

## **Chapter 4 — Administration of Land Use and Development Permits**

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## Chapter 4.1 – Types of Applications and Review Procedures

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### 4.1.100 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.

### 4.1.200 Description of Permit/Decision Making Procedures

All land use and development permit applications, except building permits, shall be decided by using the procedures contained in this Chapter. General procedures for all permits are contained in Section 4.1.700. Specific procedures for certain types of permits are contained in Section 4.1.200 through 4.1.600. The procedure “type” assigned to each permit governs the decision-making process for that permit. There are four types of permit/decision-making procedures: Type I, II, III, and IV. These procedures are described in subsections A-D below. In addition, Table 4.1.200 lists all the City’s land use and development applications and their required permit procedure(s).

- A. **Type I Procedure (Ministerial).** Type I decisions are made by Planning Official, or someone he or she officially designates, without public notice and without a public hearing. The Type 1 procedure is used when there are clear and objective approval criteria and applying city standards and criteria requires no use of discretion.
- B. **Type II Procedure (Administrative).** Type II decisions are made by Planning Official or designee with public notice and an opportunity for a public hearing if appealed. The appeal of a Type II decision is heard by the Planning Commission.
- C. **Type III Procedure (Quasi-Judicial).** Type III decisions are made by the Planning Commission after a public hearing, with appeals reviewed by the City Council. Type III decisions involve discretion but implement established policy.
- D. **Type IV Procedure (Legislative).** Type IV procedures apply to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations, zone changes, and comprehensive plan amendments that apply to entire districts). Type IV matters are considered initially by the Planning Commission with final decisions made by the City Council enacted through an ordinance.

<b>Table 4.1.200</b>		
<b>Summary of Development Decisions/Permit by Type of Decision-making Procedure</b>		
<b>Action</b>	<b>Decision Type</b>	<b>Applicable Regulations</b>
Access Permit (public street)	Type I	Chapters 3.1, 4.2, 4.3
Annexation	Type IV	Comprehensive Plan, Development Code and city/county intergovernmental agreement(s), as applicable.
Building Permit	N/A	Building Code
Code Interpretation	Type II	Chapter 4.8
Code Amendment	Type IV	Chapter 4.7
Comprehensive Plan Amendment	Type IV	Comprehensive Plan
Conditional Use Permit	Type III	Chapter 4.4
Flood Plain Development Permit	Type II	Chapter 3.7
Master Planned Development	Type IV	Chapter 4.5
Modification to Approval	Type II/III	Chapter 4.6
Land Use Map Change	Type IV	
Quasi-Judicial	Type III	Chapter 4.7
Legislative (plan amendment required)	Type IV	Chapter 4.7
Lot Line Adjustment	Type I	Chapter 4.3
Non-Conforming Use or Development Confirmation	Type I	Chapter 5.2
Partition	Type II	Chapter 4.3
Sign Permit	Type I	Chapter 3.6
Development Review	Type I	Chapter 4.2, Building Code
Site Design Review:		
Type II	Type II	Chapter 4.2
Type III	Type III	Chapter 4.2
Subdivision	Type II/III	Chapter 4.3
Temporary Use Permit	Type II/III	Chapter 4.9
Traffic Impact Study	Type I	Chapter 4.10
Transportation Facilities and Improvements	Type II/III	Chapter 4.4
Tree Removal	Type I/II	Chapter 3.2
Variance:		
Class A	Type I	Chapter 5.1
Class B	Type II	Chapter 5.1
Class C	Type III	Chapter 5.1

\*ODOT is required to receive notice for all actions that impact Interstate 84 and for any action that triggers a Traffic Impact Study.

#### **4.1.300 Type I Procedure (Ministerial)**

##### **A. Application Requirements.**

1. Application Forms. Type I applications shall be made on forms provided by the Planning Official.
2. Application Requirements. Type I applications 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.

**B. Ministerial Decision Requirements.** The Planning Official decision shall address all the approval criteria. Based on the criteria and the facts contained within the record, the Planning Official shall approve, approve with conditions, or deny the requested permit or action. A written record of the decision shall be provided to the applicant and kept on file at city hall.

**C. Final Decision.** The decision shall be final on the date it is mailed or otherwise provided to the applicant, whichever occurs first. 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.

**D. Effective Date.** The decision is effective the day after it is final.

##### **E. Notice of Decision.**

1. Within five days after the City Staff or designee signs the decision, a Notice of Decision shall be sent by mail to:
  - a. Any person who submits a written request to receive notice;
  - b. The applicant and all owners or contract purchasers of record of the site that is the subject of the application;
  - c. Any City-recognized neighborhood group or association whose boundaries include the site;
  - d. Umatilla County and any other governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City.

#### **4.1.400 Type II Procedure (Administrative)**

**A. Pre-application Conference.** A pre-application conference may be required for Type II applications. Pre-application conference requirements and procedures are in Section 4.1.700.C.

##### **B. Application Requirements.**

1. Application Forms. Type II applications shall be made on forms provided by the Planning Official;

2. Submittal Information. The application shall:
  - a. Include the information requested on the application form;
  - b. Be filed with a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making;
  - c. Be filed with the necessary plans and exhibits required for the specific type of approval being sought;
  - d. Information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable; and
  - e. Be accompanied by the required fee.

**C. Notice of Application for Type II Administrative Decision.**

1. Before making a Type II Administrative Decision, the Planning Official shall mail notice to:
  - a. All owners of record of real property within 100 feet (measured from the property line) of the subject site;
  - b. All City-recognized neighborhood groups or associations whose boundaries include the site;
  - c. Any person who submits a written request to receive a notice; and
  - d. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies. ODOT shall be notified when there is a land use action abutting a State facility as appropriate, for review of the application.
2. The purpose of the notice is to give nearby property owners and other interested people the opportunity to submit written comments about the application before the Type II decision is made. The goal of this notice is to invite people to participate early in the decision-making process.
3. Notice of a pending Type II Administrative Decision shall:
  - a. Provide a 14-day period for submitting written comments before a decision is made on the permit;
  - b. List the relevant approval criteria by name and number of code sections;
  - c. State the place, date, and time the comments are due, and the person to whom the comments should be addressed;
  - d. Include the name and telephone number of a contact person regarding the Administrative Decision;

- e. Identify the specific permits or approvals requested;
- f. Describe the street address or other easily understandable reference to the location of the site;
- g. State that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence;
- h. State that all evidence relied upon by the Planning Official to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City;
- i. State that after the comment period closes, the Planning Official shall issue a Type II Administrative Decision. The decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;
- j. Contain the following notice: "Notice to mortgagee, lienholder, vendor, or seller: The City of Echo Development Code requires that if you receive this notice, it shall be promptly forwarded to the purchaser."

**D. Administrative Decision Requirements.** The Planning Official shall make Type II written decisions addressing all the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the Planning Official shall approve, approve with conditions, or deny the requested permit or action. The decision may include a requirement for non-remonstrations for future road improvements.

**E. Notice of Decision.**

1. Within five days after the Planning Official signs the decision and sends by mail to:
  - a. Any person who submits a written request to receive notice, or provides comments during the application review period;
  - b. The applicant and all owners or contract purchasers of record of the site which is the subject of the application;
  - c. Any person who submits a written request to receive notice, or provides comments during the application review period;
  - d. Any City-recognized neighborhood group or association whose boundaries include the site;
  - e. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies which were notified or provided comments during the application review period.
2. The Planning Official shall cause an affidavit of mailing of 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 people and within the time required by law.

3. The Type II Notice of Decision shall contain:
  - a. A description of the applicant's proposal and the City's decision on the proposal (i.e., may be a summary);
  - 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, where applicable;
  - c. A statement of where the City's decision can be obtained;
  - d. The date the decision shall become final, unless appealed;
  - e. A statement that all persons entitled to notice or who are otherwise adversely affected or aggrieved by the decision may appeal the decision;
  - f. A statement briefly explaining how an appeal can be filed, the deadline for filing an appeal, and where further information can be obtained concerning the appeal process; and
  - g. A statement that unless appellant (the person who files the appeal) is the applicant, the hearing on the appeal shall be limited to the specific issues identified in the written comments submitted during the comment period. Additional evidence related to the Notice of Appeal (See subsection G.2.a, below) may be submitted by any person during the appeal hearing, subject to any rules of procedure adopted by the Planning Commission.

**F. Final Decision and Effective Date.** A Type II administrative decision is final for purposes of appeal when it is mailed by the City. A Type II administrative decision is effective on the day after the 12-day appeal period expires. If an appeal is filed, the decision is effective when the appeal is decided.

**G. Appeal.** A Type II administrative decision may be appealed to the Planning Commission as follows:

1. Who may appeal. The following people have legal standing to appeal a Type II Administrative Decision:
  - a. The applicant;
  - b. Any person who was mailed written notice of the Type II administrative decision;
  - c. Any other person who participated in the proceeding by submitting written comments by the specified deadline.
2. Appeal procedure.
  - a. Notice of appeal. Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type II Administrative Decision by filing a Notice of Appeal

according to the following procedures:

- (1) Time for filing. A Notice of Appeal shall be filed with the Planning Official within 12 days of the date the Notice of Decision was mailed.
  
  - (2) Content of notice of appeal. The Notice of Appeal shall contain:
    - (a) An identification of the decision being appealed, including the date of the decision;
  
    - (b) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
  
    - (c) A statement explaining the specific issues raised on appeal;
  
    - (d) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period; and
  
    - (e) Filing fee.
  
  3. The amount of the filing fee shall be established by the City. The maximum fee for an initial hearing shall be the City's cost for preparing and for conducting the hearing, or the statutory maximum, whichever is less.
  
  4. Scope of appeal. The appeal of a Type II Administrative Decision by a person with standing shall be limited to the specific issues raised during the written comment period, as provided under Section 4.1.400.C, unless the Planning Commission allows additional evidence or testimony concerning any other relevant issue. The Planning Commission may allow such additional evidence if they determine that such evidence is necessary to resolve the case. The purpose of this requirement is to limit the scope of Type II Administrative Appeals by encouraging persons with standing to submit their specific concerns in writing during the comment period. The written comments received during the comment period will usually limit the scope of issues on appeal. Only in extraordinary circumstances should new issues be considered by the hearings body on appeal of a Type II Administrative Decision.
  
  5. Appeal procedures. Type III notice and hearing procedures shall be used for all Type II Administrative Appeals, as provided in Sections 4.1.500.C - G.
- H. Appeal to City Council** The decision of the Planning Commission regarding an appeal of a Type II Administrative Decision is the final decision of the City unless appealed to City Council. An appeal to City Council shall follow the same notification and hearing procedures as for the Planning Commission hearing.

#### **4.1.500 Type III Procedure (Quasi-Judicial)**

- A. Pre-application Conference.** A pre-application conference is required for all Type III applications. The requirements and procedures for a pre-application conference are described in Section 4.1.700.C.

**B. Application Requirements.**

1. Application forms. Type III applications shall be made on forms provided by the Planning Official;
2. Content. Type III applications shall:
  - a. Include the information requested on the application form;
  - b. Be filed with a narrative statement that explains how the application satisfies each and all of the relevant criteria in sufficient detail for review and action;
  - c. Include the plans and exhibits required for the specific approvals being sought;
  - d. Include information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable;
  - e. Be accompanied by the required fee. and
  - f. Include an impact study that will quantify and assess the effect of the development on public facilities and services when required by the Planning Official. The study shall address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water system, the sewer system, and the noise impacts of the development. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users. In situations where this Code requires the dedication of real property to the City, the City shall either (1) include in the written decision evidence that shows that the required property dedication is roughly proportional to the projected impacts of the development on public facilities and services, or (2) delete the dedication as a condition of approval.

