

**PRELIMINARY FINDINGS OF FACT  
PLANNING COMMISSION  
AMENDMENT A-BDC22-002  
AMENDED OCTOBER 12, 2022**

**REQUEST:** To amend Chapter 4.1 Types of Applications and Review Procedures to initiate an update to the Boardman Development Code (BDC) that would address inconsistencies with practice, conform to Oregon Revised Statute (ORS) and Oregon Administrative Rule (OAR), and implement recent interpretation of the BDC concerning the definition of owner.

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**APPLICANT:** City of Boardman  
Planning Official  
Post Office Box 229  
200 City Center Circle  
Boardman, Oregon 97818

- I. GENERAL INFORMATION:** The BDC has not seen a comprehensive review for a number of years with recent updates or changes having a narrow scope. While the impetus for this action is partially based upon the recent City Council interpretation of the term owner for an approved Zoning Permit for the development of a transmission line there are other factors that are driving the beginning of a broader review and update of the BDC. Chapter 4.1 Types of Applications and Review Procedures has a number of provisions that are out of date with some provisions needing updated and others removed in their entirety. Planning staff are also recommending that the reference to City Manager throughout the BDC be updated to place responsibility on the Planning Official (or individual serving in that capacity).
- II. APPROVAL CRITERIA:** The request has been filed under the BDC Chapter 4.1 Types of Applications and Review Procedures, more specifically 4.1.600 Type VI Procedures (Legislative). The criteria are identified below in **bold** type with responses in regular type.

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

**1. Approval of the request is consistent with the Statewide Planning Goals;**

The Statewide Planning Goals applicable to this request would be Goal 1: Citizen Involvement and Goal 2: Land Use Planning as these two goals deal with how communities engage with their citizens (Goal 1) and how they implement the planning program (Goal 2).

Goal 1 asks communities to “develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.” Boardman seeks to achieve this through the BDC and specifically this Chapter that is being evaluated. It is the Chapter that defines how citizens can engage with the land use process when they are seeking an approval or when they may be affected by an approval. The changes that are proposed will not affect involvement but will clarify process, removing requirements not being utilized (applicant requirement to provide notice list and envelopes) and addressing changing the number of days to submit an appeal from 14 to 12 to assure that Boardman can meet the 120-day requirements.

Goal 2 asks communities “to establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.” Chapter 4.1 Types of Applications and Review Procedures provides at least a portion of the framework as it outlines how decisions are made related to notice, public hearings, and decisions.

One of the changes has to do with who can be considered an owner related to persons making application for a land use decision. The City Council recently determined that a utility was an owner with evidence in support of the determination being the utilities rights through condemnation. While Boardman would always want to see landowners and utilities work collaboratively, when that does not occur case law is clear that utilities and others with similar authority need to have assurance that they can complete their projects and improvements. Based on this recent decision suggested language has been included for consideration. *There is an attachment to this Findings of Fact that provides other examples for consideration.*

**2. Approval of the request is consistent with the Comprehensive Plan; and**

The Boardman Comprehensive Plan (BCP) has five Goal 1: Citizen Involvement Policies which support citizen engagement. The proposed changes can be found to be consistent with these policies.

The BCP has eight Goal 2: Land Use Planning Policies with Policy 3 being applicable. The Policy states, “The City has adopted the City of Boardman Development Code, a unified zoning and subdivision land use code to facilitate the development process and implement the land use goals of the City as outlined in the Comprehensive Plan.” The proposed changes can be found to be consistent with Policy 3. The other policies are more specific to actions that may be taken relative to housing, commercial development, and industrial development.

**3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.**

No specific property is affected by these proposed changes. The intent is to amend certain procedures and requirements within Chapter 4.1 Types of Applications and Review Procedures to remove outdated and unused provisions, contemplate replacing ‘City Manager’ with ‘Planning Official’ throughout the document to better identify the responsible party relative to implementation of the BDC, and address the term ‘owner’ related to who can make application.

- III. **LEGAL NOTICE PUBLISHED:** September 6, 2022  
East Oregonian
- IV. **DLCD 35-DAY NOTICE:** August 23, 2022
- V. **AGENCIES NOTIFIED:** Department of Land Conservation and Development; Morrow County Planning Department.

**VI. HEARING DATES:**

Planning Commission  
September 28, 2022  
October 19, 2022  
Council Chambers  
Boardman City Hall  
200 City Center Circle  
Boardman, Oregon 97818

City Council  
November 8, 2022  
Council Chambers  
Boardman City Hall  
200 City Center Circle  
Boardman, Oregon 97818

**VII. PLANNING OFFICIAL RECOMMENDATION:** The Planning Official recommends forwarding the request to the City Council with a 'do adopt' recommendation.

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Jacob Cain, Chair  
Planning Commission

Date

**ATTACHMENTS:**

- Examples of ownership options
- Redline Version of Chapter 4.1 Types of Applications and Review Procedures
- Letter dated September 28, 2022, from Sarah Mitchell, Kellington Law Group, representing Jonathan Tallman, et al