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Article 4 – Application Review Procedures and Approval Criteria

Chapters:

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Chapter 4.1 – General Review Procedures

Sections:

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4.1.020	Type I Procedure (Ministerial/Staff Review and Zoning Checklist)
4.1.030	Type II Procedure (Administrative Review)
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4.1.060	Time Limit, Consolidated Review, and City Planning Official’s Duties

4.1.010 Purpose and Applicability

A. Purpose. The purpose of this chapter is to establish standard decision-making procedures that will enable the City, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way. Table 4.1.010 provides a key for determining the review procedure and the decision-making body for particular approvals.

B. Applicability of Review Procedures. All land use and development permit applications and approvals, except building permits, shall be decided by using the procedures contained in this chapter. The procedure “type” assigned to each application governs the decision-making process for that permit or approval. There are four types of permit/approval procedures as described in subsections 1-4 below. Table 4.1.010 lists the City’s land use and development approvals and corresponding review procedure(s).

- 1. Type I Procedure (Staff Review – Zoning Checklist).** Type I decisions are made by the City Planning Official, or his or her 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).
- 2. Type II Procedure (Administrative/Staff 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. Alternatively the City Planning Official may refer a Type II application to the Planning Commission for its review and decision in a public meeting.
- 3. Type III Procedure (Quasi-Judicial Review – Public Hearing).** Type III decisions are made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council[; *or in the case of a Quasi-Judicial zone change (e.g., a change in zoning on one property to comply with the Comprehensive Plan), a Type III decision is made by the City Council on recommendation of the Planning Commission*]. Quasi-Judicial decisions involve discretion but implement established policy.
- 4. Type IV Procedure (Legislative Review).** The Type IV procedure applies to the creation or revision, or large-scale implementation, of public policy (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.

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Table 4.1.010 – Summary of Approvals by Type of Review Procedure		
Approvals*	Review Procedures	Applicable Regulations
Zoning Checklist Review <u>User's Guide: See comments on page 4-6.</u>	Type I	Applicants are required to complete a Zoning Checklist before applying for any permit or approval. See Section 4.1.020.
Access to a Street	Type I	Chapter 3.3 and the standards of the applicable roadway authority (City/County/ODOT)
Adjustment	Type II	Chapter 4.7
Annexation	Type IV	See Oregon Revised Statute 222
Code Interpretation	Type II or III	Chapter 1.5. Routine interpretations that do not involve discretion do not require a permit.
Code Text Amendment	Type IV	Chapter 4.6
Comprehensive Plan Amendment	Type IV	Chapter 4.6
Conditional Use Permit	Type III	Chapter 4.4
Home Occupation	No permit, except when required by Chapter 4.7.	
Legal Lot Determination	Type I	Chapter 1.3
Master Planned Development Concept Plan Detailed Plan	Type III Type [I /III]	Chapter 4.8 Chapter 4.8
Modification to Approval or Condition of Approval	Type I, II or III	Chapter 4.5
Non-Conforming Use or Structure, Expansion of	Type I, II or III	Chapter 1.4
Partition or Re-plat of 2-3 lots Preliminary Plat Final Plat	Type III Type [I /III]	Chapter 4.3 Chapter 4.3
Property Line Adjustments, including Lot Consolidations	Type I	Chapter 4.3
Site Design Review	Type II or III	Chapter 4.2
Subdivision or Replat of >3 lots Preliminary Plat Final Plat	Type III Type [I /III]	Chapter 4.3 Chapter 4.3
Variance Zoning District Map Change	Type III Type III or IV	Chapter 4.7 Chapter 4.6

* The applicant may be required to obtain building permits and other approvals from other agencies, such as a road authority or natural resource regulatory agency. The City's failure to notify the applicant of any requirement or procedure of another agency shall not invalidate a permit or other decision made by the City under this Code.

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4.1.020 Type I Procedure (Staff Review and Zoning Checklist)

User’s Guide: The model code refers to a “zoning checklist” procedure. The checklist is not a formal land use decision. It is intended to help property owners verify city requirements before beginning a project. The form may be completed at city hall with staff assistance, or at home. The checklist is like a questionnaire. In summary form, owners are asked to provide information about their project proposal so that city staff can identify applicable code requirements, if any. At a minimum, the form should help identify whether a proposed project (e.g., new structure, remodel, fence, excavation, etc.) requires land use approval prior to issuance of any building permit. Where no land use decision is required, but a building permit is required, the form, signed by the responsible city official, is presented to the building department as proof of compliance with the development code.

- A. Type I Procedure (Staff Review).** The City Planning Official, or his or her designee, without public notice and without a public hearing, makes ministerial decisions through the Type I procedure. Ministerial decisions are those where City standards and criteria do not require the exercise of discretion (i.e., there are clear and objective standards).
- B. Zoning Checklist.** The City Planning Official reviews proposals requiring a Type I review using a Zoning Checklist. The Zoning Checklist is a preliminary review that is intended to ensure a project proposal meets the basic requirements of Article 2 (Zoning) before more detailed plans are prepared and before the City authorizes the Building Official to issue a building permit.
- C. Application Requirements.**
- 1. Application Forms.** Approvals requiring Type I review, including Zoning Checklists, shall be made on forms provided by the City.
 - 2. Application Requirements.** When a Zoning Checklist is required, it shall:
 - a. Include the information requested on the application form;
 - b. Address the criteria in sufficient detail for review and action; and
 - c. Be filed with the required fee.
- D. Requirements.** The City shall not act upon an application for land use approval, and a building permit shall not be issued, until the City Planning Official has approved a Zoning Checklist for the proposed project.
- E. Criteria and Decision.** The City Planning Official’s review of a Zoning Checklist is intended to determine whether minimum code requirements are met and whether any other land use permit or approval is required prior to issuance of a building permit.
- F. Effective Date.** A Zoning Checklist decision is final on the date it is signed by the City Planning Official. It is not a land use decision as defined by ORS 197.015, and therefore is not subject to appeal to the state Land Use Board of Appeals. See also, Section 1.2.090, Zoning Checklist and Building Permits.

4.1.030 Type II Procedure (Administrative Review With Notice)

User's Guide: Unless otherwise stated, the following procedure, including timelines for notifications and decisions, are per ORS 197.195 Limited Land Use Decisions. Cities may provide more notice or take longer to process application, provided the requirements of ORS 227.178 (120-day clock) are met.

The City Planning Official, or his or her designee, performs Administrative Staff Reviews through the Type II procedure. Type II decisions are made by the City Planning Official with public notice and an opportunity for appeal to the Planning Commission. 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. Application Requirements.

1. **Application Forms.** Applications for projects requiring Administrative Review shall be made on forms provided by the City Planning Official.
2. **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:
 - a. The information requested on the application form;
 - b. Plans and exhibits required for the specific approval(s) being sought (For example, requirements for property line adjustments are in Chapter 4.3.);
 - c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail;
 - d. Information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable; and
 - e. The required fee.

B. Procedure.

1. The City Planning Official shall mail notice of a pending Type II decision to the following individuals and agencies no fewer than 14 days prior to making the Type II decision.

User's Guide: The following notification radius of 100 feet (measured from parcel boundaries) is the minimum required under state law (ORS 197.195 Limited Land Use Decision). Cities may adopt a wider notification radius. In areas with large lots or low population densities, where few residents live within 100 feet of one another, a larger notification area may be warranted.

2. The purpose of the Administrative decision notice is to give nearby property owners and other interested people and agencies the opportunity to submit written comments on the application before the Planning Official issues the decision. The intent is to invite people to participate early in the decision-making process. Therefore all of the following individuals and agencies shall be notified:

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- a. All owners of record of real property 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 [name]. 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.
3. The notice of pending Administrative Decision, at a minimum, shall contain all of the following information:
- a. The deadline for submitting written comments, which must be at least 14 days prior to the scheduled decision date or, as applicable, the scheduled Planning Commission meeting date where an application is referred to the Commission for review;
 - b. A summary of the proposal and the relevant approval criteria in sufficient detail to help the public identify and locate applicable code requirements;
 - c. The address and City contact person for submitting written comments; and the date, time, and location the City Planning Official or Planning Commission, as applicable, is scheduled to make a decision on the application;
 - d. The street address or other easily understandable reference to the location of the proposed use or development;
 - e. Disclosure statement indicating 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 Land Use Board of Appeals or Circuit Court on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;
 - f. Statement that all evidence relied upon by the City Planning Official or Planning Commission, as applicable, to make its 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; and
 - g. 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.
4. At the conclusion of the comment period, the City Planning Official shall review the comments received and prepare a decision notice approving, approving with conditions, or denying the application based on the applicable Code criteria. Alternatively, the City Planning Official may transmit all written comments

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received, if any, along with a copy of the application to the Planning Commission for review and decision at its next regularly scheduled meeting.

5. Where the City Planning Official refers an application subject to Administrative Review to the Planning Commission, the Planning Commission shall approve, approve with conditions, or deny the application through the Type II procedure based on the applicable Code criteria. The Planning Commission may continue its review to the next meeting to allow the applicant time to respond to questions, provided that the Commission makes a final decision within the 120-day period prescribed under state law (ORS 227.178) and as described in Section 4.1.060 of this Code. Alternatively, the applicant may voluntarily waive his or her right to a final decision within the 120-day timeframe and the Commission may decide to accept oral and written testimony in a public hearing review of the application, pursuant to Section 4.1.040; in which case, a new public notice must be mailed to those who received the original notice indicating the change to a quasi-judicial (public hearing) review procedure.
6. Within seven days of a Type II (Administrative) decision, the City Planning Official shall proceed to prepare a notice of decision and mail it to the applicant, property owner (if different), the Building Official, those who provided written comments on the proposal, and those who requested a copy of the decision. The City Planning Official 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 shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law.
7. The Administrative 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 Council pursuant to subsection 4.1.030.D.