**C. Notice of Hearing.**

1. Mailed notice. Notice of a Type III application hearing or Type II appeal hearing shall be given by the Planning Official in the following manner:
  - a. At least 20 days before the hearing date, notice shall be mailed to:
    - (1) All property owners of record within 100 feet of the property line of the site;
    - (2) Any neighborhood or community organization recognized by the City Council and whose boundaries include the property proposed for development;
    - (3) Any person who submits a written request to receive notice; and
    - (4) For appeals, the appellant and all persons who provided testimony.
  - b. The Planning Official shall have an affidavit of notice be prepared and made a part of the file. The affidavit shall state the date that the notice was mailed to the persons who must receive notice;

2. Content of Notice. Notice of appeal of a Type II Administrative decision or a Type III hearing to be mailed and published per Subsection 1 above shall contain the following information:
  - a. The nature of the application and the proposed land use or uses which could be authorized for the property;
  - b. The applicable criteria and standards from the development code(s) that apply to the application;
  - c. The street address or other easily understood geographical reference to the subject property;
  - d. The date, time, and location of the public hearing;
  - e. 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;
  - f. The name of a City representative to contact and the telephone number where additional information on the application may be obtained;
  - g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at Echo City Hall at no cost and that copies shall be provided at a reasonable cost;
  - h. 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;
  - i. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings.
  - j. 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.
  - k. The following notice: "Notice to mortgagee, lienholder, vendor, or seller: The City of Echo Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

**D. Conduct of the Public Hearing.**

1. At the commencement of the hearing, the hearings body shall state to those in attendance the following information and instructions:
  - a. The applicable approval criteria and standards that apply to the application or appeal;
  - b. A statement that testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use

regulations which the person testifying believes to apply to the decision;

- c. A statement that failure to raise an issue with sufficient detail to give the hearings body and the parties an opportunity to respond to the issue, means that no appeal may be made 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 decide based on the facts and arguments in the public record.
  - e. Any participant may ask the Planning Commission for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a "continuance") per paragraph 2 of this subsection, or by leaving the record open for additional written evidence or testimony per paragraph 3 of this subsection.
2. If the Planning Commission grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or testimony in response to the new written evidence. The applicant is granted the final response.
  3. If the Planning Commission leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the Planning Commission shall reopen the record per subsection E of this section;
    - a. When the Planning Commission re-opens the record to admit new evidence or testimony, any person may raise new issues which relates to that new evidence or testimony;
    - b. An extension of the hearing or record granted pursuant to Section D is subject to the limitations of ORS 227.178 ("120-day rule"), unless the continuance or extension is requested or agreed to by the applicant;
    - c. If requested by the applicant, the City shall allow the applicant at least seven days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant's final submittal shall be part of the record but shall not include any new evidence.
  4. The record.
    - a. The record shall contain all testimony and evidence that is submitted to the City and the hearings body and not rejected;
    - b. The hearings body may take official notice of judicially cognizable facts under the

- applicable law. If the review authority takes official notice, it must announce its intention and allow persons participating in the hearing to present evidence concerning the noticed facts;
- c. The review authority shall retain custody of the record until the City issues a final decision.
5. Participants in the appeal of a Type II Administrative decision or a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing ex parte contacts (see Section 6 below) as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:
- a. At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing ex parte contacts (as defined in Section 6 below) concerning the application or appeal. He or she shall state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly;
  - b. A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: Their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;
  - c. Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;
  - d. If all members abstain or are disqualified, those members present who declare their reasons for abstention or disqualification shall be re-qualified to make a decision;
  - e. If a member of the hearings body abstains or is disqualified, the City shall provide a substitute in a timely manner subject to the impartiality rules in Section 6;
  - f. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this section.
6. Ex-parte communications.
- a. Members of the hearings body shall not:
    - (1) Communicate, directly or indirectly, with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing, except upon giving notice, per Section 5 above;
    - (2) Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to

the noticed materials.

- b. No decision or action of the hearings body shall be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:
    - (1) Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and
    - (2) Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.
  - c. Communication between City staff and the hearings body is not considered an ex parte contact.
7. Presenting and receiving evidence.
- a. The hearings body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant, or personally derogatory testimony or evidence.
  - 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 except as provided in Section D.
  - c. Members of the hearings 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 hearing and an opportunity is provided to dispute the evidence. In the alternative, a member of the hearings body may visit the property to familiarize him or herself with the site and surrounding area, but not to independently gather evidence. In the second situation, at the beginning of the hearing, he or she shall disclose the circumstances of the site visit and shall allow all participants to ask about the site visit.

**E. The Decision Process.**

- 1. Basis for decision. Approval or denial of an appeal of a Type II Administrative decision or a Type III application shall be based on standards and criteria in the development code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the comprehensive plan for the area in which the development would occur and to the development regulations and comprehensive plan for the City as a whole.
- 2. Findings and conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts.
- 3. Form of decision. The Planning Commission shall issue a final written order containing

the findings and conclusions stated in subsection 2, which either approves, denies, or approves with specific conditions. The Planning Commission may also issue appropriate intermediate rulings when more than one permit or decision is required.

4. Decision-making time limits. A final order for any Type II Administrative Appeal or Type III action shall be filed with the Planning Official within 14 business days after the close of the deliberation.

**E. Notice of Decision.** Written notice of a Type II Administrative Appeal decision or a Type III decision shall be mailed to the applicant and to all participants of record within five business days after the hearings body decision. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice. The decision may include a requirement for non-remonstration for future road improvements. The Notice of Decision shall include the following information:

1. 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;
2. The address or other geographical description of the property proposed for development, including a map of the property in relation to the surrounding area;
3. A statement of where the City's decision can be obtained;
4. The date the decision shall become final, unless appealed; and
5. A statement that all persons entitled to notice may appeal the Planning Commission's decision to City Council or may appeal the City Council's decision to the state Land Use Board of Appeals, as applicable.

**F. Final Decision and Effective Date.** The decision of the hearings body on any Type II appeal or any Type III application is final for purposes of appeal on the date it is mailed by the City. The decision is effective on the day after the 12-day appeal period expires. If an appeal is filed, the decision becomes effective on the day after the appeal is decided by the City Council. The notification and hearings procedures for Type III applications on appeal to the City Council shall be the same as for the initial hearing.

**G. Appeal of a 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 may appeal a Type II 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.

- c. Content of notice of appeal. The Notice of Appeal shall be accompanied by the required filing fee and shall contain:
  - i. An identification of the decision being appealed, including the date of the decision.
  - ii. A statement demonstrating the person filing the Notice of Appeal has standing to appeal.
  - iii. A statement explaining the specific issues being raised on appeal; and
  - iv. 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 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.

**H. Record of the Public Hearing.**

- 1. The official public hearing record shall include all 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 as retained by the City;
  - 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 exhibits received and displayed shall be marked to provide identification and shall be part of the record.

**I. 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.

**4.1.600 Type IV Procedure (Legislative)**

**A. Pre-Application Conference.** A pre-application conference is required for all Type IV applications. The requirements and procedures for a pre-application conference are described in Section 4.1.700.C.

**B. Type of Applications.** Legislative amendments are policy decision made by the City Council. Amendments to the Development Code text, Land Use Map, and the Comprehensive Plan and Map are Legislative (Type IV) actions.

**C. Application Requirements.**

- 1. Application forms. Type IV applications shall be made on forms provided by the Planning Official.

2. Submittal Information. The application shall contain:
  - 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; and
  - d. A letter or narrative statement that explains how the application satisfies each of the relevant approval criteria and standards. These standards include the following:
    - (1) If the proposal involves an amendment to the Comprehensive Plan, the applicant shall address how the amendment would be consistent with the Statewide Planning Goals and relevant Oregon Administrative Rules;
    - (2) The proposal must be consistent with the Comprehensive Plan (the Comprehensive Plan may be amended concurrently with the proposed changes in zoning) with the applicant addressing that consistency;
    - (3) The applicant shall address how the proposal would be in the public interest regarding 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
    - (4) The applicant shall show how the amendment conforms to the Transportation Planning Rule. Proposals to amend the Comprehensive Plan or Map, Development Code, other functional plan, or Zoning Map shall be address whether they would significantly affect a transportation facility pursuant to Oregon Administrative Rule (OAR) 660-012-0060 (Transportation Planning Rule or TPR).

**D. Notice of Hearing.**

1. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications, except annexations where only a hearing by the City Council is required.
2. Notification requirements. Notice of public hearings for the request shall be given by the Planning Official in the following manner:
  - a. 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 that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.175 and mailed, or emailed, to:
    - (1) Each owner whose property that would be affected by the proposal (i.e., owners of property subject to a comprehensive plan amendment shall be notified if a zone change would be required to implement the proposed comprehensive plan amendment);
    - (2) Any affected governmental agency.
    - (3) Recognized neighborhood groups or associations affected by the ordinance;
    - (4) Any person who requests notice in writing;

- (5) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
  - b. At least 10 days before the scheduled Planning Commission public hearing date, and at least 10 days before the City Council hearing date, notice shall be published in a newspaper of general circulation in the City.
  - c. The Planning Official shall:
    - (1) For each mailing of notice, file an affidavit of mailing in the record as provided by Subsection a; and
    - (2) For each published notice, file in the record the affidavit of publication in a newspaper that is required in subsection b.
  - d. The Department of Land Conservation and Development (DLCD) shall be notified of proposed comprehensive plan and development code amendments in the manner prescribed by DLCD at least 35 days before the first public hearing at which public testimony or new evidence will be received.
  - e. Notifications for annexation shall follow the provisions of this Chapter and ORS 222.
3. Content of notices. The mailed and published notices shall include the following information:
- a. The number and title of the file containing the application, and the address and telephone number of the Planning Official's office where additional information about the application can be obtained;
  - b. A description of the location of the proposal reasonably calculated to give notice of the location of the geographic area;
  - c. A description of the proposal in enough detail for people to determine that a change is proposed, and the place where all relevant materials and information may be obtained or reviewed;
  - d. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the Council and available at City Hall (See subsection E below); and
  - e. Each mailed notice required by section D shall contain the following statement: "Notice to mortgagee, lienholder, vendor, or seller: The Echo Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."
4. Failure to receive notice. The failure of any person to receive notice shall not invalidate the action, providing:
- a. Personal notice is deemed given where the notice is deposited with the United States Postal Service;

- b. Published notice is deemed given on the date it is published.

**E. Hearing Process and Procedure.**

1. Unless otherwise provided in the rules of procedure adopted by the City Council:
  - a. The presiding officer of the Planning Commission and of the City Council shall have the authority to:
    - (1) Regulate the course, sequence, and decorum of the hearing;
    - (2) Direct procedural requirements or similar matters; and
    - (3) Impose reasonable time limits for oral presentations.
  - b. No person shall address the Commission or the Council without:
    - (1) Receiving recognition from the presiding officer; and
    - (2) Stating their full name and address.
  - c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
2. Unless otherwise provided in the rules of procedures adopted by the Council, the presiding officer of the Commission and of the Council, shall conduct the hearing as follows:
  - a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the City Council or the final decision of the Council;
  - b. The Planning Official's report and other applicable staff reports shall be presented;
  - c. The public shall be invited to testify;
  - d. The public hearing may be continued to allow additional testimony, or it may be closed; and
  - e. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.

**F. Continuation of the Public Hearing.** The Planning Commission or the City Council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.

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

1. Approval of the request is consistent with the Statewide Planning Goals and relevant Oregon Administrative Rules;

2. Approval of the request is consistent with the Comprehensive Plan; and
3. The property and affected area are presently provided with adequate public facilities, services, and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.
4. Proposals to amend the Comprehensive Plan or Map, Development Code, other functional plan, or Zoning Map shall be reviewed to determine whether they would significantly affect a transportation facility pursuant to Oregon Administrative Rule (OAR) 660-012-0060 (Transportation Planning Rule or TPR). Where the City, in consultation with the applicable roadway authority, finds that a proposed amendment would have a significant effect 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.

