

ARTICLE V REVIEW PROCEDURES
Chapter 5.01 Application Types

CHAPTER 5.01 APPLICATION TYPES

5.01.010 Summary of Application Types

- (1) **General.** With the exceptions noted below, all development permits and land use actions are processed under the administrative procedures provided for in this Chapter. There are four types of actions, each with its own procedures.
- (2) **Building Permit.** Building permits are subject to provisions of the most recently adopted Oregon State Building Code and are processed administratively. Therefore, these actions are not considered land use actions and subject to appeal. The procedures in this Chapter only apply if an action is necessary to site the use or vary a requirement of the Development Code.

5.01.020 Actions

- (1) **Type I Action.** A ministerial action reviewed by staff based on clear and objective standards. Conditions are limited to those that ensure compliance with Code requirements and implement these standards. Decisions are memorialized on the relevant permit form or other order. Specific Type I processes are shown Section 5.01.030 - Table of Land Use Application Procedures.
- (2) **Type II Action.** A ministerial action reviewed by staff based on clear and objective standards. Conditions are limited to those that ensure compliance with Code requirements and implement these standards. Notice of the decision is sent to the applicant and adjacent property owners who submitted comments, after a decision is reached. Appeal is to the Planning Commission. Specific Type II processes are shown Section 5.01.030 - Table of Land Use Application Procedures.
- (3) **Type III Action.** A Type III action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow discretion. Public notice and a public hearing are provided. Appeal of a Type III decision is to the City Council. Specific Type III processes are shown Section 5.01.030 - Table of Land Use Application Procedures.
- (4) **Type IV Action.** A Type IV action can be either quasi-judicial or legislative actions. The quasi-judicial process applies to map amendments for individual properties. Plan and zone amendments or text amendments that impact larger areas are legislative actions. These later amendments must be initiated by City staff, Planning Commission, or City Council, although a private party may suggest such amendments. Both actions require hearings before both the Planning Commission and City Council with the Commission providing an advisory role and the Council rendering the Final Decision unless appealed. Public notice is provided for both public hearings. Appeal of the decision is to the Land Use Board of Appeals (LUBA). Specific Type IV processes are shown Section 5.01.030 - Table of Land Use Application Procedures.

ARTICLE V REVIEW PROCEDURES

Chapter 5.01 Application Types

5.01.030 Table of Land Use Application Procedures

Table 22 - Land Use Application Procedures

Land Use Application Procedures				
Land Use Action	Type	Staff	Planning Commission	City Council
Property Boundary Adjustment	Type - I	Final Decision	No role	No role
Sign Permit	Type - I	Final Decision	No role	No role
Temporary Use	Type - I	Final Decision	No role	No role
Adjustment	Type - II	Final Decision unless appealed	Appeal - Staff Decision	Appeal - Commission Decision
Interpretations	Type - II	Final Decision unless appealed	Appeal - Staff Decision	Appeal - Commission Decision
Partition	Type - II	Final Decision unless appealed	Appeal - Staff Decision	Appeal - Commission Decision
Subdivision	Type - II	Final Decision unless appealed	Appeal - Staff Decision	Appeal - Commission Decision
Conditional Use Permits	Type - III	Recommendation to Commission	Final Decision unless appealed	Appeal - Commission Decision
Home Occupation (employees or vehicles)	Type - III	Recommendation to Commission	Final Decision unless appealed	Appeal - Commission Decision
Nonconforming Uses (Alteration or Expansion)	Type - III	Recommendation to Commission	Final Decision unless appealed	Appeal - Commission Decision
Site Development Review	Type - III	Recommendation to Commission	Final Decision unless appealed	Appeal - Commission Decision

ARTICLE V REVIEW PROCEDURES
 Chapter 5.01 Application Types

Land Use Application Procedures				
Land Use Action	Type	Staff	Planning Commission	City Council
Variance	Type - III	Recommendation to Commission	Final Decision unless appealed	Appeal - Commission Decision
Annexation	Type - IV	Recommendation to Commission	Recommendation to Council	Final Decision unless appealed
Comp. Plan Map Amendment	Type - IV	Recommendation to Commission	Recommendation to Council	Final Decision unless appealed
Text Amendment	Type - IV	Recommendation to Commission	Recommendation to Council	Final Decision unless appealed
Zone Map Amendment	Type - IV	Recommendation to Commission	Recommendation to Council	Final Decision unless appealed

5.01.040 Expiration of Approval and Time Extension

- (1) **Expiration.** All land use approvals, except Type IV approvals, shall expire one year from the date of approval, except when a specific condition of approval establishes a greater expiration period, but in no case shall the expiration period exceed three years. The land use approval shall expire in accordance with the established expiration period unless it is exercised in accordance with Section 5.01.050, or an extension has been filed before the expiration date and subsequently granted approval pursuant to Section 5.01.040(2). In all cases, construction must be complete within 10 years of the Notice of Decision, otherwise the land use approval expires relative to any unfinished portion of the development.
- (2) **Time Extension.** These provisions apply to all land use approvals that have not expired.
 - a. Whenever the decision requires exercise of approval rights or satisfaction of conditions of approval within a particular period of time, the approval period may be extended one time for two years for all land use approvals. In the case of phased or planned developments, a second two-year extension may be granted. Applicants shall apply for an extension by filing an application for extension before the expiration date. For the purposes of this subsection the expiration date shall be the applicable anniversary date of the Notice of Decision previously given to the applicant.
 - b. Requests for extensions shall be processed as a Type I application and shall be granted if there has been no change to all applicable local, state, or federal standards since the original approval, or the development complies

ARTICLE V REVIEW PROCEDURES

Chapter 5.01 Application Types

with any changes or can meet the current standards with limited modifications to the approved development.