C. Effective Date of Decision. Unless the conditions of approval specify otherwise, an Administrative Decision becomes effective 12 days after the City mails the decision notice, unless the decision is appealed pursuant to subsection 4.1.030.D.

D. Appeal of Type II (Administrative) Decision. A Type II Administrative Decision made by the City Planning Official may be appealed to the City of [Name] Planning Commission; and a Type II Administrative Decision made by the Planning Commission may be appealed to the City Council, as applicable, pursuant to the following:

4.1 – General Review Procedures | Type II Procedure

1. Who may appeal. The following people have legal standing to appeal a Type II Administrative Decision:

- a. The applicant or owner of the subject property;
- b. Any person who was entitled to written notice of the Type II decision; and
- c. Any other person who participated in the proceeding by submitting written comments on the application to the City by the specified deadline.

2. Appeal filing procedure.

- a. *Notice of appeal.* Any person with standing to appeal, as provided in subsection I, above, may appeal a Type II Administrative 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 II Administrative Decision shall be a hearing de novo, either before the Planning Commission, where the contested decision was made by the City Planning Official, or before the City Council, where the Planning Commission made the contested decision. 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 Administrative Decision, but may include other relevant evidence and arguments. The hearing appeal body may allow additional evidence, testimony, or argument concerning any relevant standard, criterion, condition, or issue.

4. Appeal Hearing Procedure. Hearings on appeals of Type II decisions shall follow the same procedure used for public hearings on Type III reviews under Section 4.1.040. Section 4.1.040 contains requirements for public hearing notices, conduct of hearings, and decision-making procedures.

4.1.040 Type III Procedure (Quasi-Judicial Review – Public Hearing)

User’s Guide: Unless otherwise stated, the following procedure, including timelines, hearing procedures, notifications, and decisions, are per ORS 197.763 Conduct of local quasi-judicial land use hearings. Cities may provide more notice or take longer to process applications, provided the requirements of ORS 227.178 (120-day clock) are met.

Type III decisions are made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council.

A. Application Requirements.

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

[f. Evidence of neighborhood contact, as applicable, pursuant to Section 4.1.070.]

B. Procedure.

I. Mailed and Posted Notice.

- a. 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:

User’s Guide: The following notification radius of 100 feet (measured from parcel boundaries) is the minimum required under state law. Cities may adopt a wider notification radius. In areas with large lots or low population densities, where few residents live within 100 feet of one another, a larger notification area may be warranted.

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- (1) All owners of record of real property located within a minimum of [100] feet of the subject site;
- (2) Any person who submits a written request to receive a notice; and
- (3) 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 [City name]. 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. At least 14 days before the first hearing, the [applicant or applicant's representative / 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. [The applicant shall submit an affidavit of notice using a form provided by the City, which shall be made a part of the file. The affidavit shall state the date that the notice was posted.]

[c. 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.]

2. 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

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- 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.

C. Conduct of the Public Hearing.

- 1. At the commencement of the hearing, the Chairperson of the Commission or Mayor, as applicable, or his or her designee, shall state to those in attendance all of the following information and instructions:
 - a. The applicable approval criteria by Code chapter that apply to the application;
 - b. Testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;
 - c. Failure to raise an issue with sufficient detail to give the hearing body and the parties an opportunity to respond to the issue, may preclude appeal to the state Land Use Board of Appeals on that issue;
 - d. At the conclusion of the initial evidentiary hearing, the hearing body shall deliberate and make a decision based on the facts and arguments in the public record. See subsection 'E' Record of the Public Hearing; and
 - e. Any participant may ask the hearing body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing; if the hearing body grants the request, it will schedule a date to continue the hearing as provided in paragraph 5 of this subsection, or leave the record open for additional written evidence or testimony as provided paragraph 6 of this subsection.
- 2. The public is entitled to an impartial hearing body as free from potential conflicts of interest and pre-hearing ex parte (outside the hearing) contacts as reasonably possible. Where questions related to ex parte contact are concerned, members of the hearing body shall follow the guidance for disclosure of ex parte contacts contained in ORS 227.180. Where a real conflict of interest arises, that member or members of the hearing body shall not participate in the hearing, except where state law provides otherwise. Where the appearance of a conflict of interest is likely, that member or members of the hearing body shall individually disclose their relationship to the applicant in the public hearing and state whether they are capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they shall be excused from the proceedings.

User's Guide: More detailed guidance on the conduct of public hearings, and what to do when a decision maker may have a conflict of interest, is available through the Oregon Government Ethics Commission.

- 3. Presenting and receiving evidence.
 - a. The hearing body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant, or personally derogatory testimony or evidence;

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- b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided by this section; and
 - c. Members of the hearing body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.
4. The hearing body, in making its decision, shall consider only facts and arguments in the public hearing record; except that it may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous City decisions; case law; staff reports). Upon announcing its intention to take notice of such facts in its deliberations, it must allow persons who previously participated in the hearing to request the hearing record be reopened, as necessary, to present evidence concerning the newly presented facts.
5. If the hearing body decides to continue the hearing, the hearing shall be continued to a date that is at least seven days after the date of the first evidentiary hearing (e.g., next regularly scheduled meeting). An opportunity shall be provided at the continued hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the continued hearing, any person may request, before the conclusion of the hearing, that the record be left open for at least seven days, so that he or she can submit additional written evidence or arguments in response to the new written evidence. In the interest of time, after the close of the hearing, the hearing body may limit additional testimony to arguments and not accept additional evidence.
6. If the hearing body leaves the record open for additional written testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the hearing body in writing for an opportunity to respond to new evidence (i.e., information not disclosed during the public hearing) submitted when the record was left open. If such a request is filed, the hearing body shall reopen the record, as follows:
 - a. When the record is reopened to admit new evidence or arguments (testimony), any person may raise new issues that relate to that new evidence or testimony;
 - b. An extension of the hearing or record granted pursuant to this section is subject to the limitations of Section 4.1.060 (ORS 227.178 - 120-day rule), unless the applicant waives his or her right to a final decision being made within 120 days of filing a complete application; and
 - c. If requested by the applicant, the hearing body shall grant the applicant at least seven days after the record is closed to all other persons to submit final written arguments, but not evidence, provided the applicant may expressly waive this right.

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7. The Notice of Quasi-Judicial 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 Planning Commission’s decision to City Council pursuant to subsection 4.1.040.D, or may appeal the City Council’s decision to the state Land Use Board of Appeals, as applicable.

C. Effective Date of Decision. Unless the conditions of approval specify otherwise, a Quasi-Judicial Decision becomes effective 10 days after the City mails the decision notice, unless the decision is appealed pursuant to subsection 4.1.040.D.

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

1. Who may appeal. The following people 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;

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- (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.

E. Record of the Public Hearing.

- 1. The official public hearing record shall include all of the following information:
 - a. All materials considered by the hearings body;
 - b. All materials submitted by the City Planning Official to the hearings body regarding the application;
 - c. The minutes of the hearing;
 - d. The final written decision; and
 - e. Copies of all notices given as required by this chapter, and correspondence regarding the application that the City mailed or received.
- 2. 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.
- 3. All exhibits received and displayed shall be marked to provide identification and shall be part of the record.

F. Effective Date and Appeals to State Land Use Board of Appeals. A Quasi-Judicial Decision or Appeal Decision, as applicable, is effective the date the City mails the decision notice. Appeals of City Council decisions under this chapter shall be filed with the state Land Use Board of Appeals pursuant to ORS 197.805 - 197.860.

4.1 – General Review Procedures | Type IV Procedures

4.1.050 Type IV (Legislative Decisions)

A. 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.

B. Application Requirements.

1. **Application forms.** Legislative applications shall be made on forms provided by the City Planning Official.

2. **Submittal Information.** The application shall contain all of the following information:

- a. The information requested on the application form;
- b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
- c. The required fee, except when City of *[name]* initiates request; *[and]*
- d. One copy of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards*[. / ; and]*

[e. Evidence of neighborhood contact, pursuant to Section 4.1.070.]

C. 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:

User's Guide: The following 35-day DLCD notification requirement is updated, pursuant to changes in OAR 660-018-0020 approved in 2012.

1. 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.
2. 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:
 - a. 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;

4.1 – General Review Procedures | Type IV Procedure

- b. Any affected governmental agency;
 - c. Any person who requests notice in writing; and
 - d. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
3. 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.
 4. For each mailing and publication of notice, the City Planning Official shall keep an affidavit of mailing/publication in the record.

D. 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.

4.1 – General Review Procedures | Time Limit; Consolidated Review; City Planning Official’s Duties

4.1.060 Time Limit, Consolidated Review, and City Planning Official’s Duties

- A. Time Limit - 120-day Rule.** The City shall take final action on Administrative and Quasi-Judicial land use applications, pursuant to this chapter, including resolution of all appeals, within 120 days from the date the City Planning Official deems the application complete for purposes of processing, unless the applicant requests an extension in writing. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (Note: The 120-day rule does not apply to Legislative Land Use decisions.)
- B. Time Periods.** In computing time periods prescribed or allowed by this chapter, the day of the act or event from which the designated period of time begins shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which case the period runs until the end of the next day that is not on a weekend or legal holiday.
- C. Consolidated Review of Applications.** When an applicant applies for more than one type of land use or development permit for the same one or more contiguous parcels of land, the proceedings shall be consolidated for review and decision. When proceedings are consolidated, required notices may be consolidated, provided the notice shall identify each application to be decided. When more than one application is reviewed in a hearing, separate findings and decisions shall be made on each application.
- D. City Planning Official’s Duties.** The City Planning Official, or his or her designee, shall perform all of the following duties with regard to administration of this Code:
1. Prepare application forms based on the provisions of this Code and applicable state law;
 2. Prepare required notices and process applications for review and action;
 3. Assist the Planning Commission and City Council in administering the hearings process;
 4. Answer questions from the public regarding the City’s land use regulations;
 5. Prepare staff reports summarizing pending applications, including applicable decision criteria;
 6. Prepare findings consistent with City decisions on land use and development applications;
 7. Prepare notices of final decisions, file the notices in the City’s records, and mail a copy of the notices to all parties entitled to notice under this Code; and
 8. Maintain and preserve the file and public record for each application.