**H. Approval Process and Authority.**

1. The Planning Commission shall:
  - a. After notice and a public hearing, vote on and prepare a recommendation to the City Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and
  - b. Within 14 business days of determining a recommendation, the presiding officer shall sign the written recommendation, and it shall be filed with the Planning Official.
2. Any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file a written statement of opposition with the Planning Official before the Council public hearing on the proposal. The Planning Official shall send a copy to each Council member and place a copy in the record.
3. If the Planning Commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal, within 60 days of its first public hearing on the proposed change, the Planning Official shall:
  - a. Report the failure together with the proposed change to the City Council; and
  - b. Provide notice and put the matter on the City Council's agenda, a public hearing to be held, and a decision to be made by the Council. No further action shall be taken by the Commission.
4. The City Council shall:
  - a. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application;
  - b. Consider the recommendation of the Planning Commission; however, it is not bound

by the Commission's recommendation; and

- c. Act by ordinance, which shall be signed by the Mayor after the Council's adoption of the ordinance. If the proposal is denied it shall be by action of the Council and delivered to the applicant by the Notice of Decision.

**I. Vote Required for a Legislative Change.**

1. A vote by a majority of the qualified voting members of the Planning Commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial, or adoption of an alternative.
2. A vote by a majority of the qualified members of the City Council present is required to decide any motion made on the proposal.

**J. Notice of Decision.** Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five business days after the City Council decision is filed with the Planning Official. The City shall also provide notice to all persons as required by other applicable laws.

**K. Final Decision and Effective Date.** A Type IV 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.

**L. Record of the Public Hearing.**

1. A record of the proceeding shall be made. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record;
2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;
3. The official record shall include:
  - a. All materials considered by the hearings body;
  - b. All materials submitted by the Planning Official to the hearings body regarding the application;
  - c. The record made; the minutes of the hearing; and other documents considered;
  - d. The final ordinance;
  - e. All correspondence; and
  - f. A copy of the notices that were given as required by this Chapter.

**4.1.700 General Provisions.**

**A. 120-day Rule.** The City shall take final action on permit applications, which are subject to this

Chapter, including resolution of all appeals, within 120 days from the date the application is deemed as complete. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (The 120-day rule does not apply to Type IV legislative decisions – plan and code amendments – under ORS 227.178.)

**B. Time Computation.** In computing any period of time prescribed or allowed by this chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday or legal holiday, including Sunday, in which event, the period runs until the end of the next day which is not a Saturday or legal holiday.

**C. Pre-application Conferences.**

1. Participants. When a preapplication conference is required, the applicant shall meet with the Planning Official;
2. Information provided. At such conference, the Planning Official shall:
  - a. Cite the comprehensive plan policies and map designations applicable to the proposal;
  - b. Cite the ordinance provisions, including substantive and procedural requirements applicable to the proposal;
  - c. Provide available technical data and assistance that will aid the applicant;
  - d. Identify other governmental policies and regulations that relate to the application; and
  - e. Reasonably identify other opportunities or constraints concerning the application.
3. Disclaimer. Failure of the Planning Official to provide any of the information required by this Section C shall not constitute a waiver of any of the standards, criteria or requirements for the application;
4. Changes in the law. Due to possible changes in federal, state, regional, and local law, the applicant is responsible for ensuring that the application complies with all applicable laws on the day the application is deemed complete.

**D. Applications.**

1. Initiation of applications:
  - a. Applications for approval under this chapter may be initiated by:
    - 1) Order of City Council;
    - 2) Resolution of the Planning Commission;
    - 3) The City Manager or Planning Official;
    - 4) A record owner of property (person(s) whose name is on the most recently recorded deed), or contract purchaser with written permission from the record

owner; or

- 5) Public agencies or private entities that have statutory rights of eminent domain for projects they have the authority to construct and have been granted immediate possession by a court of competent jurisdiction.
  - b. Any person authorized to submit an application for approval may be represented by an agent authorized in writing to make the application on their behalf.
2. Consolidation of proceedings. When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same one or more parcels of land, the proceedings shall be consolidated for review and decision.
    - a. If more than one approval authority would be required to decide on the applications if submitted separately, then the decision shall be made by the approval authority having original jurisdiction over one of the applications in the following order of preference: the Council, the Commission, City Manager, or Planning Official.
    - b. When proceedings are consolidated:
      - 1) The notice shall identify each application to be decided;
      - 2) The decision on a plan map amendment shall precede the decision on a proposed land use district change and other decisions on a proposed development. Similarly, the decision on a zone map amendment shall precede the decision on a proposed development and other actions; and
      - 3) Separate findings and decisions shall be made on each application.
  3. Check for acceptance and completeness. In reviewing an application for completeness, the following procedure shall be used:
    - a. Acceptance. When an application is received by the City, the Planning Official shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant.
      - 1) The required form;
      - 2) The required fee;
      - 3) The signature of the applicant on the required form and signed written authorization of the property owner of record if the applicant is not the owner.
    - b. Completeness.
      - 1) Review and notification. After the application is accepted, the Planning Official shall review the application for completeness. If the application is incomplete, the Planning Official shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant 180 days to submit the missing information;
      - 2) When application deemed complete for review. In accordance with the

application submittal requirements of this chapter, the application shall be deemed complete upon the receipt by the Planning Official of all required information. The applicant shall have the option of withdrawing the application or refusing to submit information requested by the Planning Official in (1), above. For the refusal to be valid, the refusal shall be made in writing and received by the Planning Official no later than 14 days after the date on the Planning Official's letter of incompleteness. If the applicant refuses in writing to submit the missing information, the application shall be deemed complete on the 31st day after the Planning Official first accepted the application.

- 3) Standards and criteria that apply to the application. Approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first accepted.
  - 4) Coordinated Review. The City shall also submit the application for review and comment to the City Engineer, ODOT, and other applicable County, State, and federal review agencies.
4. Changes or additions to the application during the review period. Once an application is deemed complete:
    - a. All documents and other evidence relied upon by the applicant shall be submitted to the Planning Official at least seven days before the notice of action or hearing is mailed, if possible. Documents or other evidence submitted after that date shall be received by Planning Official, and transmitted to the hearings body, but may be too late to include with the staff report and evaluation;
    - b. When documents or other evidence are submitted by the applicant during the review period, but after the application is deemed complete, the assigned review person or body shall determine whether or not the new documents or other evidence submitted by the applicant significantly change the application;
    - c. If the assigned reviewer determines that the new documents or other evidence significantly change the application, the reviewer shall include a written determination that a significant change in the application has occurred as part of the decision. In the alternate, the reviewer may inform the applicant either in writing, or orally at a public hearing, that such changes may constitute a significant change (see "d", below), and allow the applicant to withdraw the new materials submitted, in order to avoid a determination of significant change;
    - d. If the applicant's new materials are determined to constitute a significant change in an application that was previously deemed complete, the City shall take one of the following actions, at the choice of the applicant:
      - 1) Continue to process the existing application and allow the applicant to submit a new second application with the proposed significant changes. Both the old and the new applications will proceed, but each will be deemed complete on different dates and may therefore be subject to different criteria and standards and different decision dates;

- 2) Suspend the existing application and allow the applicant to submit a new application with the proposed significant changes. Before the existing application can be suspended, the applicant must consent in writing to waive the 120-day rule (Section A., above) on the existing application. If the applicant does not consent, the City shall not select this option.
  - 3) Reject the new documents or other evidence that has been determined to constitute a significant change, and continue to process the existing application without considering the materials that would constitute a significant change. The City will complete its decision-making process without considering the new evidence.
- e. If a new application is submitted by the applicant, that application shall be subject to a separate check for acceptance and completeness and will be subject to the standards and criteria in effect at the time the new application is accepted.

**E. Planning Official's Duties.**

The Planning Official shall:

1. Prepare application forms based on the criteria and standards in applicable state law, the City's comprehensive plan, and implementing ordinance provisions;
2. Accept all development applications that comply with the appropriate sections of the Development Code and other codes or plans as applicable;
3. Prepare a staff report that summarizes the application(s) and applicable decision criteria and provides findings of conformance and/or non-conformance with the criteria. The staff report should also provide a recommended decision of approval; denial; or approval with specific conditions that ensure conformance with the approval criteria;
4. Prepare a notice of the proposal decision:
  - a. In the case of an application subject to a Type I or II review process, the Planning Official shall make the staff report and all case-file materials available at the time that the notice of the decision is issued.
  - b. In the case of an application subject to a hearing (Type III or IV process), the Planning Official shall make the staff report available to the public at least seven days prior to the scheduled hearing date and make the case-file materials available when notice of the hearing is mailed, as provided by Sections 4.1.400.C (Type II), 4.1.500.C (Type III), or 4.1.600.D (Type IV).
5. Administer the hearings process;
6. File notice of the final decision in the City's records and mail a copy of the notice of the final decision to the applicant; all persons who provided comments or testimony; persons who requested copies of the notice; and any other persons entitled to notice by law;
7. Maintain and preserve the file for each application for the period required by law. The file shall include, as applicable, a list of persons required to be given notice and a copy of

the notice given; the affidavits of notice; the application and all supporting information; the staff report; the final decision including the findings, conclusions and conditions, if any; all correspondence; minutes of any meeting at which the application was considered; and any other exhibit, information or documentation which was considered by the decision-maker(s) on the application; and

8. Administer the appeals and review process.

**F. Amended Decision Process.**

1. The purpose of an amended decision process is to allow the Planning Official to correct typographical errors, rectify inadvertent omissions and/or make other minor changes that do not materially alter the decision.
2. The Planning Official may issue an amended decision after the notice of final decision has been issued but before the appeal period has expired. If such a decision is amended, the decision shall be issued within 14 business days after the original decision would have become final, but in no event beyond the 120-day period required by state law. A new 10-day appeal period shall begin on the day the amended decision is issued.
3. Notice of an amended decision shall be given using the same mailing and distribution list as for the original decision notice.
4. Modifications to approved plans or conditions of approval requested by the applicant shall follow the procedures contained in Section 4.6. All other requested changes to decisions that do not qualify as minor or major modifications shall follow the appeal process.

**G. Re-submittal of Application Following Denial.** An application which has been denied, or an application which was denied and which on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission or the courts, may not be resubmitted as the same or a substantially similar proposal for the same land for a period of at least 12 months from the date the final City action is made denying the application, unless there is substantial change in the facts or a change in City policy which would change the outcome, as determined by the Planning Official.

**4.1.800 Neighborhood Meetings**

**A. Neighborhood Meeting Requirement.** Applicants are encouraged to meet with adjacent property owners and neighborhood representatives prior to submitting their application to solicit input and exchange information about the proposed development. In some cases, the Planning Official may require the applicant to meet with a city-recognized neighborhood association or group prior to accepting an application as complete.

A Neighborhood Meeting is optional for development applications that are likely to have neighborhood or community-wide impacts (e.g., traffic, parking, noise, or similar impacts), as determined by the Planning Official.

## Chapter 4.2 — Development Review and Site Design Review

### Sections:

- 4.2.100 - Purpose
- 4.2.200 - Applicability
- 4.2.300 - Development Review Approval Criteria
- 4.2.400 - Site Design Review - Application Review Procedure
- 4.2.500 - Site Design Review - Application Submission Requirements
- 4.2.600 - Site Design Review Approval Criteria
- 4.2.700 - Bonding and Assurances
- 4.2.800 - Development in Accordance with Permit Approval

### 4.2.100 Purpose

The purpose of this Chapter is to:

- A. Provide rules, regulations and standards for efficient and effective administration of site development review;
- B. Carry out the development pattern and plan of the City and its comprehensive plan policies;
- C. Promote the public health, safety and general welfare;
- D. Lessen or avoid congestion in the streets, and secure safety from fire, flood, pollution and other dangers;
- E. Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage and drainage;
- F. Encourage the conservation of energy resources; and
- G. Encourage efficient use of land resources, full utilization of urban services, mixed uses, transportation options, and detailed, human-scaled design.

