

Commentary is for information only.  
 Proposed new language is double-underlined;  
 Proposed deleted language is ~~stricken~~.

**EXHIBIT A**  
**Proposed Comprehensive Plan Amendments**  
**for Planning Commission Hearing June 10, 2024**

[DRAFT] ORDINANCE NO.

**AMENDMENTS TO VOLUME 3, DEVELOPMENT CODE OF THE GRESHAM COMMUNITY  
 DEVELOPMENT PLAN, REGARDING MODIFYING THE DURATION OF EXEMPTION FROM  
 SUBSEQUENTLY ADOPTED LAND USE ORDINANCES FOR SUBDIVISIONS**

THE CITY OF GRESHAM DOES ORDAIN AS FOLLOWS:

**Section 1. Volume 3, Development Code, Article 11, Procedures, is amended as follows:**

<b>Proposed Text Amendment</b>	<b>Commentary</b>
<p><b>11.0108 Modifications to Approved DR-E Applications</b>            ***            B. Modifications necessitating changes to Design Standards, Design Guidelines, conditions of approval or specific discretionary standards discussed as part of the DR-E review will be reviewed and decided upon by the Design Commission <u>with the exception of those applications reviewed by City Council as described in 11.1106(F), which shall be reviewed and decided upon by City Council.</u> Written notice of the Design Commission meeting will be provided to all parties of record 20 days prior to the meeting at which the Design Commission will consider these changes.            ***</p>	<p><i>Revising language related to design modifications such that those applications called up for review by Council remain with them for review of modifications.</i></p>
<p><b>11.0302.F Type I Notice of Decision</b>            ***            5. A statement that the decision is final, unless a Notice of Appeal is filed within twelve <u>(12) calendar</u> days of the notice of decision, <u>or, in the case of weekends and holidays, by the end of the next business day.</u> The notice shall state in boldface type the date and time by which an appeal must be filed. The statement shall describe the requirements for filing an appeal of the decision.            ***</p>	<p><i>Provide clarification on appeal deadlines when the deadline falls on a weekend or holiday. This language also aligns with the Gresham Revised Code.</i></p> <p><i>Additional changes to consistently refer to "calendar" days and provide consistent formatting</i></p>
<p><b>11.0302.G Appeal of a Type I Decision</b>            ***</p>	<p>''</p>

Exhibit A – Proposed Text Amendments  
 XX, 2024

<p>1. The applicant may appeal a Type I decision by filing a Notice of Appeal within <u>twelve (12) calendar</u> days of the date the Notice of Decision was mailed, <u>or, in the case of weekends and holidays, by the end of the next business day.</u> Appeal authorities are identified in Table 11.0204.</p> <p>***</p>	
<p><b>11.0402.F Type II Notice of Decision</b> ***</p> <p>f. The date the decision shall become final, unless appealed within twelve (12) calendar days of the notice of decision, <u>or, in the case of weekends and holidays, by the end of the next business day.</u> The notice of decision shall state in boldface type the date and time by which an appeal must be filed. The statement shall describe the requirements for filing an appeal of the decision; and</p> <p>***</p>	<p>“</p>
<p><b>G. Appeal of a Type II Decision</b> ***</p> <p>1. The Type II administrative decision may be appealed by the applicant and any person providing written comments during the 14-day comment period by filing a notice of appeal within <del>12</del> <u>twelve (12)</u> calendar days of the date the notice of decision was mailed, <u>or, in the case of weekends and holidays, by the end of the next business day.</u> Appeal authorities are identified in Table 11.0204.</p> <p>***</p>	<p>“</p>
<p><b>11.0502.G.3 Type III Notice of Decision</b> ***</p> <p>c. A statement that the decision is final, unless appealed <u>or called up for review by City Council as described in 11.1106(F)</u> within twelve (12) calendar days of the notice of decision, <u>or, in the case of weekends and holidays, by the end of the next business day.</u> The notice shall state in boldface type the date and time by which an appeal must be filed. The statement shall describe the requirements for filing an appeal of the decision. The statement shall note that only those persons who made an appearance <del>of</del> <u>on the</u> record are entitled to appeal the decision.</p> <p>***</p>	<p><i>Provide clarification on appeal deadlines when the deadline falls on a weekend or holiday.</i></p> <p><i>Also providing clarification that review by Council in the given time period follows the same timeline requirements as a typical appeal.</i></p>
<p><b>11.0502.H. Appeal of a Type III Decision</b> ***</p> <p>1. The decision of the Hearings Officer, Planning Commission, or Design Commission in a Type III action may be appealed to the appeal</p>	<p><i>Reference the new path for City Council to initiate review of a Type III Decision after the initial decision.</i></p>