4.1 – General Review Procedures | Neighborhood Context

[4.1.070 Neighborhood Contact

User's Guide: The following provision is optional. It is intended to help applicants and residents work through potential design issues before the city begins processing a land use application and is subject to 120-day clock. While it is not necessary to have formally recognized neighborhood associations in order for the procedure to work, it will work best where such organizations exist, because they can organize public meetings and help ensure that residents' concerns are heard.

A. Purpose and Applicability. Applicants for master planned development, subdivision, or site design review on projects involving parcels or lots larger than [one acre] [and located adjacent to any residential zone], and property owner-applicants for zone changes, are required to contact neighboring property owners and offer to hold a meeting with them prior to submitting an application. This is to ensure that affected property owners are given an opportunity to preview a proposal and offer input to the applicant before a plan is formally submitted to the City, thereby raising any concerns about the project and the project's compatibility with surrounding uses early in the design process when changes can be made relatively inexpensively.

User's Guide: The following notification radius of 100 feet (measured from parcel boundaries) is intended to be consistent with the minimum notice requirements for land use decisions. Cities may adopt a wider notification radius. In areas with large lots or low population densities, where few residents live within 100 feet of one another, a larger area may be warranted.

- B. Notice.** Notice of the meeting must be given in writing and delivered in person, or by certified mail, to all of the property owners whose property is located within [100] feet of the site, at their addresses of record at the [County name] County Assessor's office, at least [14 days] before the meeting and at least [21 days] before submitting the application to the City. The notice must state the time, place, and purpose of the meeting, including a description of the proposed development.
- C. Meeting place, date, and time.** The meeting must be held within the City limits at a location obtained or provided by the applicant with sufficient room for the expected attendance. The meeting place must be accessible to persons with disabilities. It must be scheduled at a date and time reasonably calculated to allow maximum participation by interested property owners.
- D. Conduct of meeting.** At the meeting, the applicant, or the applicant's agent, must present sufficient information about the proposed development to inform the property owners in attendance of the nature of the proposal and impacts it may have on neighboring properties, including transportation impacts. Persons attending must be allowed to ask questions and make comments. The applicant, or the applicant's agent, must make a sound or video recording or keep written minutes of the meeting that give a true reflection of the matters discussed at the meeting and the views of the participants. The applicant must also make a list of names of persons attending the meeting.
- E. Filing requirements.** Proof of having held the meeting, even if no affected property owners attend, is required and must be submitted to the City with a land use application for the application to be deemed complete. Copies of the following information must accompany the land use application: a copy of the notice mailed, certified mail receipts, all addresses for which notice was mailed (e.g., copy of mailing labels), a certificate of personal service for those persons who were provided notice by personal service (including the date of service and the name of the person who provided service), a record or minutes of the meeting with a list of attendees, and copies of the meeting notice and all other written materials provided prior to or distributed at the meeting.]

Chapter 4.2 - Site Design Review

User's Guide: Site Design Review is a procedure in which city applies the land use regulations of Article 2 and the development and design standards of Article 3 in approving various types of development. The model code is designed to exempt minor projects from review, and encourages cities to set thresholds for minor versus major projects, where a minor project would be reviewed by staff and a major project requires a public hearing.

Sections:

- 4.2.010 Purpose
- 4.2.020 Applicability
- 4.2.030 Review Procedure
- 4.2.040 Application Submission Requirements
- 4.2.050 Approval Criteria and Adjustments
- 4.2.060 Assurances
- 4.2.070 Compliance with Conditions, Permit Expiration, and Modifications

4.2.010 Purpose

The purpose of this chapter is to advance all of the following objectives in the public interest:

- A. Carry out the development pattern and plan of the City and its comprehensive plan policies through efficient and effective review of site development proposals;
- B. Promote the public health, safety, and general welfare;
- C. Provide adequate light and air, prevent overcrowding of land, and provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management, and protection against natural hazards; and
- D. Encourage efficient use of land resources and public services, and the provision of transportation options.

4.2.020 Applicability

Site Design Review approval is required for new development. Site Design Review approval is also required to expand a non-conforming use or development. Except as specified by a condition of approval of a prior City decision, or as required for uses subject to Conditional Use Permit approval, Site Design Review is not required for the following:

- A. Change in occupancy from one type of land use to a different land use resulting in no increase in vehicular traffic or development;
- B. Single-family detached dwelling (including manufactured home) on its own lot[, *except as required for designated historic landmarks or properties within a designated historic district*];

4.2 – Site Design Review | Review Procedure

- C. A single duplex;
- D. Non-residential building addition of up to [500] square feet [or 10 percent, whichever is greater];
- E. Home occupation, except for uses requiring a Conditional Use Permit;
- F. Development and land uses that are already approved as part of a Site Design Review or Conditional Use Permit application, provided that modifications to such plans may require Site Design Review, pursuant to Chapter 4.7;
- G. Public improvements required by City standards or as stipulated by a condition of land use approval (e.g., transportation facilities and improvements, parks, trails, utilities, and similar improvements), as determined by the City Planning Official, except where a condition of approval requires Site Design Review; and
- H. Regular maintenance, repair, and replacement of materials (e.g., roof, siding, awnings, etc.), parking resurfacing, and similar maintenance and repair.

4.2.030 Review Procedure

User's Guide: The following thresholds for minor versus major projects should be tailored to meet the needs of your community. Minor projects would be reviewed by staff and major projects require a public hearing.

Site Design Review shall be conducted using the Type II procedure in Section 4.1.030, except that proposals exceeding any one of the thresholds below shall be reviewed using the Type III procedure in Section 4.1.040:

- A. The proposed use's estimated vehicle trip generation exceeds [100 average daily trips], based on the latest edition of the Institute of Transportation Engineers (ITE) Manual [This is the equivalent of approximately 10 dwelling units or a 1,000-square-foot bank with a drive-through window.];
- B. The use exceeds [5,000 square feet of gross leasable floor area; or the project involves more than one acre total site area];
- C. The proposal involves a Conditional Use (new or expanded);
- D. The proposal involves a variance under Chapter 4.7;
- E. The proposal involves expansion of a non-conforming use; or
- F. The City Planning Official determines that, due to the nature of the proposal, a public hearing is the most effective way to solicit public input in reviewing the application.

4.2 – Site Design Review | Application Submission Requirements

4.2.040 Application Submission Requirements

User's Guide: The following application requirements correspond to the development and design standards in Article 2 and Article 3. They should be tailored to meet the needs of your community.

All of the following information is required for Site Design Review application submittal, except where the City Planning Official determines that some information is not pertinent and therefore is not required.

A. General Submission Requirements

1. Information required for Type II or Type III review, as applicable (see Chapter 4.1).
2. Public Facilities and Services Impact Study. The impact study shall quantify and assess the effect of the development on public facilities and services. The City shall advise as to the scope of the study. The study shall address, at a minimum, the transportation system, including required improvements for vehicles and pedestrians; the drainage system; the parks system; water system; and sewer system. For each system and type of impact, the study shall propose improvements necessary to meet City requirements. The City may require a Traffic Impact Analysis pursuant to Section 3.6.020.A(5).

B. Site Design Review Information. In addition to the general submission requirements an applicant for Site Design Review shall provide the following information, as deemed applicable by the City Planning Official. The City Planning Official may request any information that he or she needs to review the proposal and prepare a complete staff report and recommendation to the approval body.

1. **Site analysis map.** The site analysis map shall contain all the following information, as the City Planning Official deems applicable:
 - a. The applicant's entire property and the surrounding property to a distance sufficient to determine the location of the development in the city, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions, and gross area shall be identified;
 - b. Topographic contour lines at two-foot intervals for slopes, except where the Public Works Director determines that larger intervals will be adequate for steeper slopes;
 - c. Identification of slopes greater than 15 percent, with slope categories identified in 5 percent increments (e.g., 0%-5%, >5%-10%, >10%-15%, >15%-20%, and so forth);
 - d. The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site;
 - e. Potential natural hazard areas, including, as applicable, the base flood elevation identified on FEMA Flood Insurance Rate Maps or as otherwise determined through site specific survey, areas subject to high water table, and areas designated by the City, county, or state as having a potential for geologic

4.2 – Site Design Review | Application Submission Requirements

hazards;

- f. Areas subject to overlay zones;
- h. Site features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals, and ditches;
- i. The location, size, and species of trees and other vegetation (outside proposed building envelope) having a caliper (diameter) of 6 inches greater at 4 feet above grade;
- j. North arrow, scale, and the names and addresses of all persons listed as owners of the subject property on the most recently recorded deed and
- k. Name and address of project designer, engineer, surveyor, and/or planner, if applicable.

2. **Proposed site plan.** The site plan shall contain all the following information:

- a. The proposed development site, including boundaries, dimensions, and gross area;
- b. Features identified on the existing site analysis maps that are proposed to remain on the site;
- c. Features identified on the existing site map, if any, which are proposed to be removed or modified by the development;
- d. The location and dimensions of all proposed public and private streets, drives, rights-of-way, and easements;
- e. The location and dimensions of all existing and proposed structures, utilities, pavement, and other improvements on the site. Setback dimensions for all existing and proposed buildings shall be provided on the site plan;
- f. The location and dimensions of entrances and exits to the site for vehicular, pedestrian, and bicycle access;
- g. The location and dimensions of all parking and vehicle circulation areas (show striping for parking stalls and wheel stops);
- h. Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails;
- i. Loading and service areas for waste disposal, loading, and delivery;
- j. Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements;

4.2 – Site Design Review | Application Submission Requirements

- k. Location, type, and height of outdoor lighting;
- l. Location of mail boxes, if known;
- m. Name and address of project designer, if applicable;
- n. Locations of bus stops and other public or private transportation facilities; and
- o. Locations, sizes, and types of signs.