### 4.2.200 Applicability

Development Review or Site Design Review shall be required for all new developments and modifications of existing developments described below. Regular maintenance, repair, and replacement of materials (e.g., roof, siding, awnings, etc.), parking resurfacing, and similar maintenance and repair shall be exempt.

- A. **Site Design Review.** Site Design Review is a discretionary review conducted by the Planning Official. It applies to all developments in the City, except those specifically listed under “B” (Development Review). Site Design Review ensures compliance with the basic development standards of the land use district (e.g., building setbacks, lot coverage, maximum building height), as well as the more detailed design standards and public improvement requirements in Chapters 2 and 3.

**B. Development Review.** Development Review is a non-discretionary or “ministerial” review conducted by the Planning Official without a public hearing. (See Chapter 4.1 for review procedure.) It is for less complex developments and land uses that do not require site design review approval. Development Review is based on clear and objective standards and ensures compliance with the basic development standards of the land use district, such as building setbacks, lot coverage, maximum building height, and similar provisions of Chapter 2. Development Review is required for all the types of development listed below, except that all developments in sensitive land areas shall also use the development review procedures for those districts.

1. Single-family detached dwelling including manufactured homes;
2. A single duplex or up to two single family attached (townhome) units;
3. Commercial development that has been approved through either a Type II or III process that requires a Development Review approval prior to the issuance of Building Permits or development that is an allowable use determination in an existing building or review of a use that includes a structure that is less than 500 square feet.
4. Industrial development that has been approved through either a Type II or III process that requires a Development Review approval prior to the issuance of Building Permits or development that is an allowable use determination in an existing building or review of a use that includes a structure that is less than 500 square feet.
5. Building additions. In the Residential zone this would be limited to additions less than 1,000 square feet. For Commercial and Industrial development this would be limited to additions less than 2,500 square feet.
6. Minor Modifications to development approvals as defined by Chapter 4.6;
7. Any proposed development that has a valid conditional use permit. Major modifications to a development with a conditional use permit shall require review and approval in accordance with Chapter 4.4 Conditional Use Permits;
8. Temporary use, except that temporary uses shall comply with the procedures and standards for temporary uses as contained in Chapter 4.9;
9. Accessory structures including accessory dwellings;
10. Other developments, when required by a condition of approval.

#### **4.2.300 Development Review Approval Criteria**

Development Review shall be conducted only for the developments listed in Section 4.2.200.B and it shall be conducted as a Type I procedure, as described in Section 4.1.300. Prior to issuance of building permits, the following standards shall be met:

1. The proposed land use is permitted by the underlying land use district (Chapter 2);
2. The land use, building/yard setback, lot area, lot dimension, density, lot coverage, building height, and other applicable standards of the underlying land use district and any sub-district(s) are met (Chapter 2);
3. The standards in Section 3.2.200 New Landscaping; 3.2.400 Fences and Walls, and Chapter 3.3 Vehicle and Bicycle Parking are met;
4. All applicable building and fire code standards are met; and
5. The approval shall lapse, and a new application shall be required, if a building permit has not been issued within one year of Development Review approval, or if development of the site is in violation of the approved plan or other applicable codes.

#### **4.2.400 Site Design Review - Application Review Procedure**

- A.** Site Design Review shall be conducted as a Type II or a Type III procedure as specified in “B”, using the procedures in Chapter 4.1 and using the approval criteria contained in Section 4.2.600.
- B. Site Design Review – Determination of Type II Applications.** Applications for Site Design Review shall be subject to Type II or Type III review, based on the following criteria:
  1. Residential buildings with 3 or 4 dwelling units shall be reviewed as a Type II application. Residential buildings with 5 or more units shall be reviewed as a Type III application.
  2. Commercial, industrial, public/semi-public, and institutional buildings with 5,000 square feet of gross floor area or less shall be reviewed as a Type II application, except when Development Review is allowed under Section 4.2.300. Commercial, industrial, public/semi-public, and institutional buildings with more than 5,000 square feet of gross floor area shall be reviewed as a Type III application.
  3. Developments with more than one building (e.g., a multifamily complex or an industrial building with accessory workshop) shall be reviewed as a Type III application, notwithstanding the provisions contained in subsections 1 and 2, above.
  4. Developments with 4 or fewer required off-street vehicle parking spaces in conformance with Chapter 3.3 shall be reviewed as Type II applications, and those with more than 4 off-street vehicle parking spaces shall be reviewed as Type III applications, notwithstanding the provisions contained in subsections 1-3 (above) and 5 (below).
  5. Developments involving the clearing and/or grading of ½ acre or a larger area shall be reviewed as Type III applications, notwithstanding the provisions contained in subsections 1-4 (above).

#### **4.2.500 Site Design Review - Application Submission Requirements**

All the following information is required for Site Design Review application submittal:

- A. **General Submission Requirements.** The applicant shall submit an application containing all of the general information required by Section 4.1.400 (Type II application) or Section 4.1.500 (Type III application). The type of application shall be determined in accordance with subsection A of Section 4.2.400.
- B. **Site Design Review Information.** An application for site design review shall include the following additional information, as deemed applicable by the Planning Official:
1. **Site analysis map.** At a minimum the site map shall contain 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. For more involved projects the following shall also be included:
    - a. Identification of slopes greater than 5 percent;
    - b. 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;
    - c. Potential natural hazard areas, including any areas identified as subject to a 100-year flood, areas subject to high water table, and areas mapped by the City, County, or State as having a potential for geologic hazards;
    - d. Resource areas, including marsh and wetland areas, streams, wildlife habitat identified by the City or any natural resource regulatory agencies as requiring protection;
    - e. Site features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals and ditches;
    - f. Locally or federally designated historic and cultural resources on the site and adjacent parcels or lots;
    - g. North arrow, scale, names and addresses of all persons listed as owners on the most recently recorded deed.
    - h. Other information, as determined by the Planning Official. The City may require studies or exhibits prepared by qualified professionals to address specific site features.
  2. **Proposed site plan.** The site plan shall contain the following information, if and as applicable:
    - a. The proposed development site, including boundaries, dimensions, and gross area;
    - b. Features identified on the existing site analysis map which 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, as applicable);
  - 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, as applicable;
  - 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. Location of bus stops and other public or private transportation facilities.
  - o. Locations, sizes, and types of signs.
  - p. Other information determined by the Planning Official. The City may require studies or exhibits prepared by qualified professionals to address specific site features (e.g., traffic, noise, environmental features, natural hazards, etc.), in conformance with this Code.
3. Architectural drawings. The Planning Official may request architectural drawings showing all the following:
- a. Building elevations (as determined by the Planning Official) with building height and width dimensions;
  - b. Building materials, colors, and type.
  - c. The name of the architect or designer.
4. Preliminary grading plan. A preliminary grading plan prepared by a registered engineer shall be required for developments which would result in the grading (cut or fill) of 1,000 cubic yards or greater or ground disturbance on a project site of more than 2 acres. 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.

5. Landscape plan. A landscape plan may be required and at the direction of the Planning Official and shall show the following:
  - a. The location and height of existing and proposed fences and other 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.
  - f. Other information as deemed appropriate by the Planning Official.
6. Sign drawings. Sign drawings shall be required if signs are proposed in conformance with the City's Sign Code (Chapter 3.6).
7. Covenants. Copies of all existing and proposed restrictions or covenants.
8. Narrative. Letter or narrative report documenting compliance with the applicable approval criteria contained in Sub-Section 4.2.600 Approval Criteria.
9. Traffic Impact Study. See Chapter 4.10.

#### **4.2.600 Approval Criteria**

The review authority shall make written findings with respect to all the following criteria when approving, approving with conditions, or denying an application:

- A.** The application is complete, as determined in accordance with Chapter 4.1 Types of Applications and Section 4.2.500, above.
- B.** The application complies with all the applicable provisions of the underlying Land Use District (Chapter 2), including: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other special standards as may be required for certain land uses;
- C.** The applicant shall be required to upgrade any existing development that does not comply with the applicable land use district standards, in conformance with Chapter 5.2 Non-Conforming Uses and Development.

- D. The application complies with the Design Standards contained in Chapter 3. All the following standards shall be met:
  1. Chapter 3.1 - Access and Circulation;
  2. Chapter 3.2 - Landscaping, Significant Vegetation, Street Trees, Fences and Walls;
  3. Chapter 3.3 – Automobile Parking, Bicycle Parking, and Loading Standards;
  4. Chapter 3.4 - Public Facilities and Franchise Utilities;
  5. Chapter 3.5 - Surface Water Management;
  6. Chapter 3.6 - Other Standards as applicable.
  7. Chapter 3.7 – Flood Plain, if applicable.
- E. Conditions required as part of a Land Division (Chapter 4.3), Conditional Use Permit (Chapter 4.4), Master Planned Development (Chapter 4.6), Specific Area Plan (Chapter 2.5), or other approval shall be met.
- F. Exceptions to criteria D.1-6, above, may be granted only when approved as a Variance (Chapter 5.3).

**4.2.700 Bonding and Assurances**

- A. **Performance Bonds for Public Improvements.** On all projects where public improvements are required, the City shall require a bond in an amount not greater than 100% or other adequate assurances as a condition of site development approval in order to guarantee the public improvements;
- B. **Release of Performance Bonds.** The bond or assurance shall be released when the Planning Official finds the completed project conforms to the site development approval, including all conditions of approval.
- C. **Completion of Landscape Installation.** Landscaping shall be installed prior to issuance of occupancy permits, unless security equal to the cost of the landscaping as determined by the Planning Official or a qualified landscape architect is filed with the City assuring such installation within six months after occupancy. If the installation of the landscaping is not completed within the six-month period, the security may be used by the City to complete the installation.
- D. **Business License Filing.** The applicant shall ensure that all business occupants of the completed project, whether permanent or temporary, shall apply for and receive a City business license prior to initiating business.

**4.2.800 Development in Accordance with Permit Approval**

Development shall not commence until the applicant has received all the appropriate land use and

development approvals (i.e., site design review approval) and building permits. 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 the applicant to enter into a development agreement (e.g., for phased developments and developments with required off-site public improvements), and may require bonding or other assurances for improvements, in accordance with Section 4.2.700. Development Review and Site Design Review approvals shall be subject to all the following standards and limitations:

- A. Modifications to Approved Plans and Developments.** Minor modifications of an approved plan or existing development, as defined in Chapter 4.6, shall be processed as a Type I decision and require only Site Review. Major modifications, as defined in Section 4.6, shall be processed as a Type II or Type III decision and shall require site design review.
  
- B. Approval Period.** Development Review and 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 building permit has not been issued within a one-year period; or
  - 2. Construction on the site is in violation of the approved plan.
  
- C. Extension.** The Planning Official shall, upon written request by the applicant, grant an extension of the approval period not to exceed one year; provided that:
  - 1. No changes are made on the original approved site design review 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 expired 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.
  
- D. Phased Development.** Phasing of development may be approved with the Site Design Review application, subject to the following standards and procedures:
  - 1. A phasing plan shall be submitted with the Site Design Review application.
  - 2. The Planning Official shall approve a time schedule for developing a site in phases, but in no case shall the total period for all phases be greater than 2 years without reapplying for site design review.
  - 3. Approval of a phased site design review proposal requires satisfaction of all of the following criteria:
    - a. The public facilities required to serve each phase are constructed in conjunction with or prior to each phase;
    - b. The development and occupancy of any phase dependent on the use of temporary public

facilities shall require City Council approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required public improvements, in accordance with Section 4.2.400. A temporary public facility is any facility not constructed to the applicable City or district standard, subject to review by the City Engineer;

- c. The phased development shall not result in requiring the City or other property owners to construct public facilities that were required as part of the approved development proposal; and
- d. An application for phasing may be approved after Site Design Review approval as a modification to the approved plan, in accordance with the procedures for minor modifications (Chapter 4.6).