<p>authority identified in Table 11.0204. Only the applicant or persons who submitted comments or made an appearance <u>of on the record</u> at the public hearing before the Hearings Officer, Planning Commission, or Design Commission have standing to appeal a Type III decision. <u>Additionally, the City Council may initiate review of a Type III Decision made by the designated “Decision Authority” as indicated in Table 11.0204, as provided in Section 11.1106.F.</u></p> <p>***</p>	
<p><b>11.1101 General (Appeals)</b></p> <p>***</p> <p>A decision on the issuance of a Type I, II or III development permit may be appealed by an affected party by filing a Notice of Appeal with the Manager within <u>12 twelve (12) calendar days</u> of the date on the written Notice of Decision, <u>or, in the case of weekends and holidays, by the end of the next business day.</u> Table 11.0204 identifies the decision authority and appeal authority for each application type.</p> <p>***</p>	<p><i>Provide clarification on appeal deadlines when the deadline falls on a weekend or holiday.</i></p>
<p><b>11.1106 Specific Provisions for Appeal of a Type III Decision</b></p> <p>***</p> <p><u>F.</u></p> <p>1. <u>The City Council may, by the process described in 11.1106.F.2, initiate a hearing as a “Council Review” of a Type III Decision made by the designated Decision Authority as identified in Table 11.0204. City Council may take this action both where City Council is the designated “Appeal Authority” indicated under 11.0204, and where City Council would be taking the place of another Appeal Authority. Where City Council is the “Decision Authority” or there is no available local appeal, City Council may not initiate Council Review.</u></p> <p>2. <u>The Council Type III Review process is initiated by the following procedures. The requirements of Section 11.1101 and 11.1102, Notice of Appeal, do not apply.</u></p> <p>a. <u>An individual City Councilor or the Mayor shall notify the City Manager or their designee of the intent to initiate a Council Review process within twelve (12) calendar days of the written Notice of Decision, or, in the case of weekends and holidays, by the end of the next business day. Staff shall begin the process of scheduling a tentative Council Review hearing, pending confirmation by majority vote of City Council to proceed with the Council Review hearing as described in Section (b) below.</u></p>	<p><i>This section outlines a new “Council Review” process by which City Council may call up a Type III Decision by a Decision Authority to initiate an appeal hearing to be heard by City Council, within the applicable appeal period.</i></p> <p><i>The process for initiating Council Review is a two-step process designed to parallel the existing timeline for Notice of Appeal and scheduling an appeal hearing. Appeal hearings typically need to be scheduled within 45 days after receiving the Notice of Appeal. Logistically, staff will need to schedule the Council Review hearing with one intervening City Council meeting to hold the confirming vote. In most</i></p>

<p>b. <u>The City Council shall then hold a vote at the next available City Council meeting after the individual initiation described, and before the tentative hearing date. Majority vote shall be required to confirm the decision to proceed with the Council Review.</u></p> <p>c. <u>If the majority of City Council does not vote to proceed with Council Review, the tentatively scheduled hearing will be canceled. Unless a separate Notice of Appeal has been accepted per Section 11.1101 and 11.1102, the decision will be final. If a separate Notice of Appeal has been accepted, the appeal hearing shall be held with City Council as the Appeal Authority.</u></p> <p>3. <u>A Council Review hearing shall be a review of the record with the right of argument and proceed under the appeal procedures of Sections 11.1103 and 11.1106, with City Council acting as the Appeal Authority. Only those parties that presented testimony on the record of the initial Type III hearing may participate. No new evidence is permitted; however, new legal argument is permitted. Testimony and/or argument is permitted in writing or orally, by those that are parties to the evidentiary hearing record. The decision of City Council as part of the Council Review hearing shall be the final local decision. Any further appeal shall be to the Land Use Board of Appeals (LUBA).</u></p> <p>4. <u>In the event that a separate Notice of Appeal is filed where City Council votes to initiate a Council Review, the City Council will take the place of any other Appeal Authority designated in Table 11.0204. Other appellants who have filed a timely Notice of Appeal may still participate as appellants in the hearing process and retain the same rights to participate and receive notice and otherwise indicated in Article 11.</u></p>	<p><i>circumstances, an emergency Council meeting should not be necessary.</i></p> <p><i>The recommendation to hold an appeal hearing at City Council if applicable and the vote fails is intended to avoid the need for scheduling multiple tentative hearings with different bodies, which could result in significant public confusion and present a barrier to participation.</i></p> <p><i>The new Council Review process mirrors the established appeal hearing process, except that there is no appellant role (unless separate Notice(s) of Appeal are filed).</i></p>
<p><b>6.0504.G 1.</b> <u>An appeal must be filed within fourteen (14) calendar days of mailing of the notice of the decision, or, in the case of weekends and holidays, the next business day, and be accompanied by the applicable deposit for costs.</u></p>	<p><i>Add "calendar" days for relative consistency. Middle Housing Land Division timelines follow ORS 197.375 for Expedited Land Divisions.</i></p>