3. Architectural drawings. Architectural drawings shall include, as applicable:

- a. Building elevations with dimensions;
- b. Building materials, colors, and type; and
- c. Name and contact information of the architect or designer.

4. Preliminary grading plan. A preliminary grading plan prepared by a registered engineer shall be required for development sites one-half acre or larger, or where otherwise required by the City. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed. Surface water detention and treatment plans may also be required, in accordance with Section 3.6.040.

5. Landscape plan. Where a landscape plan is required, it shall show the following, pursuant to Chapter 3.4:

- a. The location and height of existing and proposed fences, buffering, or screening materials;
- b. The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;
- c. The location, size, and species of the existing and proposed plant materials (at time of planting);
- d. Existing and proposed building and pavement outlines;
- e. Specifications for soil at time of planting, irrigation if plantings are not drought tolerant (may be automatic or other approved method of irrigation), and anticipated planting schedule; and
- f. Other information as deemed appropriate by the City Planning Official. An arborist's report may be required for sites with mature trees that are to be retained and protected.

4.2 – Site Design Review | Application Submission Requirements

6. **Deed restrictions.** Copies of all existing and proposed restrictions or covenants, including those for roadway access control.
7. **Narrative.** Letter or narrative report documenting compliance with the applicable approval criteria contained in Section 4.2.050.
8. **Traffic Impact Analysis,** when required by Section 3.6.020.A(5).
9. **Other information** determined by the City Planning Official. The City may require studies or exhibits prepared by qualified professionals to address specific site features or project impacts (e.g., traffic, noise, environmental features, natural hazards, etc.), as necessary to determine a proposal’s conformance with this Code.

4.2.050 Approval Criteria

An application for Site Design Review shall be approved if the proposal meets all of the following criteria. The [City decision-making body], in approving the application, may impose reasonable conditions of approval, consistent with the applicable criteria.

- A. The application is complete, in accordance with Section 4.2.040, above;
- B. The application complies with all of the applicable provisions of the underlying Land Use District (Article 2), including, but not limited to, building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other applicable standards;
- C. The proposal includes required upgrades, if any, to existing development that does not comply with the applicable land use district standards, pursuant to Chapter 1.4 Non-Conforming Uses and Development;
- D. The proposal complies with all of the Development and Design Standards of Article 3, as applicable, including, but not limited to:
 - 1. Chapter 3.3 Access and Circulation;
 - 2. Chapter 3.4 Landscaping, Fences and Walls, Outdoor Lighting;
 - 3. Chapter 3.5 Parking and Loading; [and]
 - 4. Chapter 3.6 Public Facilities[. / ; and]
 - [5. Chapter x Signs.]
- E. For non-residential uses, all adverse impacts to adjacent properties, such as light, glare, noise, odor, vibration, smoke, dust, or visual impact, are avoided; or where impacts cannot be avoided, they are minimized; and
- F. The proposal meets all existing conditions of approval for the site or use, as required by prior land use decision(s), as applicable.

Note: Compliance with other City codes and requirements, though not applicable land use criteria, may be required prior to issuance of building permits.

4.2.060 Assurances

Public improvement required as part of a Site Design Review approval shall be subject to the performance guarantee and warranty bond provisions of Section 3.6.090, as applicable.

4.2 – Site Design Review | Compliance With Conditions; Modifications; Permit Expiration

4.2.070 Compliance With Conditions, Permit Expiration, and Modifications

Development shall not commence until the applicant has received all applicable land use and development approvals. Construction of public improvements shall not commence until the City has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.). The City may require bonding or other assurances for improvements. Site Design Review approvals are subject to all of the following standards and limitations:

A. Approval Period. Site Design Review approvals shall be effective for a period of one year from the date of approval. The approval shall lapse if:

1. A public improvement plan or building permit application for the project has not been submitted within one year of approval; or
2. Construction on the site is in violation of the approved plan.

B. Extension. The City Planning Official, upon written request by the applicant, may grant a written extension of the approval period not to exceed one year; provided that:

1. No changes are made on the original approved plan;
2. The applicant can show intent of initiating construction on the site within the one-year extension period;
3. There have been no changes to the applicable Code provisions on which the approval was based. If there have been changes to the applicable Code provisions and the subject plan does not comply with those changes, then the extension shall not be granted; in this case, a new Site Design Review shall be required; and
4. The applicant demonstrates that failure to obtain building permits and substantially begin construction within one year of site design approval was beyond the applicant's control.

C. Modifications to Approved Plans and Developments. Modifications to approved plans are subject to City review and approval under Chapter 4.5.

Chapter 4.3 - Land Divisions and Property Line Adjustments

User's Guide: The following provisions implement ORS 92 Subdivisions and Partitions. This chapter also contains subdivision design standards that are intended to promote transportation efficiency and a range of housing choices within walkable neighborhoods.

Sections:

- 4.3.010 Purpose
- 4.3.020 General Requirements
- 4.3.030 Approval Process
- 4.3.040 Pre-Planning for Large Sites
- 4.3.050 Flexible Lot Size and Flag Lots
- 4.3.060 Preliminary Plat Submission Requirements
- 4.3.070 Preliminary Plat Approval Criteria
- 4.3.080 Land-Division-Related Variances
- 4.3.090 Final Plat Submission Requirements and Approval Criteria
- 4.3.100 Filing and Recording
- 4.3.110 Re-platting and Vacation of Plats
- 4.3.120 Property Line Adjustments

4.3.010 Purpose

The purpose of this chapter is to implement the objectives in subsections A-E, below:

- A.** Provide rules, regulations, and standards governing the approval of subdivisions, partitions, and property line adjustments as follows:
 - 1. Subdivisions are the creation of four or more lots from one parent lot, parcel, or tract, within one (1) calendar year.
 - 2. Partitions are the creation of three or fewer lots from one parent lot, parcel, or tract within one calendar year.
 - 3. Property line adjustments are modifications to lot lines or parcel boundaries that do not result in the creation of new lots (includes consolidation of lots).
- B.** Carry out the City's development pattern, as envisioned by the City's comprehensive plan.
- C.** Encourage efficient use of land resources and public services, and to provide transportation options.
- D.** Promote the public health, safety, and general welfare through orderly and efficient urbanization.
- E.** Provide adequate light and air, prevent overcrowding of land, and provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management, and protection against natural hazards.

4.3.020 General Requirements

A. Subdivision and Partition Approval Through Two-Step Process. Applications for subdivision or partition approval shall be processed by means of a preliminary plat evaluation and a final plat evaluation, according to the following two steps:

1. The preliminary plat must be approved before the final plat can be submitted for approval consideration; and
2. The final plat must demonstrate compliance with all conditions of approval of the preliminary plat.

Note: Property line adjustments and lot consolidation requests (i.e., no new lot is created) are subject to Section 4.3.120; they are not subject to 4.3.020 through 4.3.110.

B. Compliance With Oregon Revised Statutes (ORS) Chapter 92. All subdivision and partition proposals shall conform to state regulations in Oregon Revised Statute (ORS) Chapter 92 Subdivisions and Partitions.

C. Future Re-division Plan. When subdividing or partitioning tracts into large lots (i.e., greater than three times or 300 percent the minimum lot size allowed by the underlying land use district), the lots shall be of such size, shape, and orientation as to facilitate future re-division and extension of streets and utilities. The applicant shall submit a future re-division plan, or shadow plan, indicating how re-division of oversized lots and extension of planned public facilities to adjacent parcels can occur in the future. (See also, Section 4.3.040 Pre-Planning for Large Sites.)

D. Adequate Utilities. All lots created through land division shall have adequate public utilities and facilities such as streets, water, sewer, gas, and electrical systems, pursuant to Chapter 3.6. These systems shall be located and constructed underground where feasible.

E. Adequate Drainage. All subdivision and partition proposals shall have adequate surface water drainage facilities that reduce exposure to flood damage and improve water quality. Water quality or quantity control improvements may be required, pursuant to Chapter 3.6.

F. Adequate Access. All lots created or reconfigured shall have adequate vehicle access and parking, as may be required, pursuant to Chapter 3.3.

4.3 – Land Divisions and Property Line Adjustments | Preliminary Plat Approval Process

4.3.030 Preliminary Plat Approval Process

- A. Review of Preliminary Plat.** Preliminary plats shall be processed using the Type III procedure under Section 4.1.040. All preliminary plats, including partitions and subdivisions, are subject to the approval criteria in Section 4.3.070.
- B. Preliminary Plat Approval Period.** Preliminary plat approval shall be effective for a period of two years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted or other assurance provided, pursuant to Section 4.3.090, within the two-year period. The Planning Commission may approve phased subdivisions, pursuant to subsection 4.3.030.D, with an overall time frame of more than two years between preliminary and final plat approvals.
- C. Modifications and Extensions.** The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Chapter 4.5. The Planning Commission may, upon written request by the applicant and payment of the required fee, grant written extensions of the approval period not to exceed one year per extension, provided that all of the following criteria are met:
1. Any changes to the preliminary plat follow the procedures in Chapter 4.5;
 2. The applicant has submitted written intent to file a final plat within the one-year extension period;
 3. An extension of time will not prevent the lawful development of abutting properties;
 4. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required; and
 5. The extension request is made before expiration of the original approved plan.
- D. Phased Subdivision.** The Planning Commission may approve plans for phasing a subdivision, and changes to approved phasing plans, provided the applicant's proposal meets all of the following criteria:
1. In no case shall the construction time period (i.e., for required public improvements, utilities, streets) for the first subdivision phase be more than one year;
 2. Public facilities shall be constructed in conjunction with or prior to each phase;
 3. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that are required as part of the approved development proposal;
 4. The proposed phasing schedule shall be reviewed with the preliminary subdivision plat application; and
 5. Planning Commission approval is required for modifications to phasing plans.