## **Chapter 4.3 — Land Divisions and Lot Line Adjustments**

### **Sections:**

- 4.3.100 - Purpose**
- 4.3.200 - General Requirements**
- 4.3.300 - Approvals Process**
- 4.3.400 - Preliminary Plat Submission Requirements**
- 4.3.500 - Approval Criteria: Preliminary Plat**
- 4.3.600 - Variances Authorized**
- 4.3.700 - Final Plat Submission Requirements and Approval Criteria**
- 4.3.800 - Public Improvements**
- 4.3.900 - Performance Guarantees**
- 4.3.1000 - Filing and Recording**
- 4.3.1100 - Replatting and Vacation of Plats**
- 4.3.1200 - Lot Line Adjustments**
- 4.3.1300 - Expedited Land Divisions**

### **4.3.100 Purpose**

The purpose of this chapter is to:

- A.** Provide rules, regulations and standards governing the approval of subdivisions, partitions and lot line adjustments;
  - 1. Subdivisions involve the creation of four or more lots from one parent lot, parcel, or tract, within one calendar year.
  - 2. Partitions involve the creation of three or fewer lots from one parent lot within one calendar year.
  - 3. Lot line adjustments involve modifications to lot lines or parcel boundaries which do not result in the creation of new lots.
  - 4. Replats, including consolidation of platted parcels or lots, and vacation of plats following the procedure that would be used to create those same parcels or lots.
- B.** Carry out the City’s development pattern, as envisioned by the Comprehensive Plan;
- C.** Encourage efficient use of land resources, full utilization of urban services, and 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; and

- F. Encourage the conservation of energy resources.

#### 4.3.200 General Requirements

- A. **Subdivision and Partition Approval Through Two-step Process.** Applications for subdivision or partition approval shall be processed through a two-step process: the preliminary plat and the final plat.
  1. The preliminary plat shall 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.
- B. **Compliance With ORS Chapter 92.** All subdivision and partition proposals shall be in conformance to state regulations set forth 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 two times or 200 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, demonstrating that the lots will be of such size, shape, and orientation as to facilitate future re-division in accordance with the requirements of the land use district and this Code.

Future re-division plans shall be required for all property divisions in the UH Sub-District, as well as any property division within the Residential District that would result in a lot or lots of two acres in size or greater. These plans must facilitate future re-division in accordance with the requirements of the Residential District.

All future re-division plans shall identify:

1. Potential future lot division(s) in conformance with the standards of Chapter 2;
  2. Potential street right-of-way alignments to serve future development of the property and connect to adjacent properties, including existing or planned rights-of-way.
  3. Water, sewer, and storm drainage facilities logically extend to serve the site at buildout, consistent with adopted public facility plans and can meet Public Works Standards.
- D. **Lot Size Averaging.** Single family residential lot size may be averaged to allow lots less than the minimum lot size in the Residential district, if the average area for all lots is not less than allowed by the district. No lot created under this provision shall be less than 50% of the minimum lot size allowed in the underlying district. For example, if the minimum lot size is 5,000 square feet, the following three lots could be created from a 15,000 square foot parcel: 4,000 square feet, 5,000 square feet, and 6,000 square feet.
  - E. **Temporary Sales Office.** A temporary sales office in conjunction with a subdivision may be approved as set forth in Chapter 4.9.100 Temporary Uses.

- F. **Minimize Flood Damage.** All subdivisions and partitions shall be designed based on the need to minimize the risk of flood damage. Any proposed subdivision or partition within a mapped floodplain shall provide evidence that the development can comply with the provisions of Chapter 3.7 Flood Plain.
- G. **Determination of Base Flood Elevation.** Where a development site consists of 3 or more lots, and is located within the mapped floodplain, and the base flood elevation has not been provided or is not available from another authoritative source, it shall be prepared by a qualified professional, as determined by the Planning Official.
- H. **Need for Adequate Utilities.** All lots created through land division shall have adequate public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to prevent or minimize flood damage to the extent practicable in compliance with Chapter 3. Parcels that are 400 feet or more from the nearest sewer or water line may be divided without connecting to the system, as long as the resulting parcels are no smaller than two acres in size, depending on a Umatilla County Public Health evaluation of the property.
- I. **Need for Adequate Drainage.** All subdivision and partition proposals shall have adequate surface water drainage provided. Water quality or quantity control improvements may be required; and
- J. **Floodplain, Park, and Open Space Dedications.** Where land filling and/or development is allowed within or adjacent to the 100-year flood plain outside the zero-foot rise flood plain, and the Comprehensive Plan designates the subject flood plain for park, open space, or trail use, the City may require the dedication of sufficient open land area for a greenway adjoining or within the flood plain. When practicable, this area shall include portions at a suitable elevation for the construction of a pedestrian/bicycle pathway within the flood plain in accordance with the City's adopted trails plan or pedestrian and bikeway plans, as applicable. The City shall evaluate individual development proposals and determine whether the dedication of land is justified based on the development's impact to the park and/or trail system, consistent with Chapter 3.
- K. **Double Frontage Lots.** The creation of double frontage lots shall be avoided wherever possible.

#### 4.3.300 Approvals Process

**Review of Preliminary Plat.** Review of a preliminary plat with 2 or 3 lots (partition) shall be processed by means of a Type II procedure, as governed by Section 4.1.400. Preliminary plats with more than 3 lots (subdivision) shall be processed with a Type III procedure under Section 4.1.500. All preliminary plats shall be reviewed using approval criteria contained in Section 4.3.500. An application for subdivision may be reviewed concurrently with an application for a Master Planned Development under Chapter 4.5.

- A. **Review of Final Plat.** Review of a final plat for a subdivision or partition shall be processed by means of a Type I procedure under Chapter 4.1.300 using the approval criteria in Section 4.3.700.
- B. **Preliminary Plat Approval Period.** Preliminary plat approval shall be effective for a period of two (2) years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted to the City for approval within the two- (2) year period.

- 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 4.6 Modifications. The Planning Official shall, upon written request by the applicant and payment of the required fee, grant one extension of the approval period not to exceed (1) one year; provided that:
1. Any changes to the preliminary plat follow the procedures in Chapter 4.6;
  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 Development.**

1. The City may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period (i.e., for required public improvements, utilities, streets) for any partition or subdivision phase be greater than three (3) years without reapplying for a preliminary plat;
2. The criteria for approving a phased land division proposal are:
  - a. Public facilities shall be constructed in conjunction with or prior to each phase;
  - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require City Council approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required permanent public improvements, in accordance with Section 4.3.900. A temporary public facility is any facility not constructed to the applicable City or district standard;
  - c. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that were required as part of the approved development proposal; and
  - d. The application for phased development approval shall be reviewed concurrently with the preliminary plat application and the decision may be appealed in the same manner as the preliminary plat.

**4.3.400 Preliminary Plat Submission Requirements**

- A. General Submission Requirements.** For Type II subdivisions (8 lots or less) and partitions, the applicant shall submit an application containing all of the information required for a Type II procedure under Section 4.1.400. For Type III subdivisions (greater than 8 lots), the application shall

contain all of the information required for a Type III procedure under Section 4.1.500, except as required for Master Planned Neighborhood Developments:

1. **Master Planned Neighborhood Development.** Submission of a master plan, as provided in Chapter 2 shall be required for:
  - a. Parcels, and development sites with more than one parcel which are 40 acres or larger; and
  - b. The Master Plan shall be approved either prior to, or concurrent with, the preliminary plat application.

**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 the following information:

1. General information:
  - a. Name of subdivision (not required for partitions). This name must not duplicate the name of another subdivision in Umatilla County (please 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. Names, addresses and telephone numbers of the owners, designer, and engineer or surveyor if any, and the date of the survey; and
  - e. Identification of the drawing as a “preliminary plat”.
2. Site analysis:
  - a. Streets: Location, name, 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 5-foot vertical intervals for ground slopes exceeding 10 percent and at 2-foot intervals for ground slopes of less than 10 percent. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor. This requirement may be waived 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. Potential natural hazard areas, including any flood plains, areas subject to high water table,

landslide areas, and areas having a high erosion potential;

- g. Sensitive lands, including wetland areas, streams, wildlife habitat, and other areas identified by the City or natural resource regulatory agencies as requiring protection;
- h. Name and address of project designer, if applicable; and
- i. Other information, as deemed appropriate by the Planning Official. The City may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.

3. Proposed improvements:

- a. Public and private streets, tracts, driveways, open space, and park land; location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts which 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 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 lots and tracts;
- d. Proposed uses of the property, including all areas proposed to be dedicated to the public or reserved as open space for the purpose of surface water management, recreation, or other use:
- e. Proposed improvements, as required by Chapter 3 (Design Standards), and timing of improvements (e.g., in the case of streets, sidewalks, street trees, utilities, etc.);
- f. The preliminary design for extending City water and sewer to each lot or parcel;
- g. Proposed method of storm water drainage and treatment, if required;
- h. The approximate location and identity of other utilities, including the locations of street lighting fixtures;
- i. Proposed railroad crossing or modifications to an existing crossing, if any, and evidence of contact with Oregon Department of Transportation related to proposed railroad crossing(s);
- j. Evidence of compliance with Chapter 3.7, if applicable; and
- k. Evidence of written notice to the Oregon Department of Transportation (ODOT) for any development requiring access to Highway 395 or within the Interstate 84 Interchange area.

4. Traffic Impact Study. See Chapter 4.10.

#### 4.3.500 Approval Criteria: Preliminary Plat

- A. General Approval Criteria.** The City may approve, approve with conditions, or deny a preliminary plat based on the following approval criteria:
1. The proposed preliminary plat complies with all the applicable Development Code sections and other applicable ordinances and regulations. At a minimum, the provisions of this Chapter, and the applicable sections of Chapter 2.0 (Land Use Districts) and Chapter 3.0 (Design Standards) shall apply. Where a variance is necessary to receive preliminary plat approval, the application shall also comply with the relevant sections of Chapter 5.0 (Exceptions);
  2. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;
  3. The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out to conform or transition to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary plat; and
  4. All proposed private common areas and improvements (e.g., homeowner association property) are identified on the preliminary plat.
- B. Housing Density.** The subdivision, if in a residential area, meets the City's housing standards of Chapter 2.
- C. Block and Lot Standards.** All proposed blocks (i.e., one or more lots bound by public streets), lots and parcels conform to the specific requirements below:
1. All lots shall comply with the lot area and dimensional requirements of the applicable land use district (Chapter 2), and the standards of Section 3.1.200.I Street Connectivity and Formation of Blocks.
  2. Setbacks shall be as required by the applicable land use district (Chapter 2).
  3. Each lot shall conform to the standards of Chapter 3.1 Access and Circulation.
  4. In conformance with the Uniform Fire Code, a 20-foot width fire apparatus access drive shall be provided to serve all portions of a building that are located more than 150 feet from a public right-of-way or approved access drive. Also see Chapter 3.1 Access and Circulation.
  5. Where a common drive is to be provided to serve more than one lot, a reciprocal easement which will ensure access and maintenance rights shall be recorded with the approved subdivision or partition plat.
- D. Conditions of Approval.** The City may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations, and may require reserve

strips be granted to the City for the purpose of controlling access to adjoining undeveloped properties. See Section 3.4.000.D (Public Facilities).

#### **4.3.600 Variances Authorized**

Variations from the standards of this Chapter shall be processed in accordance with Chapter 5.1 Variances. Applications for variances shall be submitted at the same time as an application for land division or lot line adjustment is submitted, and the applications shall be reviewed together.

