10.10.120 Transportation Standards, and all applicable road authority requirements are met. If a lot is nonconforming to any City or road authority standard, it shall not be made less conforming by the property line adjustment.
- C. Recording Property Line Adjustments
 1. Recording. Upon the City’s approval of the proposed property line adjustment, the applicant shall record the property line adjustment documents with Tillamook County within 60 days of approval (or the decision expires), and submit a copy of the recorded survey map to the City, to be filed with the approved application.
 2. Time limit. The applicant shall submit a copy of the recorded property line

adjustment survey map to the City within 15 days of recording and prior to any application being filed for a building permit on the re-configured lots.

AFTER AMENDMENT

10.14.200 Property Line Adjustments

A Property Line Adjustment is the modification of a lot boundary when no lot is created. The City ~~Planning Official~~ Planner reviews applications for Property Line Adjustments pursuant to the Type I procedure under Section 10.12.050.

- A. Submission Requirements See application submission requirement table in Section 10.12.
- B. Approval Criteria. The City ~~Planning Official~~ Planner shall approve or deny a request for a property line adjustment in writing, based on all of the following criteria:
 - 1. Parcel Creation. No additional parcel or lot is created by the property line adjustment;
 - 2. Lot standards. All lots and parcels conform to the applicable lot standards of the zoning district including lot area, dimensions, setbacks, and coverage. As applicable, all lots and parcels shall conform to applicable overlay standards in Section 10.07 Overlay Zones and Special Districts; and
 - 3. Access and Road authority Standards. All lots and parcels conform to the standards or requirements of Section 10.10.120 Transportation Standards, and all applicable road authority requirements are met. If a lot is nonconforming to any City or road authority standard, it shall not be made less conforming by the property line adjustment.
- C. Recording Property Line Adjustments
 - 1. Recording. Upon the City's approval of the proposed property line adjustment, the applicant shall record the property line adjustment documents with Tillamook County within 60 days of approval (or the decision expires), and submit a copy of the recorded survey map to the City, to be filed with the approved application.
 - 2. Time limit. The applicant shall submit a copy of the recorded property line adjustment survey map to the City within 15 days of recording and prior to any application being filed for a building permit on the re-configured lots.

SECTION 8: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 9: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 10: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from thirty (30) days after the required approval and publication according to law.

SECTION 11: **APPROVAL AND ADOPTION**

First Reading: April 14, 2026

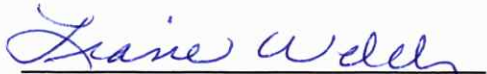
Second Reading: May 12, 2026

Effective Date: June 11, 2026

PASSED AND ADOPTED BY THE CITY OF BAY CITY CITY COUNCIL MAY 12, 2026.

	AYE	NAY	ABSENT	ABSTAIN
Kathleen Baker, Council President	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Anthony Boatman, Councilor	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Justin Howard, Councilor	<u> </u>	<u> X </u>	<u> </u>	<u> </u>
Colin Jones, Councilor	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Ralph McRae, Councilor	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Karen Shea, Councilor	<u> X </u>	<u> </u>	<u> </u>	<u> </u>

Presiding Officer


Liane Welch, Mayor, City of Bay City

Attest


Lori Jepson, City Recorder, City of
Bay City