4.3 – Land Divisions and Property Line Adjustments | Pre-planning for Large Sites

[4.3.040 Pre-planning for Large Sites

User's Guide: The following provisions are optional. They are intended to encourage advanced planning for areas that may take many years to build out, in order to encourage well planned neighborhoods and avoid piecemeal development.

- A. Purpose.** Section 4.3.040 requires the pre-planning of large sites in conjunction with [requests for annexation, and] applications for [phased] subdivisions and master plan developments; the purpose of which is to avoid piecemeal development with inadequate public facilities.
- B. Applicability.** This section applies to land use applications and annexations affecting more than 40 acres of land under the same contiguous ownership, even where only a portion of the site is proposed for subdividing. For the purposes of this section, the same contiguous ownership means the same individual, or group of individuals, corporations, or other entities, controls a majority share of ownership.
- C. Area Plan Required.** Prior to submittal of an [annexation petition or] land division application for an area subject to Section 4.3.040, a conceptual master plan shall be submitted to the City Planning Official with the required pre-application materials for the project or proposal. The conceptual master plan shall illustrate the type and location of planned streets, utility corridors, parks, open spaces, and land uses for the ultimate buildout of the subject property and all lands under contiguous ownership. The plan shall demonstrate how future development, including any proposed phasing, can meet all the guidelines under subsection D, below.
- D. Criteria.** The conceptual plan required under subsection C, above, is not required to be engineered but shall have a sufficient level of detail so that the City officials can determine that it meets the following design guidelines:
1. Streets are interconnected to the extent practicable; blocks are walkable in scale (generally 200-600 feet in length), except where topography, existing development, or other physical features require longer blocks, in which case pedestrian access ways connect through long blocks;
 2. Water, sewer, and storm drainage facilities logically extend to serve the site at buildout, consistent with adopted public facility plans. Where a public facility plan identifies a need for new capacity-related improvements (e.g., water storage, sewage treatment, pump stations, etc.) in the future, the plan shall describe conceptually how such improvements can be accommodated;
 3. Overall, the plan achieves a housing density that is [within 80% - 100% of planned densities,] consistent with the Comprehensive Plan and Development Code; and
 4. The plan reserves land needed for public use (e.g., schools, parks, fire stations, and other facilities), in accordance with the Comprehensive Plan and to the extent allowed under applicable law.
- E. Implementation.** The City will review the conceptual master plan required by this section and provide input to the applicant during the pre-application meeting for the land use application or annexation petition, as applicable. The City may also refer the plan to outside agencies with jurisdiction for their input. The master plan is not binding, but the applicant is encouraged to refine the plan based on City input before submitting a land use application or annexation petition for the subject property. The applicant is also required to contact adjacent property owners and solicit their input prior to submitting a land use application, pursuant to Section 4.1.040.B.]

[4.3.050 Lot Size Averaging, Flag Lots, and Infill Development

User’s Guide: The following provisions are optional but recommended, in order to promote a variety housing choices, particularly where development sites are constrained by topography, parcelization (small parcel sizes), irregular boundaries, natural resources, or other challenges. The standards are intended to provide flexibility in these situations and encourage well planned neighborhoods, though they may not be appropriate for some communities.

- A. Lot Size Averaging.** To allow flexibility in subdivision design and to address physical constraints, such as topography, existing development, significant trees, and other natural and built features, the approval body may grant a [10-20] percent modification to the lot area and/or lot dimension (width/depth) standards in Chapter 2.3, provided that the overall density of the subdivision does not exceed the allowable density of the district and the approval body finds that all of the following are met:
1. Granting the modification is necessary to achieve planned housing densities, as allowed by the underlying zone, or to improve development compatibility with natural features or adjacent land uses;
 2. Where a proposed subdivision would abut an existing subdivision with standard-, or larger-, sized lots, the perimeter of the proposed subdivision shall contain standard-, or larger-, sized lots; except that this provision does not apply where the existing lots are larger than [20,000] square feet; and
 3. The (City decision-making body) may require screening, buffering, or other transitions in site design where substandard lots are proposed to abut standard-, or larger-, sized lots.

User’s Guide: The standards in subsections B-E should be developed in consultation with your local fire marshal. Note that city standards supersede Fire Code standards.

- B. Flag Lots.** Flag lots may be created only when a through street cannot be extended to serve abutting uses or future development. A flag lot driveway (“flag pole”) shall serve not more than [two / four] dwelling units, including accessory dwellings and dwellings on individual lots. The layout of flag lots, the placement of buildings on such lots, and the alignment of shared drives shall be designed so that future street connections can be made as adjacent properties develop, to the extent practicable, and in accordance with the transportation connectivity and block length standards of Section 3.6.020.D.
- C. Infill Development and Mid-Block Lanes.** Where consecutive flag lot developments or other infill development could have the effect of precluding local street extensions through a long block, the (City decision-making body) may require the improvement of a mid-block lanes through the block. Mid-block lanes are a private drives serving more than [two / four] dwelling units with reciprocal access easements; such lanes are an alternative to requiring public right-of-way street improvements where physical site constraints preclude the development of a standard street. Mid-block lanes, at a minimum, shall be paved, have adequate storm drainage (surface retention, where feasible, is preferred), meet the construction standards for alleys, and conform to the standards of subsections D through E.
- D. Emergency Vehicle Access.** A drive serving more than one lot shall have a reciprocal access and maintenance easement recorded for all lots it serves. No fence, structure, or other obstacle shall be placed within the drive area. Where required, emergency vehicle apparatus lanes, including any required turn-around, shall conform to applicable building and fire code requirements. Fire sprinklers may also be required for buildings that cannot be fully served by

4.3 – Land Divisions and Property Line Adjustments | [Lot Size Averaging, Flag Lots, Infill]

fire hydrants (i.e., due to distance from hydrant or insufficient fire flow).

- E. Maximum Drive Lane Length.** *The maximum length of a drive serving more than one dwelling is subject to requirements of the Uniform Fire Code, but in no case shall it exceed [X] feet or serve more than [Y] dwelling units without providing secondary access/egress.]*

4.3.060 Preliminary Plat Submission Requirements

Applications for Preliminary Plat approval shall contain all of the following information:

A. General Submission Requirements.

- I. Information required for a Type III review (see Section 4.1.040); and
2. Public Facilities and Services Impact Study. The impact study shall quantify and assess the effect of the development on public facilities and services. The City shall advise as to the scope of the study, which shall address, at a minimum, the transportation system, including required improvements for vehicles and pedestrians; the drainage system; the parks system (for subdivisions and planned unit developments of 20 or more dwelling units); water system; and sewer system. For each system and type of impact, the study shall propose improvements necessary to meet City standards under adopted ordinances and facility master plans. The City may require a Traffic Impact Analysis pursuant to Section 3.6.020.A(5).

B. Preliminary Plat Information. In addition to the general information described in subsection A, above, the preliminary plat application shall consist of drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide all of the following information, in quantities determined by City Planning Official:

I. General information:

- a. Name of subdivision (partitions are named by year and file number), which shall not duplicate the name of another land division in [County name] County (check with County Surveyor);
- b. Date, north arrow, and scale of drawing;
- c. Location of the development sufficient to define its location in the city, boundaries, and a legal description of the site;
- d. Zoning of parcel to be divided, including any overlay zones;
- e. A title block including the names, addresses, and telephone numbers of the owners of the subject property and, as applicable, the name of the engineer and surveyor, and the date of the survey; and
- f. Identification of the drawing as a “preliminary plat.”

4.3 – Land Divisions and Property Line Adjustments | Preliminary Plat Submission

- 2. Existing Conditions.** Except where the City Planning Official deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on existing conditions of the site:
- a. Streets: Location, name, and present width of all streets, alleys, and rights-of-way on and abutting the site;
 - b. Easements: Width, location and purpose of all existing easements of record on and abutting the site;
 - c. Utilities: Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards;
 - d. Ground elevations shown by contour lines at two-foot vertical intervals. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor; the Planning Commission may waive this standard for partitions when grades, on average, are less than 6 percent;
 - e. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);
 - f. The Base Flood Elevation, per FEMA Flood Insurance Rate Maps, as applicable;
 - g. North arrow and scale; and
 - h. Other information, as deemed necessary by the City Planning Official for review of the application. The City may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.
- 3. Proposed Development.** Except where the City Planning Official deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on the proposed development:
- a. Proposed lots, streets, tracts, open space, and park land (if any); location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;
 - b. Easements: location, width and purpose of all proposed easements;
 - c. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all proposed lots and tracts;

4.3 – Land Divisions and Property Line Adjustments | Preliminary Plat Submission

- d. Proposed uses of the property, including all areas proposed to be dedicated as public right-of-way or reserved as open space for the purpose of surface water management, recreation, or other use;
- e. Proposed public street improvements, pursuant to Chapter 3.6;
- f. On slopes exceeding an average grade of 10 percent, as determined by the City Engineer, the preliminary location of development on lots (e.g., building envelopes), demonstrating that future development can meet minimum required setbacks and applicable engineering design standards;
- g. Preliminary design for extending City water and sewer service to each lot, per Chapter 3.6;
- h. Proposed method of storm water drainage and treatment, if required, pursuant to Chapter 3.6;
- i. The approximate location and identity of other utilities, including the locations of street lighting fixtures, as applicable;
- j. Evidence of compliance with applicable overlay zones, including but not limited to City of [name] Flood Plain Overlay; and
- k. Evidence of contact with the applicable road authority for proposed new street connections.