#### **4.3.700 Final Plat Submission Requirements and Approval Criteria**

- A. Submission Requirements.** Final plats shall be reviewed and approved by the City prior to recording with Umatilla County. The applicant shall submit the final plat within 2 years of the approval of the preliminary plat as provided by Section 4.3.300. Specific information about the format and size of the plat, number of copies and other detailed information can be obtained from the Planning Official.
- B. Approval Criteria.** By means of a Type I procedure, the Planning Official and City Engineer shall review the final plat and shall approve or deny the final plat based on findings regarding compliance with the following criteria:
1. The final plat complies 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 Engineer. Alternatively, the developer has provided a performance guarantee in accordance with Section 4.3.900;
  3. The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities;
  4. The streets and roads held for private use have been approved by the City as conforming to the preliminary plat;
  5. The plat contains a dedication to the public of all public improvements, including but not limited to streets, public pathways and trails, access reserve strips, parks, sewage disposal, storm drainage, and water supply systems;
  6. The applicant has provided copies of all recorded homeowners association Covenants, Conditions, and Restrictions (CC&R's); deed restrictions; private easements and agreements (e.g., for access, common areas, parking, etc.); and other recorded documents pertaining to common improvements recorded and referenced on the plat;
  7. The plat complies with the applicable Sections of this code (i.e., there have been no changes in land use or development resulting in a code violation since preliminary plat approval);
  8. Certification by the City or service district, as applicable, that water and sanitary sewer service is available to every lot depicted on the plat;

9. 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, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Geological Survey or giving two or more permanent objects for identifying its location.

#### **4.3.800 Public Improvements**

The following procedures apply to subdivisions and partitions when public improvements are required as a condition of approval:

- A. Public Improvements Required.** Before City approval is certified on the final plat, all required public improvements shall be installed, inspected, and approved. Alternatively, the subdivider/partitioner shall provide a performance guarantee, in accordance with Section 4.3.900.

#### **4.3.900 Performance Guarantees**

- A. Performance Guarantee Required.** When a performance guarantee is required under Section 4.3.800, the subdivider/partitioner shall file an assurance of performance with the City supported by one of the following:
  1. An irrevocable letter of credit executed by a financial institution authorized to transact business in the state of Oregon;
  2. A surety bond executed by a surety company authorized to transact business in the state of Oregon which remains in force until the surety company is notified by the City in writing that it may be terminated; or
  3. Cash.
- B. Determination of Sum.** The assurance of performance shall be for a sum determined by the City as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.
- C. Itemized Improvement Estimate.** The developer shall furnish to the City an itemized improvement estimate, certified by a registered civil engineer, to assist the City in calculating the amount of the performance assurance.
- D. Agreement.** An agreement between the City and developer shall be recorded with the final plat that stipulates all the following:
  1. Specifies the period within which all required improvements and repairs shall be completed;
  2. A provision that if work is not completed within the period specified, the City may complete the work and recover the full cost and expenses from the applicant;
  3. Stipulates the improvement fees and deposits that are required.
  4. (Optional) Provides for the construction of the improvements in stages and for the extension

of time under specific conditions therein stated in the contract.

5. The agreement may be prepared by the City, or in a letter prepared by the applicant. It shall not be valid until it is signed and dated by both the applicant and Planning Official.

**E. When Subdivider Fails to Perform.** In the event the developer fails to carry out all provisions of the agreement and the City has un-reimbursed costs or expenses resulting from such failure, the City shall call on the bond, cash deposit, or letter of credit for reimbursement.

**F. Termination of Performance Guarantee.** The developer shall not cause termination of nor allow expiration of the guarantee without having first secured written authorization from the City.

#### **4.3.1000 Filing and Recording**

**A. Filing plat with County.** Within 60 days of the City approval of the final plat, the applicant shall submit the final plat to Umatilla 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 paper copy 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 it is approved by the County surveyor in the manner provided by ORS Chapter 92.

#### **4.3.1100 Replatting and Vacation of Plats**

**A. Replatting and Vacations.** Any plat or portion thereof may be replatted or vacated upon receiving an application signed by all the owners as appearing on the deed. Lots and parcels can also be combined through the replat process.

**B. Procedure.** All applications for a replat or vacation shall be processed in accordance with the procedures and standards for a subdivision or partition (i.e., the same process used to create the plat shall be used to replat or vacate the plat). The same appeal rights provided through the subdivision and partition process shall be afforded to the replat or vacation process. (See Chapter 4.1 Types of Applications and Review Procedures.)

**C. Basis for Denial.** A replat 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 criteria.

**D. Recording of Vacations.** All approved plat vacations shall be recorded in accordance with 4.3.190 and the following procedures:

1. Once recorded, a replat or vacation shall operate to eliminate the force and effect of the plat

prior to vacation; and

2. Vacations shall also divest all public rights in the streets, alleys and public grounds, and all dedications laid out or described on the plat.

**E. After Sale of Lots.** When lots have been sold, the plat may be vacated only in the manner herein, and provided that all of the owners of lots within the platted area consent in writing to the plat vacation.

**F. Vacation of Streets.** All street vacations shall comply with the procedures and standards set forth in ORS Chapter 271.

**G. Accessways.** The City may require accessways, paths or trails as a condition of the vacation of any public easement or right-of-way, to establish or maintain a safe, convenient, and direct pedestrian and bicycle circulation system.

#### **4.3.1200 Lot Line Adjustments**

Lot Line Adjustments accomplish the modification of lot boundaries when no new lots are created. The application submission and approvals process are as follows:

**A. Submission Requirements.** All applications for a Lot Line Adjustment shall be made on forms provided by the City and shall include information required for a Type I application, as governed by Section 4.1.300. The application shall include a preliminary lot line map 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; existing fences and walls; and any other information deemed necessary by the Planning Official for ensuring compliance with city codes.

**B. Approval Process.**

1. Decision-making process. Lot line adjustments shall be reviewed by means of a Type I procedure, as governed by Section 4.1.300, using approval criteria contained in subsection C, below.
2. Time limit on approval. The lot line adjustment approval shall be effective for a period of 1 year from the date of approval, during which time it must be recorded.
3. Lapsing of approval. The lot line adjustment approval shall lapse if:
  - a. The lot line adjustment is not recorded within the time limit in subsection 2;
  - b. The lot line adjustment has been improperly recorded with Umatilla County without the satisfactory completion of all conditions attached to the approval; or
  - c. The final recording is a departure from the approved plan.

**C. Approval Criteria.** The Planning Official shall approve or deny a request for a lot line adjustment in writing based on findings that all the following criteria are satisfied:

1. No additional parcel or lot is created by the lot line adjustment;
2. Lot standards. All lots and parcels comply with the applicable lot standards of the land use district (Chapter 2) including lot area and dimensions.
3. Access. All lots and parcels comply with the standards or requirements of Chapter 3.1 Access and Circulation; and
4. Setbacks. The resulting lots, parcels, tracts, and building locations comply with the standards of the land use district (Chapter 2).
5. Non-conforming. The resulting lots, parcels, tracts, and building locations may not create development which is non-conforming or closer to non-conformance.
6. Exemptions from Dedications and Improvements. A lot line adjustment is not considered a development action for purposes of determining whether right-of-way dedication or improvement is required.

**D. Recording Lot Line Adjustments.**

1. Recording. Upon the City’s approval of the proposed lot line adjustment, the applicant shall record the lot line adjustment with Umatilla 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 lot line adjustment survey map to the City within 15 days of recording and prior to the issuance of any building permits on the re-configured lots.

**E. Extension.** The City shall, upon written request by the applicant and payment of the required fee, grant an extension of the approval period not to exceed one year provided that:

1. No changes are made on the original plan as approved by the City;
2. The applicant can show intent of recording the approved partition or lot line adjustment within the one-year extension period;
3. There have been no changes in the applicable Code or plan provisions on which the approval was based. In the case where the lot line adjustment conflicts with a code change, the extension shall be denied; and
4. The extension request is made before expiration of the original approved plan.

**4.3.1300 Expedited Land Divisions**

An Expedited Land Division (“ELD”) shall be defined and may be used as in ORS 197.360.

- A. Selection.** An applicant who wishes to use an ELD procedure for a partition, subdivision, or planned development instead of the regular procedure type assigned to it, must request the use of the ELD in writing at the time the application is filed, or forfeit his/her right to use it.
- B. Review procedure.** An ELD shall be reviewed in accordance with the procedures in ORS 197.365.
- C. Appeal procedure.** An appeal of an ELD shall be in accordance with the procedures in ORS 197.375.

## Chapter 4.4 — Conditional Use Permits

### Sections:

4.4.100 - Purpose

4.4.200 - Approvals Process

4.4.300 - Application Submission Requirements

4.4.400 - Criteria, Standards and Conditions of Approval

4.4.500 - Additional Development Standards for Conditional Use Types

### 4.4.100 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. These are identified as “Conditional Uses” in Chapter 2 Land Use Districts. The purpose of Chapter 4.4 is to provide standards and procedures under which a conditional use may be permitted, enlarged, or altered if the site is appropriate and if other appropriate conditions of approval can be met.

### 4.4.200 Approvals Process

- A. **Initial Application.** An application for a new conditional use shall be processed as a Type III procedure (Section 4.1.500). The application shall meet submission requirements in Section 4.4.300, and the approval criteria contained in Section 4.4.400.
- B. **Modification of Approved or Existing Conditional Use.** Modifications to approved or existing conditional uses shall be processed in accordance with Chapter 4.6 Modifications.

### 4.4.300 Application Submission Requirements

In addition to the submission requirements required in Chapter 4.1, an application for conditional use approval must include the following information (A-H), as applicable. For a description of each item, please refer to Section 4.2.500 Site Design Review Application Submission Requirements:

- A. Existing site conditions;
- B. Site plan;
- C. Preliminary grading plan;
- D. A landscape plan;
- E. Architectural drawings of all structures;
- F. Drawings of all proposed signs;
- G. A copy of all existing and proposed restrictions or covenants.
- H. Narrative report or letter documenting compliance with all applicable approval criteria in Section

4.4.400.

#### **4.4.400 Criteria, Standards, and Conditions of Approval**

The City shall approve, approve with conditions, or deny an application for a conditional use or to enlarge or alter a conditional use based on findings of fact with respect to each of the following standards and criteria:

##### **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 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 Chapter 2; nor shall a conditional use permit grant a variance without a variance application being reviewed with the conditional use application.

**B. Site Design Standards.** The criteria for Site Design Review approval (Section 4.2.600) shall be met.

**C. General Conditions.** In addition to the standards and conditions set forth in a specific land use district, 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, 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 height, size or 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(s), sidewalks or other pedestrian or bicycle pathway, curbs, planting strips, pathways, or trails to be improved, as applicable;
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, 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 (Chapter 3.7);
13. 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 II 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 directed by the Planning Commission.

#### **4.4.500 Additional Development Standards for Conditional Use Types**

**Transportation System Facilities and Improvements.** Construction, reconstruction, or widening of highways, roads, bridges, or other transportation facilities that are not (1) improvements designated in the city's adopted Transportation System Plan or not (2) designed and constructed as part of an approved subdivision or partition, are allowed in all Districts subject to a Conditional Use Permit and the following criteria.

- A.** The project and its design are consistent with the city's adopted Transportation System Plan (TSP), or, if the City has not amended the TSP, consistent with the State Transportation Planning Rule, OAR 660-012 (the TPR).
- B.** The project design is compatible with abutting land uses regarding noise generation and public safety and is consistent with the applicable zoning and development standards and criteria for the abutting properties.
- C.** The project design minimizes environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities, and a site with fewer environmental impacts is not reasonably available. The applicant shall document all efforts to obtain a site with fewer environmental impacts, and the reasons alternative sites were not chosen.
- D.** The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.
- E.** The project includes provisions for bicycle and pedestrian access and circulation consistent with the comprehensive plan, the requirements of this ordinance, and the TSP or TPR.