4.3 – Land Divisions and Property Line Adjustments | Preliminary Plat Approval Criteria

4.3.070 Preliminary Plat Approval Criteria

A. Approval Criteria. The Planning Commission may approve, approve with conditions, or deny a preliminary plat. The Planning Commission decision shall be based on findings of compliance with all of the following approval criteria:

1. The land division application shall conform to the requirements of Chapter 4.3;
 2. All proposed lots, blocks, and proposed land uses shall conform to the applicable provisions of Article 2 (Zoning)[, *except as modified by the provisions of Chapter 4.3 (e.g., lot size averaging)*];
 3. Access to individual lots, and public improvements necessary to serve the development, including but not limited to water, sewer, and streets, shall conform to Article 3 (Development and Design Standards);
 4. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;
 5. The proposed streets, utilities, and surface water drainage facilities conform to City of [name] adopted master plans and applicable engineering standards, and allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications;
 6. All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas is assured through appropriate legal instrument;
 7. Evidence that any required state and federal permits, as applicable, have been obtained or can reasonably be obtained prior to development; [and]
 8. Evidence that improvements or conditions required by the City, road authority, [County name] County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met[; and /.]
- [9. *The architectural (housing variety) standards of Section 3.2.030.D are met.*]

B. Conditions of Approval. The Planning Commission may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations.

4.3.080 Land Division-Related Variances

Variances shall be processed in accordance with Chapter 4.7. Applications for variances shall be submitted at the same time an application for land division or lot line adjustment is submitted; when practical, the applications shall be reviewed concurrently.

4.3 – Land Divisions and Property Line Adjustments | Final Plat Submission and Approval

4.3.090 Final Plat Submission Requirements and Approval Criteria

Final plats require review and approval by the Planning Commission prior to recording with [County name] County. The final plat submission requirements, approval criteria, and procedure are as follows:

Submission Requirements. The applicant shall submit the final plat within two years of the approval of the preliminary plat as provided by Section 4.3.070. The format of the plat shall conform to ORS 92.

B. Approval Process and Criteria. By means of a Type II Review, the Planning Commission shall review and approve or deny the final plat application based on findings of compliance or noncompliance with the all of the following criteria:

1. The final plat is consistent in design (e.g., number, area, dimensions of lots, easements, tracts, rights-of-way) with the approved preliminary plat, and all conditions of approval have been satisfied;
2. All public improvements required by the preliminary plat have been installed and approved by the City or applicable service provider if different than the City of [name] (e.g., road authority), or otherwise bonded in conformance with Section 3.6.090;
3. The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;
4. All required streets, access ways, roads, easements, and other dedications or reservations are shown on the plat;
5. The plat and deed contain a dedication to the public of all public improvements, including, but not limited to, streets, public pathways and trails, access reserve strips, parks, and water and sewer facilities, as applicable;
6. As applicable, the applicant has furnished acceptable copies of Covenants, Conditions, and Restrictions (CC&R's); easements; maintenance agreements (e.g., for access, common areas, parking, etc.); and other documents pertaining to common improvements recorded and referenced on the plat;
7. Verification by the City that water and sanitary sewer service is available to every lot depicted on the plat; and
8. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, indicating the initial point of the survey, and giving the dimensions and kind of each monument and its reference to some corner approved by the [County name] County Surveyor for purposes of identifying its location.

4.3 – Land Divisions and Property Line Adjustments | Final Plat Submission and Approval

4.3.100 Filing and Recording

A new lot is not a legal lot for purposes of ownership (title), sale, lease, or development/land use until a final plat is recorded for the subdivision or partition containing the lot is recorded. Requests to validate an existing lot created through means other than a final plat (“lot of record”) shall follow the procedures set forth in ORS 92.010 to 92.190. The final plat filing and recording requirements are as follows:

- A. Filing Plat with County.** Within 60 days of City approval of the final plat, the applicant shall submit the final plat to [County name] County for signatures of County officials, as required by ORS Chapter 92.
- B. Proof of Recording.** Upon final recording with the County, the applicant shall submit to the City a mylar copy and three paper copies of all sheets of the recorded final plat. This shall occur prior to the issuance of building permits for the newly created lots.
- C. Prerequisites to Recording the Plat.**
 - 1. No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS Chapter 92.
 - 2. No plat shall be recorded until the County Surveyor approves it in the manner provided by ORS Chapter 92.

4.3.110 Re-platting and Vacation of Plats

Any plat or portion thereof may be re-platted or vacated upon receiving an application signed by all of the owners as appearing on the deed. Except as required for street vacations, the same procedure and standards that apply to the creation of a plat (preliminary plat followed by final plat) shall be used to re-plat or vacate a plat. Street vacations are subject to ORS Chapter 271. A re-plat or vacation application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable City standards.

4.3.120 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 4.1.020. The application submission and approval process for Property Line Adjustments is as follows:

- A. Submission Requirements.** All applications for Property Line Adjustment shall be made on forms provided by the City and shall include information required for a Type I review, pursuant to Section 4.1.020. The application shall include a preliminary lot line map drawn to scale identifying all existing and proposed lot lines and dimensions, footprints and dimensions of existing structures (including accessory structures), location and dimensions of driveways and public and private streets within or abutting the subject lots, location of lands subject to the City of [name] Flood Plain Overlay, existing fences and walls, and any other information deemed necessary by the Planning Commission for ensuring compliance with City codes. The application shall be signed by all of the owners as appearing on the deeds of the subject lots.
- 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 lot line adjustment;
 2. **Lot standards.** All lots and parcels conform to the applicable lot standards of the zoning district (Article 2) including lot area, dimensions, setbacks, and coverage. As applicable, all lots and parcels shall conform the City of [name] Flood Plain Overlay; and
 3. **Access and Road authority Standards.** All lots and parcels conform to the standards or requirements of Chapter 3.3 Access and Circulation, 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 [County name] 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.

4.4 – Conditional Use Permits

Chapter 4.4 - Conditional Use Permits

Sections:

- 4.4.010 Purpose
- 4.4.020 Approvals Process
- 4.4.030 Application Submission Requirements
- 4.4.040 Criteria, Standards, and Conditions of Approval
- 4.4.050 Supplemental Development Standards

4.4.010 Purpose

There are certain uses which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. Conditional uses are identified in Chapter 2.2 Zoning District Regulations. The purpose of this chapter is to provide procedures and standards for permitting conditional uses.

4.4.020 Approvals Process

The Planning Commission using a Type III procedure, per Section 4.1.040, reviews conditional use applications. The Planning Commission may require annual, or less frequent, renewal of conditional use permits. Modifications to conditional use permits are subject to Chapter 4.5 Modifications.

4.4.030 Application Submission Requirements

In addition to the submission requirements for a Type III review under Section 4.1.040, applications for conditional use permits shall include a description of existing conditions, a site plan, and information on any existing and any proposed restrictions or covenants. (For a more detailed description of each item, please refer to Section 4.2.040 Site Design Review Application Submission Requirements.) An application for a Conditional Use Permit shall also contain a narrative report or letter responding to the applicable approval criteria in Section 4.4.040.

4.4 – Conditional Use Permits | Criteria, Standards and Conditions of Approval

4.4.040 Criteria, Standards, and Conditions of Approval

The Planning Commission shall approve, approve with conditions, or deny an application for a conditional use, including requests to enlarge or alter a conditional use, based on findings of fact with respect to all of the criteria and standards in A. and B., below.

A. Use Criteria

1. The site size, dimensions, location, topography, and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations;
2. The negative impacts of the proposed use, if any, on adjacent properties and on the public can be mitigated through application of other Code standards, or other reasonable conditions of approval;
3. All required public facilities, including water, sanitary sewer, and streets, have adequate capacity or are to be improved to serve the proposal, consistent with City standards; and
4. A conditional use permit shall not allow a use that is prohibited or not expressly allowed under Article 2; nor shall a conditional use permit grant a variance without a variance application being reviewed with the conditional use application.

B. Conditions of Approval. The City may impose conditions that are found necessary to ensure that the use is compatible with other uses in the vicinity, and that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions include, but are not limited to, one or more of the following:

1. Limiting the hours, days, place, and/or manner of operation;
2. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor, and/or dust;
3. Requiring larger setback areas, lot area, and/or lot depth or width;
4. Limiting the building or structure height, size, lot coverage, and/or location on the site;
5. Designating the size, number, location, and/or design of vehicle access points or parking and loading areas;
6. Requiring street right-of-way to be dedicated and street improvements made, or the installation of pathways or sidewalks, as applicable;

4.4 – Conditional Use Permits | Criteria, Standards and Conditions of Approval

7. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;
8. Limiting the number, size, location, height, and/or lighting of signs;
9. Limiting or setting standards for the location, type, design, and/or intensity of outdoor lighting;
10. Requiring berms, screening, or landscaping and the establishment of standards for their installation and maintenance;
11. Requiring and designating the size, height, location, and/or materials for fences;
12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands;
13. Requiring improvements to water, sanitary sewer, or storm drainage systems, in conformance with City standards; and
14. The Planning Commission may require review and renewal of conditional use permits annually or in accordance with another timetable as approved pursuant to this chapter. Where applicable, the timetable shall provide for periodic review and renewal, or expiration, of the conditional use permit to ensure compliance with conditions of approval; such period review may occur through a Type III review process, except where the Planning Commission delegates authority to the City Planning Official to issue renewals, who shall do so through a Type I or Type II procedure, as applicable (see Chapter 4.1 for review procedures).

Chapter 4.5 - Modifications to Approved Plans and Conditions

Sections:

- 4.5.010 Purpose
- 4.5.020 Applicability
- 4.5.030 Major Modifications
- 4.5.040 Minor Modifications

4.5.010 Purpose

The purpose of this chapter is to provide an efficient process for modifying land use decisions and approved development plans, in recognition of the cost and complexity of land development and the need to conserve City resources.

4.5.020 Applicability

This chapter applies when an applicant proposes to modify an approved application or condition of approval.

4.5.030 Major Modifications

A. Major Modification. The Planning Commission reviews applications for major modifications through the Quasi-Judicial procedure under Section 4.1.040. Any one of the following changes constitutes a major modification:

1. A change in land use, from a less intensive use to a more intensive use, as evidenced by parking, paved area, an estimated increase in automobile or truck trips (peak and/or average daily trips), an increase in hours of operation, an increased demand for parking, additional paved area, or similar factors, where the increase is [10-20] percent or more, provided the standards of Article 2 and Article 3 are met;
2. An increase in floor area in a commercial or industrial development, or an increase in the number of dwelling units in a multifamily development, by [10-20] percent or more, provided the standards of Article 2 and Article 3 are met;
3. A reduction in required setbacks, or an increase in lot coverage, by [10-20] percent or more, provided the standards of Article 2 and Article 3 are met;
4. A change in the type and/or location of vehicle access points or approaches, driveways, or parking areas affecting off-site traffic when the roadway authority determines the change could cause a significant adverse impact on traffic operations or safety (i.e., requiring mitigation);
5. A reduction to screening, or a reduction to the area reserved for common open space or landscaping by

4.5 – Modifications to Approved Plans and Conditions

[10-20] percent or more;

6. Change to a condition of approval, or a change similar to items 1-5, above, that could have a detrimental impact on adjoining properties. The City Planning Official shall have discretion in determining detrimental impacts triggering a major modification; or
7. Other changes similar to those in subsections 1-6, above, in scale, magnitude, or impact to adjacent properties, as determined by the City Planning Official.

B. Major Modification Applications; Approval Criteria. Requests for major modifications shall conform to all of the following procedures and criteria:

1. The applicant shall submit an application form, filing fee, letter describing the modification, and site plan using the same plan format as in the original approval. The City may require other relevant information, as necessary, in evaluating the request;
2. The application shall be subject to the same approval criteria used for the initial project approval; except that a modification adding a conditional use to a project approved without a conditional use shall require findings in conformance with Chapter 4.4;
3. The scope of review shall be limited to the modification request. For example, a request to modify a commercial development's parking lot shall require Site Design Review only for the proposed parking lot and any changes to associated access, circulation, etc. Notice shall be provided in accordance with Chapter 4.1; and
4. The Planning Commission shall approve, deny, or approve with conditions an application for major modification based on written findings on the applicable Code criteria (e.g., subdivision, Site Design Review, conditional use, etc.).

4.5.040 Minor Modifications

A. Minor Modification. The City Planning Official through a Type I or II procedure, depending on whether the proposal involves the exercise of discretion, shall review proposals for Minor Modifications. Minor modifications include technical corrections to comply with codes and regulations, and changes that fall below the thresholds in 4.5.030, as determined by the City Planning Official. A minor modification is a change to an approved plan or condition of approval that does not meet any of the thresholds for a major modification listed in Section 4.5.030.A.

B. Minor Modification Applications; Approval Criteria. An application for minor modification shall include an application form, filing fee, letter describing the modification, and site plan using the same plan format as in the original approval. The City Planning Official may require other relevant information, as necessary, in evaluating the request.

4.5 – Modifications to Approved Plans and Conditions | Minor Modifications

C. Minor Modification Approval Criteria. The Planning Commission shall approve, deny, or approve with conditions an application for minor modification based on findings of compliance or noncompliance with the applicable requirements of the Development Code and the conditions of approval of the original decision.

4.6 – Amendments to Zoning Map or Code

Chapter 4.6 – Amendments to Zoning Map or Code

Sections:

- 4.6.010 Purpose
- 4.6.020 Procedure
- 4.6.030 Criteria
- 4.6.040 Record of Amendments
- 4.6.050 Transportation Planning Rule Compliance

4.6.010 Purpose

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this Code and Zoning Map. Amendments may be necessary from time to time to reflect changing community conditions, to correct mistakes, or to address changes in the law.

4.6.020 Procedure

- A. Except for corrections, amendments to Development Code text are Legislative (Type IV).
- B. Amendments to the Zoning Map that affect more than one parcel, or more than one-half of an acre, whichever is greater, are Legislative (Type IV) actions.
- C. Amendments to the Zoning Map that require an amendment to the Comprehensive Plan are Legislative (Type IV) actions.
- D. Amendments that do not meet the criteria under subsections 4.6.020.A, 4.6.020.B, or 4.6.020.C may be processed as Quasi-Judicial amendments, pursuant to the Type III procedure.

4.6.030 Criteria

Planning Commission review and recommendation, and City Council approval, of an ordinance amending the Zoning Map, Development Code, or Comprehensive Plan shall be based on all of the following criteria:

- A. If the proposal involves an amendment to the Comprehensive Plan, the amendment must be consistent with the Statewide Planning Goals and relevant Oregon Administrative Rules;
- B. The proposal must be consistent with the Comprehensive Plan (the Comprehensive Plan may be amended concurrently with proposed changes in zoning);

- C. The City Council must find the proposal to be in the public interest with regard to community conditions; the proposal either responds to changes in the community, or it corrects a mistake or inconsistency in the subject plan or code; and
- D. The amendment must conform to Section 4.6.050 Transportation Planning Rule Compliance.

4.6.040 Record of Amendments

The City Planning Official shall maintain a record of amendments to the text of this Code and the Zoning Map in a format convenient for public use. In the case of a map amendment, the map shall be made part of the ordinance.

4.6.050 Transportation Planning Rule Compliance

Proposals to amend the Comprehensive Plan or Zoning Map shall be reviewed to determine whether they significantly affect a transportation facility pursuant to Oregon Administrative Rule (OAR) 660-012-0060 (Transportation Planning Rule - TPR). Where the City, in consultation with the applicable roadway authority, finds that a proposed amendment would have a significant affect on a transportation facility, the City shall work with the roadway authority and applicant to modify the request or mitigate the impacts in accordance with the TPR and applicable law.

4.7 – Adjustments and Variances | Variances

Chapter 4.7 - Adjustments and Variances

Sections:

- 4.7.010 Purpose
- 4.7.020 General Provisions
- 4.7.030 Adjustments
- 4.7.040 Variances
- 4.7.050 Expiration

4.7.010 Purpose

Chapter 4.7 provides standards and procedures for adjustments and variances, which are modifications to development standards that are not otherwise permitted elsewhere in this Code.

4.7.020 Intent

Adjustments are variances that are intended to provide relief from code standards in specific situations. Both procedures are intended to ensure that the resulting development is compatible with adjacent properties and is consistent with the intent of the Code.

- A. Adjustments.** Adjustments provide relief from specific code provisions when a code provision has the unintended effect of preventing reasonable development in conformance with all other code requirements. Adjustments are allowed in limited situations pursuant to Section 4.7.030.
- B. Variances.** Variances provide greater flexibility to code standards than adjustments, where the physical characteristics of a site or its surroundings prevent reasonable development in compliance with a code standard.

4.7.030 Adjustments

Adjustments are minor modifications to Code standards that are intended to provide reasonable flexibility for planned land uses and development. Adjustments are subject to the following standards and procedures. Permitted uses, as provided in Article 2, shall not be adjusted.

- A. Applicability.** The City Planning Official or Planning Commission, through a Type II procedure, may adjust the following standards:
 - 1. Setbacks:** Up to a [10-20] percent reduction to a minimum setback.
 - 2. Lot Coverage:** Up to a [10-20] percent increase to the maximum lot coverage.

3. **Lot Dimensions:** Up to a [10-20] percent decrease to a minimum lot dimension.
4. **Lot Area:** Up to a [10-20] percent decrease in minimum lot area.
5. **Other Dimensional Standards:** Up to a 10 percent increase or decrease in a quantitative (numerical) standard not listed above. This option is limited to standards in Article 2 (Table 2.2.030 and Chapter 2.3 Special Uses) and Article 3; it does not include building code requirements, engineering design standards, public safety standards, or standards implementing state or federal requirements, as determined by the City Planning Official.

B. Approval criteria. The City may grant an Adjustment only upon finding that all of the following criteria are met. The burden is on the applicant to demonstrate compliance with the criteria.

1. The Adjustment allows for a building plan that is more compatible with adjacent land uses, or it does not create a conflict with adjacent uses;
2. The Adjustment is necessary to allow for normal interior building functions, such as mechanical equipment/utility closets, heating and ventilation systems, restrooms, stockrooms, shelving, and similar interior building functions;
3. Approval of the Adjustment does not create (a) violation(s) of any other adopted ordinance or code standard, and does not create the need for a Variance;
4. An application for an Adjustment is limited to one lot per application;
5. Requests for more than one Adjustment on the same lot shall be consolidated on one application and reviewed concurrently by the City;
6. Not more than three Adjustments may be approved for one lot or parcel in a continuous 12-month period; and
7. All applicable building code requirements and engineering design standards shall be met.

4.7 – Adjustments and Variances | Variances

4.7.040 Variances

A. Applicability. A Variance is a variance that does not otherwise meet the criteria under Section 4.7.030.

B. Approval Criteria. The Planning Commission through a Type III procedure may approve a Variance upon finding that it meets all of the following criteria:

1. The Variance is necessary because the subject Code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance;
2. The Variance is the minimum necessary to address the special or unique physical circumstances related to the subject site;
3. The need for the Variance is not self-imposed by the applicant or property owner. (For example, the Variance request does not arise as a result of a property line adjustment or land division approval previously granted to the applicant);
4. The Variance does not conflict with other applicable City policies or other applicable regulations;
5. The Variance will result in no foreseeable harm to adjacent property owners or the public; and
6. All applicable building code requirements and engineering design standards shall be met.

4.7.050 Expiration

Approvals granted under Chapter 4.7 shall expire if not acted upon by the property owner within one year of the City approving the variance. Where the owner has applied for a building permit or final plat, has made site improvements consistent with an approved development plan (e.g., Site Design Review or preliminary subdivision plan), or provides other evidence of working in good faith toward completing the project, the City Planning Official may extend an approval accordingly.