- F. For State transportation facility projects, the State Department of Transportation (ODOT) shall provide a narrative statement with the application demonstrating compliance with all of the criteria and standards in section 2-5. above.
- G. Where applicable an EIS or EA may be used to address one or more of these criteria.
- H. If the City determines that the proposed use or activity or its design is inconsistent with the TSP or TPR, then the applicant shall obtain a plan and/or zoning amendment prior to or in conjunction with conditional use permit approval. The applicant's options are as follows:
  - 1. If the City determination is made prior to a final decision on the conditional use permit application, permanently withdraw the conditional permit application, or
  - 2. If the City determination is made prior to a final decision on the conditional use permit application, withdraw the conditional permit application, apply for a plan/zone amendment, and re-apply for a conditional use permit when the amendment is approved, or
  - 3. If the City determination is made prior to a final decision on the conditional use permit application, submit a plan/zoning amendment application for joint review and decision with the conditional use permit application, along with a written waiver of the ORS 227.178 120- day period within which to complete all local reviews and appeals once the application is deemed complete, or
  - 4. If the City determination is part of a final decision on the conditional use permit application, submit a new conditional use permit application, along with a plan/zoning amendment application for joint review and decision.
- I. A Conditional Use Permit for Transportation System Facilities shall be void after three (3) years.

**Concurrent Variance Application(s).** A conditional use permit shall not grant variances to regulations otherwise prescribed by the Development Code. Variance application(s) may be filed in conjunction with the conditional use application and both applications may be reviewed at the same hearing.

**Additional Development Standards.** Development standards for specific uses are contained in Chapter 2 Land Use Districts.

## Chapter 4.5 — Master Planned Developments

### Sections:

- 4.5.100 - Purpose
- 4.5.200 - Applicability
- 4.5.300 - Review and Approvals Process
- 4.5.400 - Overlay Zone and Concept Plan Submission
- 4.5.500 - Overlay Zone and Concept Plan Approval Criteria
- 4.5.600 - Administrative Procedures
- 4.5.700 - Detailed Development Plan Submission Requirements
- 4.5.800 - Detailed Development Plan Approval Criteria
- 4.5.900 - Development Review and Building Permit Approvals

### 4.5.100 Purpose

The purposes of this Section are to:

- Implement the Development standards of Chapter 2, Section 2.5 by providing a means for master planning large development sites;
- Encourage innovative planning that results in more mixed-use development, improved protection of open spaces, transportation options, and site phasing of development;
- Encourage developments that recognize the relationship between buildings, their use, open space, and transportation options, providing varied opportunities for innovative and diversified employment environments;
- Facilitate the efficient use of land;
- Promote an economic arrangement of land use, buildings, circulation systems, open space, and utilities;
- Preserve to the greatest extent possible the existing landscape features and amenities that may not otherwise be protected through conventional development;
- Encourage energy conservation and improved air and water quality; and
- Assist the City in planning infrastructure improvements.

### 4.5.200 Applicability

The master planned development designation is an overlay zone which may be applied over any of the City's land use districts as noted in Chapter 2 for projects proposed at or over 40-acres. An applicant may also elect to develop a project as a master planned development in compliance with the requirements of this chapter. The review and approval process for Master Planned Developments are also applicable to requests for Specific Area Plans.

### 4.5.300 Review and Approvals Process

**A. Review Steps.** There are three required steps to a Master Planned Development approval, which may be completed individually or combined for concurrent review:

1. The approval of a Master Planned Development concept plan;

2. The approval of a detailed development plan, which may include a preliminary subdivision plan; and
3. The approval of a final development plan i.e. final plat(s) and/or site design review approval(s).

**B. Approval Process.**

1. The Master Planned Development (MPD) Concept Plan shall be reviewed using the Type IV procedure in Section 4.1.500, the submission requirements in Section 4.5.400, and the approval criteria in Section 4.5. 500.
2. The detailed development plan and preliminary subdivision plan shall be reviewed using the Type II procedure in Section 4.1.400, to ensure substantial compliance with the approved concept plan.
3. Preliminary subdivision plats and site design review applications for approved planned developments shall be reviewed using a Type II procedure, as governed by Section 4.2.400. NOTE: This variation from the standard procedures of Chapter 4.2 - Site Design Review, and Chapter 4.3 - Land Divisions is intended to streamline review for projects which have received the required Master Planned Development approvals.
4. Steps 1-3, above, may be combined in any manner, so long as the decision-making sequence follows that in subsection A, above. Notification and hearings may be combined.

The design standards of Chapter 3 apply to all master planned developments. Variances shall conform to the standards and procedures of Chapter 5.1 - Variances.

**4.5.350 Modifications to Development Standards**

The standards of Chapter 2 and Chapter 3 may be modified through the Master Plan Development process without the need for variance under Chapter 5.1. In evaluating this criterion, the Planning Commission 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 Planning Commission shall apply the following criteria. The City may deny an application for Master Planned Development concept plan approval that does not meet all the following criteria:

- A. Comprehensive Plan.** The modification does not conflict with the Comprehensive Plan.
- 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;

3. Greater protection of natural features than would be required under the base Development Code standards;
4. Avoidance of natural hazards (e.g., geological hazards, river resources, or flood hazards); and
5. 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 Planning Development.

**4.5.400 Overlay Zone and Concept Plan Submission**

**A. General Submission Requirements.** The applicant shall submit an application containing all of the general information required for a Type III procedure, as governed by Section 4.1.500. In addition, the applicant shall submit the following:

1. A statement of planning objectives to be achieved by the Master Planned Development through the 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. A development schedule indicating the approximate dates when construction of the Master Planning Development and its various phases are expected to be initiated and completed.
3. A statement of the applicant's intentions regarding 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 4.5.500.
5. Maintenance plan for any common areas or lands not dedicated to a public agency or owned in fee simple.
6. Special studies prepared by qualified professionals may be required by the Planning Official, Planning Commission, or City Council to determine potential traffic, geologic, noise, environmental, natural resource, and other impacts, and required mitigation. If the Transportation Planning Rule would be applicable an analysis is required.

**B. Additional Information.** In addition to the general information described in Subsection “A” above, the concept plan, data, and narrative shall include the following exhibits and information:

1. Existing Conditions map, as defined in Section 4.2.500 - 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., information sufficient to describe architectural styles, building heights, and general materials);
6. Sign concept (e.g., locations, general size, style and materials of signs);
7. Copy of all existing covenants and restrictions, and general description of proposed restrictions or covenants (e.g., for common areas, access, parking, etc.).

#### **4.5.500 Concept Plan Approval Criteria**

The City shall make findings that all the following criteria are satisfied when approving or approving with conditions, the overlay zone and concept plan. The City shall make findings that not all the criteria are satisfied when denying an application:

- A. Comprehensive Plan.** The proposal conforms to the Comprehensive Plan.
- B. Land Division Chapter.** Except as may be modified under Section 4.5.350, all the requirements for land divisions, under Chapter 4.3, are met.
- C. Chapter 2 and 3 Standards.** Except as may be modified under Section 4.5.350, all the applicable requirements of Chapter 2 and Chapter 3 are met.
- D. Requirements for Common Open Space.** Thirty (30) percent of the total buildable site area shall be designated as Common Open Space. The following standards apply:
  1. The open space area shall be shown on the final plan and recorded with the final plat or separate instrument; and
  2. The open space shall be conveyed in accordance with one of the following methods:
    - a. 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 Official with regard to the size, shape, location, improvement, environmental condition (i.e., the applicant may be required to provide a level one environmental assessment), and budgetary and maintenance abilities;
    - b. By leasing or conveying title (including beneficial ownership) to a corporation, home association or other legal entity, with the City retaining the development rights to the property. The terms of such lease or other instrument of conveyance must include provisions (e.g., maintenance, property tax payment, etc.) suitable to the City.

#### **4.5.600 Administrative Procedures**

- A. Land Use District Map Designation.** After a Master Planned Development has been approved, the land use district map shall be amended in accordance with Chapter 4.7 Map and Text Amendments, to indicate the approved Master Planned Development designation for the subject development site. The approval of the Master Planned Development shall not expire.

- B. Time Limit on Filing of Detailed Development Plan.** Within three (3) years after the date of approval of the concept plan, the applicant or his or her successor shall prepare and file with the City a detailed development plan, in conformance with Section 4.5.300.
- C. Extension.** The City shall, upon written request by the applicant and payment of the required fee, grant an extension of the approval period not to exceed one year provided that:
  1. No changes have been made to the original conceptual development plan as approved;
  2. The applicant can show intent of applying for detailed development plan review within the one-year extension period;
  3. There have been no changes to the applicable Comprehensive Plan policies and ordinance provisions on which the approval was based; and
  4. The extension request is made before the expiration of the original approval period.
  5. A second extension can be granted if evidence of progress can be provided. Items 1 through 4 above are still applicable.

**4.5.700 Detailed Development Plan Submission Requirements**

The contents of the detailed development plan shall be determined based on the conditions of approval for the concept plan. At a minimum, the detailed development plan shall identify the final proposed location of all lots, tracts, parcels, open space, rights-of-way, building envelopes and other features, prior to approval of a development permit (e.g., Land Division, Development Review, Site Design Review, etc.). The detailed development plan shall be reviewed using a Type III procedure.

**4.5.800 Detailed Development Plan Approval Criteria**

The City shall approve the detailed development plan upon finding that the final plan conforms with the concept plan and required conditions of approval. Minor changes to the approved concept plan may be approved with the detailed plan, consistent with the following criteria:

- A.** Increased residential densities (for residential plans) or lot coverage by no more than 15 percent, when such change conforms to the Comprehensive Plan;
- B.** A reduction to the amount of open space or landscaping by no more than 10 percent;
- C.** An increase in lot coverage by buildings or changes in the amount of parking by no more than 15 percent. Greater changes require a major modification (Chapter 4.6);
- D.** No change in land use shall be permitted without approving a major modification to the concept plan (Chapter 4.6);
- E.** No change which places development within environmentally sensitive areas or areas subject to a potential hazard shall be approved without approving a major modification to the concept plan (Chapter 4.6); and

- F. The location of buildings, proposed streets, parking lot configuration, utility easements, landscaping or other site improvements shall be as proposed on the concept plan, or as modified through conditions of approval. Changes in the location or alignment of these features by more than 100 feet shall require approval of a major modification, in conformance with Chapter 4.6.
- G. Other substantial modifications made to the approved conceptual development plan shall require approval of either a minor modification or major modification, in conformance with Chapter 4.6.

#### **4.5.900 Development Review and Building Permit Approvals**

Upon receiving detailed development plan approval, the applicant may apply for a development permit (e.g., Land Division, Development Review, Site Design Review, etc.). Building permits shall not be issued until all required development permits have been issued and appeal periods have ended.

- A. Chapter 4.2 applies to developments requiring Development Review or Site Design Review.
- B. Chapter 4.3 applies to Land Divisions.
- C. Streamlined review option. Preliminary subdivision plats and site design review applications for approved master planned developments may be reviewed using a Type II procedure, rather than the conventional Type III procedure. This shall be the applicant's option. The variation from the standard procedures of Chapter 4.2 - Site Design Review, and Chapter 4.3 - Land Divisions is intended to streamline review of projects that have received Master Planned Development approvals, since those projects have previously been subject to public review and hearings.