Chapter 4.8 - Master Planned Developments

Sections:

- 4.8.010 Purpose
- 4.8.020 Applicability
- 4.8.030 Review and Approvals Process
- 4.8.040 Modifications to Development Standards
- 4.8.050 Concept Plan Submission
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- 4.8.080 Detailed Development Plan Submission
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4.8.010 Purpose

The purposes of Chapter 4.8 are to:

- A.** Implement the Comprehensive Plan by providing a means for master planning large development sites as an alternative to piecemeal subdivision development;
- B.** Encourage innovative planning that results in projects that benefit the community, for example, through greater efficiency in land use, improved protection of open spaces, transportation efficiency, and housing choices;
- C.** Encourage housing options for a range of household sizes, incomes, and lifestyles;
- D.** *[Encourage mixed-use development and diversified employment opportunities;]*
- E.** Promote an economic arrangement of land use, buildings, circulation systems, open space, and utilities;
- F.** Preserve to the greatest extent possible the existing landscape features and amenities that may not otherwise be protected through conventional development;
- G.** Encourage energy efficiency and improved air and water quality;
- H.** Implement public facility master plans; and
- D.** Provide flexibility in development standards, consistent with the above purposes.

4.8.020 Applicability

The master planned development designation may be applied over any of the City's *[residential]* zoning districts. It is an option available to developers of land.

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4.8.030 Review and Approvals Process

A. Review Steps. There are three required steps to master planned development approval, which may be completed individually or combined for concurrent review:

1. Application for master planned development concept plan approval;
2. Application for detailed development plan approval, which may include a preliminary subdivision plan; and
3. Application(s) for final development plan (e.g., final plat and/or site design review) approval.

B. Approval Process.

1. The master planned development concept plan shall be reviewed pursuant to the Type III procedure in Section 4.1.040, the submission requirements in Section 4.8.050, and the approval criteria in Section 4.8.060.
2. The detailed development plan and preliminary subdivision plan shall be reviewed using the Type II procedure in Section 4.1.030 to ensure substantial compliance with the approved concept plan.
3. Site design review applications for approved planned developments shall be reviewed using a Type II procedure in Section 4.1.030 to ensure substantial compliance with the approved concept plan.
4. Steps 1-3, above, may be combined in any manner, so long as the decision-making sequence follows the above order. Notification and hearings may be combined.

4.8.040 Modifications to Development Standards

The standards of Article 2 and Article 3 may be modified through the master plan development process without the need for variance under Chapter 4.7. In evaluating this criterion, the *[City decision-making body]* shall consider whether the proposal, on balance, exceeds the City's minimum requirements and provides greater community benefits than would otherwise occur under the base Development Code requirements. In evaluating community benefits, the *[City decision-making body]* shall apply the following criteria; the City may deny an application for Master Planned Development concept plan approval that does not meet all of the following criteria:

A. Comprehensive Plan. The modification does not conflict with the Comprehensive Plan. A Master Planned Development may exceed the maximum residential density (minimum lot size) permitted by the underlying zone, provided that the overall density of the project (average of total dwelling units per acre) is not greater than *[110]* percent of the density permitted by the underlying zone.

B. Purpose and Intent of Development Code. The modification equally or better meets the purpose and intent of the Development Code section(s) to be modified, as compared to a project that strictly conforms to code standards.

C. Public Benefit. The modification provides a net benefit to the public by one or more of the following:

1. Greater variety of housing types or lot sizes than would be achieved under the base Development Code standards;
2. More open space or more usable open space than would be required under the base Development Code standards;
4. Greater protection of natural features than would be required under the base Development Code standards;
5. Avoidance of natural hazards (e.g., geological hazards, river resources, or flood hazards); and
6. Improved transportation connectivity, such as the provision of pathways and/or other transportation facilities, that would not otherwise be provided pursuant to base Development Code requirements.

D. Engineering Design Standards. Modifications to the City’s Engineering Design Standards require separate variance to such standards approved by the City Engineer. The City may grant such variances concurrently with the master planned development.

4.8.050 Concept Plan Submission

A. General Submission Requirements. An application for a Concept Development Plan shall follow the submission requirements for a Type III review under Section 4.1.040, and shall include all of the following:

1. Statement of planning objectives to be achieved by the master planned development through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant;
2. Development schedule indicating the approximate dates when construction of the project and its various phases, if any, including public facilities, are expected to be initiated and completed;
3. Statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the planned development;
4. Narrative report or letter documenting compliance with the applicable approval criteria contained in Section 4.8.060;
5. Maintenance plan for any common areas or lands not dedicated to a public agency or owned in fee simple; and
6. Additional reports or studies prepared by qualified professionals, as required by the City Manager, to

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determine potential project impacts and mitigation, if any, related to: transportation; public facilities; geologic or other hazards; architecture; noise, light, solar access, air quality, or similar concerns; and natural features.

B. Additional Information. In addition to the general information described in subsection A, above, the concept plan, data, and narrative shall include all of the following exhibits and information:

1. Existing conditions map, as defined in Section 4.2.040 Site Design Review Application Submission Requirements;
2. Conceptual site plan (e.g., general land use, building envelopes, circulation, open space, utility connections, and other information necessary to convey the concept plan);
3. Grading concept (for hillside or sloping properties, or where extensive grading is anticipated);
4. Landscape concept (e.g., shows retention of existing vegetation and general planting areas);
5. Architectural concept (e.g., plans illustrate architectural styles, building heights, and general materials);
6. Sign concept plan (e.g., locations, general size, style, and materials of signs), as applicable; and
7. Copy of all existing covenants and restrictions, and a general description of proposed restrictions or covenants (e.g., for common areas, access, parking, etc.).

4.8.060 Concept Plan Approval Criteria

The City, in approving or approving with conditions a Concept Plan, shall make findings that all of the following criteria are met. The City must deny an application where not all of the criteria are met.

- A. Comprehensive Plan.** The proposal conforms to the Comprehensive Plan;
- B. Land Division Chapter.** Except as may be modified under Section 4.8.040, all of the requirements for land divisions, under Chapter 4.3, are met;
- C. Article 2 and Article 3 Standards.** Except as may be modified under Section 4.8.040, all of the requirements of Article 2 and Article 3 are met;
- D. Open Space.** Master plans shall contain a minimum of [20] percent open space, which may be public, private, or a combination of public and private open space. Such open space shall be integral to the master plan and connect to a majority of the proposed residential lots. Plans shall provide space for both active and passive recreational uses, and may include, but are not limited to, neighborhood parks, pathways/trails, natural areas, plazas, and play fields. Open space areas shall be shown on the final plan and recorded with the final plat or separate instrument; the open space shall be conveyed in accordance with one of the following methods:
 1. By dedication to the City as publicly owned and maintained open space. Open space proposed for

dedication to the City must be acceptable to the Planning Commission with regard to the size, shape, location, improvement, environmental condition (i.e., the applicant may be required to provide an environmental assessment), and approved by City Council based on budgetary, maintenance, and liability considerations; or

2. By leasing or conveying title (including beneficial ownership) to a corporation, homeowners' association, or other legal entity. The terms of such lease or other instrument of conveyance must include provisions for maintenance and property tax payment acceptable to the City. The City, through conditions of approval, may also require public access be provided, where the open space is deemed necessary, based on impacts of the development and to meet public recreational needs pursuant to the Comprehensive Plan.

E. Affordable Housing. *[Placeholder]*

User's Guide: Some cities might want to include affordable housing as a criterion for granting density bonuses or allowing other code adjustments under this chapter. For example, a developer who agrees to provide a percentage of affordable housing units could receive density bonus, which would include the affordable units and possibly some additional market-rate housing as an incentive. Generally, housing is considered affordable where a household spends not more than 30% of their gross monthly income on it. Housing programs aim to serve those earning a certain percentage below the median household income for the area. The Cities of Ashland and Newberg are two Oregon communities that provide regulatory incentives for affordable housing.

- ### **F. Modifications to Standards.** Modifications to Code standards must conform to the criteria in Section 4.8.040.

4.8.070 Concept Plan and Expiration

- A. Filing.** Upon approval of a concept plan, the approved plan, including any conditions of approval, shall be binding on future uses and development of the property, except where an approval expires.
- B. Expiration.** Except as provided by subsection C, below, a concept plan shall become void three years after the date of approval if the applicant, or successor, has not filed with the City an application for detailed development plan and final plat approval in conformance with Sections 4.8.080 and 4.8.090.
- C. Extension.** The City may grant extensions of the concept plan approval period, not to exceed one year per extension, provided that the extension request is made before expiration of the master planned development approval, the applicant can show intent of applying for detailed development plan review within the one-year extension period, and there have been no substantive changes to the applicable Comprehensive Plan policies and ordinance provisions on which the approval was based.

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4.8.080 Detailed Development Plan Submission

Detailed development plan submittal requirements are determined based on the conditions of approval for the concept plan. At a minimum, the detailed development plan submittal shall meet the minimum requirements for final plat submission under Chapter 4.3 and shall contain information demonstrating compliance with the concept plan. The detailed development plan and preliminary subdivision plan shall be reviewed using the Type II procedure in Section 4.1.030 to ensure substantial conformance to the approved concept plan. Where the proposal is for a multifamily development, Site Design Review is required, pursuant to Chapter 4.2; Site Design Reviews on detailed development plans shall be processed through the Type II procedure.

4.8.090 Detailed Development Plan Criteria

Approval of the detailed development plan shall be based upon a finding that the final plan substantially conforms to the concept plan, including any concept plan conditions of approval. Minor changes to the approved concept plan may be approved with the detailed plan where the City Manager finds that the modification is necessary to correct an error or to address changes in circumstances beyond the applicant's control that have occurred since the date of project approval. Other changes must be reviewed as major modifications under Chapter 4.5.

4.8.100 Subsequent Development Reviews

Notwithstanding the provisions of Section 4.2.030, where the City has previously approved a development project in concept as part of a master planned development approval, as determined by the City Manager, subsequent land use applications for the same project may be processed through a Type I review.