## Chapter 4.6 — Modifications to Approved Plans and Conditions of Approval

### Sections:

**4.6.100 - Purpose**

**4.6.200 - Applicability**

**4.6.300 - Major Modifications**

**4.6.400 - Minor Modifications**

### **4.6.100 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.

### **4.6.200 Applicability**

- A.** This Chapter applies to all development applications approved through the provisions of Chapter 4 including:
1. Site Design Review Type II and III approvals;
  2. Subdivisions, Partitions, Replats, and Lot Line Adjustments;
  3. Conditional Use Permits;
  4. Master Planned Developments; and
  5. Conditions of approval on any of the above application types.
- B.** This Chapter does not apply to land use district changes, text amendments, temporary use permits, or other permits.

### **4.6.300 Major Modifications**

- A. Major Modification Defined.** The Planning Official shall determine that a major modification(s) request is required if one or more of the changes listed below are proposed:
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, an increase in hours of operation, an increased demand for parking, additional paved area, or similar factors, where the increase is 20 percent or more, provided the standards of Chapter 2 and Chapter 3 are met;
  2. An increase in the number of dwelling units in a multi-family development, or the number of lots in a proposed subdivision, by 10 percent or more, provided the standards of Chapter 2 and Chapter 3 are met;

3. 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);
4. An increase in the floor area proposed for commercial or industrial use by more than 15 percent where previously specified;
5. A reduction to screening, or a reduction of more than 10% percent of the area reserved for common open space and/or usable open space or landscaping;
6. A reduction to specified setback requirements by more than 10% percent, or to a degree that the minimum setback standards of the land use district cannot be met and provided the standards of Chapter 2 and Chapter 3 can be met;
7. An increase in lot coverage, by 10 percent or more, provided the standards of Chapter 2 and Chapter 3 are met.
8. Changes similar to those listed in 1-7, which are likely to have an adverse impact on adjoining properties.

**B. Major Modification Request.** An applicant may request a major modification as follows:

1. Upon the Planning Official determining that the proposed modification is a major modification, the applicant shall submit an application for the major modification.
2. The modification request shall be subject to the same review procedure (Type I, II, or III) and approval criteria used for the initial project approval, however, the review shall be limited in scope to the modification request. For example, a request to modify a parking lot shall require site design review only for the proposed parking lot and any changes to associated pathways, lighting, and landscaping. Notice shall be provided in accordance with the applicable review procedure.

#### **4.6.400 Minor Modifications**

**A. Minor Modification Defined.** Any modification to a land use decision or approved development plan that is not within the description of a major modification as provided in Section 4.6.300, above, shall be considered a minor modification.

**B. Minor Modification Request.** An application for approval of a minor modification is reviewed using the Type II procedure in Section 4.1.400. A minor modification shall be approved, approved with conditions, or denied by the Planning Official based on written findings on the following criteria:

1. The proposed development complies with all applicable requirements of the Development Code,
2. The proposed modification complies with the conditions of approval of the original decision; and
3. The modification is not a major modification as defined in Section 4.6.300, above.

## Chapter 4.7 — Reserved

Sections:

## Chapter 4.8 — Code Interpretations

### Sections:

**4.8.100 - Purpose**

**4.8.200 - Authorization of Similar Uses**

**4.8.300 – Code Interpretation Procedure**

### **4.8.100 Purpose**

Some terms or phrases within the Code may have two or more reasonable meanings. This section provides a process for resolving differences in the interpretation of the Code text.

### **4.8.200 Authorization of Similar Uses**

Where a proposed use is not specifically identified by this Code, or the Code is unclear as to whether the use is allowed in a particular zone, the Planning Official may find the use is similar to another use that is permitted, allowed conditionally, or prohibited in the subject zone and apply the Code accordingly. However, uses and activities that this Code specifically prohibits in the subject zone, and uses and activities that the Planning Official finds are similar to those that are prohibited, are not allowed. Similar use rulings that require discretion on the part of City officials shall be processed following the Type II procedure of Chapter 4.1.400.

### **4.8.300 Code Interpretation Procedure**

- A. Requests.** A request for a code interpretation (“interpretation”) shall be made in writing to the City Manager. The Planning Official may develop written guidelines for the application process.
- B. Decision to Issue Interpretation.** The Planning Official shall have the authority to review a request for an interpretation. The Planning Official shall advise the requester in writing within 14 days after the request is made, on whether the City will issue an interpretation.
- C. Declining Requests for Interpretations.** The Planning Official is authorized to issue or decline to issue a requested interpretation. The basis for declining may include, but is not limited to, a finding that the subject Code section affords only one reasonable interpretation, and the interpretation does not support the request.
- D. Written Interpretation.** If the Planning Official decides to issue an interpretation, it shall be issued in writing and shall be mailed or delivered to the person requesting the interpretation and any other person who specifically requested a copy of the interpretation. The written interpretation shall be issued within 14 days after the City advises the requester that an interpretation shall be issued. The decision shall become effective 14 days later unless an appeal is filed in accordance with E-G below.
- E. Appeals.** The applicant and any party who received such notice or who participated in the proceedings through the submission of written or verbal evidence of an interpretation may appeal the interpretation to the City Council within 14 days after the interpretation was mailed or delivered to the applicant. The appeal may be initiated by filing a notice of appeal with the Planning Official

pursuant to Section 4.1.400.G.

- F. **Appeal Procedure.** City Council shall hear all appeals of a Planning Official interpretation as a Type III action pursuant to Section 4.1.500, except that written notice of the hearing shall be provided to the applicant, any other party who has filed a notice of appeal, and any other person who requested notice.
  
- G. **Final Decision/Effective Date.** The decision of the City Council on an appeal of an interpretation shall be final and effective when it is mailed to the applicant. If an appeal of the City Council's decision is filed, the decision remains effective unless or until it is modified by the Land Use Board of Appeals or a court of competent jurisdiction.
  
- H. **Interpretations On File.** The City shall keep on file a record of all code interpretations.

## Chapter 4.9 — Miscellaneous Permits

### Sections:

#### 4.9.100 - Temporary Use Permits

#### 4.9.100 Temporary Use Permits

Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to construction trailers, leasing offices, temporary carnivals and fairs, parking lot sales, retail warehouse sales, and seasonal sales such as Christmas tree sales and fruit and vegetable stands.

- A. Temporary Sales Office or Model Home.** Using a Type I procedure under Section 4.1.400, the City may approve, approve with conditions or deny an application for the use of any real property within the City as a temporary sales office, offices for the purpose of facilitating the sale of real property, or model home in any subdivision or tract of land within the City, but for no other purpose, based on the following criteria:
1. Temporary sales office and construction storage:
    - a. The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold; and
    - b. The property to be used for a temporary sales office or construction storage shall not be permanently improved for that purpose.
  2. Model house:
    - a. The model house shall be located within the boundaries of the subdivision or tract of land where the real property to be sold is situated; and
    - b. The model house shall be designed as a permanent structure that meets all relevant requirements of this Code.
- B. Temporary Building.** Using a Type II procedure, as governed by Section 4.1.400, the City may approve, approve with conditions, or deny an application for a temporary trailer or prefabricated building for use on any real commercial or industrial property such as a construction storage trailer, within the City as a temporary commercial or industrial office or space associated with the primary use on the property, but for no other purpose, based on following criteria:
1. The temporary trailer or building shall be located within the boundaries of the parcel of land on which it is located;
  2. The primary use on the property to be used for a temporary trailer is already developed;
  3. Ingress and egress are safe and adequate when combined with the other uses of the property; as required by Section 3.1.200 - Vehicular Access and Circulation
  4. There is adequate parking for the customers or users of the temporary use as required by Chapter 3.3 - Bicycle and Vehicle Parking.

5. The use will not result in vehicular congestion on streets;
6. The use will pose no hazard to pedestrians in the area of the use;
7. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare, or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not;
8. The building complies with applicable building codes;
9. The use can be adequately served by sewer or septic system and water, if applicable, or adequate temporary options are obtained. (The applicant shall be responsible for obtaining any related permits); and
10. The length of time that the temporary building will be used ***does not exceed 6 months***. When a temporary building exceeds this time frame, the applicant shall be required to remove the building or renew the temporary use permit.

## Chapter 4.10 Traffic Impact Study or Trip Generation Letter

### Sections:

4.10.100 - Purpose

4.10.200 - When Required

4.10.300 - Traffic Impact Study Requirements

4.10.400 - Approval Criteria

### 4.10.100 Purpose

- A. Purpose.** The purpose of this section of the code is to implement Section 660-012-0045(2)(e) of the state Transportation Planning Rule that requires the City to adopt a process to apply conditions to development proposals to minimize impacts and protect transportation facilities. This Chapter establishes the standards for when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Study or Trip Generation Letter must be submitted with a development application to determine whether conditions are needed to minimize impacts to and protect transportation facilities; what must be in a Traffic Impact Study or Trip Generation Letter; and who is qualified to prepare the Study or Letter.

### 4.10.200 When Required

- A. When a Traffic Impact Study is required.** A Traffic Impact Study shall be prepared and submitted to the City as part of an application for development, a change in use, or a change in access. The submitted Traffic Impact Study will be reviewed by the City and Oregon Department of Transportation when the following apply:
1. A change in zoning or a plan amendment designation;
  2. Operational or safety concerns documented in writing by a road authority;
  3. An increase in site traffic volume generation by 300 Average Daily Trips (ADT) or more;
  4. An increase in peak hour volume of a particular movement to and from a street or highway by 20 percent or more;
  5. An increase in the use of adjacent streets by vehicles exceeding the 20,000-pound gross vehicle weights by 10 vehicles or more per day;
  6. Existing or proposed approaches or access connections that do not meet minimum spacing or sight distance requirements or are located where vehicles entering or leaving the property are restricted, or such vehicles are likely to queue or hesitate at an approach or access connection, creating a safety hazard;
  7. A change in internal traffic patterns that may cause safety concerns; or
  8. A TIA required by ODOT pursuant to OAR 734-051.
- B. When a Trip Generation Letter is required.** A Trip Generation Letter is required for:
1. Any development listed below that would generate more than 100 new daily trips but less than the TIS standards in A above will require a Trip Generation Letter. Such developments include:
    - Residential development consisting of more than 10 dwelling units,
    - Commercial development along or adjacent to Highway 730 that does not require a TIS,

- Industrial development along or adjacent to Highway 730 that does not require a TIS, and
  - Any mixed-use development along or adjacent to Highway 730 that does not require a TIS.
2. Any case where, in the judgement of City staff, a Trip Generation Letter is necessary to protect the public interest.

#### **4.10.300 Traffic Impact Study Requirements**

**A. Preparation.** A Traffic Impact Study shall be prepared by an Oregon professional engineer in accordance with OAR 734-051-180.

**B. Transportation Planning Rule Compliance.** See Section 4.7.600.

#### **4.10.400 Approval Criteria**

**A. Criteria.** When a Traffic Impact Study is required, approval of the development proposal requires satisfaction of the following criteria:

1. The Traffic Impact Study was prepared by a professional engineer in accordance with OAR 734-051-0180;
2. If the proposed development shall cause one or more of the effects in Section 4.10.200 above, or other traffic hazard or negative impact to a transportation facility, the Traffic Impact Study includes mitigation measures satisfactory to the City Engineer, and ODOT when applicable; and
3. The proposed site design and traffic and circulation design and facilities, for all transportation modes, including any mitigation measures, are designed to:
  - a. Have the least negative impact on all applicable transportation facilities;
  - b. Accommodate and encourage non-motor vehicular modes of transportation to the extent practicable;
  - c. Make the most efficient use of land and public facilities as practicable;
  - d. Provide the most direct, safe, and convenient routes practicable between on-site destinations, and between on-site and off-site destinations; and
  - e. Otherwise comply with applicable requirements of the City of Echo Development Code, including Chapters 3.1 Access and Circulation, 3.2. Landscaping, 3.3 Vehicle and Bicycle Parking, 3.4 Public Facilities Standards, (3.5 Surface Water Management,) and 3.8 Loading Standards.

**B. Conditions of Approval.** The City may deny, approve, or approve the proposal with appropriate conditions.