- c. If the Type I application for the extension request is not approved, the subject land use approval shall expire on the applicable anniversary date of the most recent Notice of Decision previously issued to the applicant.
 - d. While an application for extension is pending, no further action to develop the subject property or expand any use dependent upon the approval shall be taken subsequent to the expiration of the approval period; but existing established uses may continue during the time the extension request is pending.
- (3) **Approval Runs with the Land.** Approval of a land use decision runs with the land. The approval transfers to a new owner if the property is sold.
- (4) **Lapse of Approval.** If the approval period is allowed to lapse, the applicant must resubmit the proposal, including all applicable fees, for public hearing before the Planning Commission. The applicant will be subject to all applicable standards currently in effect.

5.01.050 Exercising a Land Use Approval

Unless otherwise specifically stated, exercising a land use decision shall be subject to the following regulations.

- (1) **Building Permit.** Except for Manufactured Home Parks, when a building permit is required as part of an approved land use, the decision shall be considered exercised with the first placement or permanent construction of a structure on a site. This may include the pouring of slabs or footings, any work beyond the stage of excavation, including the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; the installation of driveways or walkways; the excavation for a basement, footings, piers or foundations, or the erection of temporary forms; the construction of accessory buildings, such as garages or sheds not occupied as dwelling units or not used as part of the main structure.
- (2) **Subdivision and Partitions.** The decision shall be considered exercised with the beginning of construction of public facilities serving the site.
- (3) **Manufactured Homes Parks.** The decision shall be considered exercised with the beginning of construction of facilities for servicing the site on which the manufactured homes are to be placed. This shall include, at a minimum, the construction of streets with final site grading or the pouring of concrete pads, or the extension or installation of utilities.
- (4) **Specific Use.** If the approval does not require a building permit, the decision shall be considered exercised if the use or activity which was approved is in operation within the allotted time limit.

ARTICLE V REVIEW PROCEDURES

Chapter 5.01 Application Types

5.01.060 Modifying a Land Use Decision

- (1) Conditions of approval imposed in a land use decision may be modified by using the process outlined in 5.15.060.
- (2) The applicant shall have the legal right to represent all undeveloped land within the original area subject of the application.
- (3) Applications for modification shall only be used in cases in which the applicant requests reconsideration of a specific condition(s) of approval. Only those conditions shall be considered for change by the decision-making body.
- (4) Any other change requested may only be considered by filing a new application.

ARTICLE V REVIEW PROCEDURES
Chapter 5.01 Application Types

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ARTICLE V REVIEW PROCEDURES
Chapter 5.03 Processing Adjustments

CHAPTER 5.02 PROCESSING ADJUSTMENTS

5.02.010 Applicability

The development standards in this Development Code protect the public health, safety, and welfare by establishing standard setbacks, maximum building heights, and other development standards that apply to various uses. For lands or uses with unique characteristics the intent and purpose of the development standards may be maintained while allowing for a modification to the quantifiable requirements. An Adjustment may be approved for those requests resulting in no more than a 10% change in a quantifiable standard.

5.02.020 Process

Adjustments applications shall be reviewed in accordance with the Type II review procedures specified in Chapter 5.18.

5.02.030 Application

An application for an adjustment shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 5.18.

5.02.040 Submittal Requirements

The applicant shall prepare and submit an application, site plan, and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. The site plan shall show pertinent information to scale to facilitate the review of the proposed development.

- (1) **General Information.** The following general information shall be shown on the site plan:
 - a. Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
 - b. North arrow and scale of drawing.
 - c. Tax map and tax lot number or tax account of the subject property.
 - d. Dimensions and size in square feet or acres of the subject property and of any proposed parcels or lots.
 - e. Location of all existing easements within the property.
 - f. Location of City utilities (water, sanitary sewer, storm drainage) within the property.
 - g. Existing use of the property, including location of existing structures with dimensions of the structures and distances from property lines. It shall be

ARTICLE V REVIEW PROCEDURES

Chapter 5.02 Processing Adjustments

noted whether the existing structures are to remain or be removed from the property.

- h. A site plan clearly indicating the proposed adjustment including dimensions.
- (2) At the discretion of the Planning Director the previous requirements may be waived provided there is sufficient information to allow processing of an application.

5.02.050 Adjustment Applicability

An applicant may propose a modification from a standard or requirement of this Code, except when one or more of the following apply:

- (1) The proposed request would allow a use which is not permitted in the zone.
- (2) Another procedure and/or criterion is specified in the Code for modifying or waiving the particular requirement or standard.
- (3) Modification of the requirement or standard is prohibited within the zone.
- (4) Adjustments are not allowed for parking, sign standards, or minimum lot sizes.

5.02.060 Decision Criteria

Approval of an adjustment shall require compliance with the following:

- (1) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this Code, topography, or other circumstances over which the applicant has no control.
- (2) The particular proposed development otherwise clearly satisfies the intent and purpose of the provision being adjusted.
- (3) The proposed development will not unreasonably impact adjacent existing or planned uses and development.
- (4) The adjustment does not expand or reduce a quantifiable standard by more than 10% and is the minimum necessary to achieve the purpose of the adjustment.
- (5) There has not been a previous land use action prohibiting an application for an adjustment.

ARTICLE V REVIEW PROCEDURES

Chapter 5.03 Processing Variances

CHAPTER 5.03 PROCESSING VARIANCES

5.03.010 Applicability

The development standards in this Development Code protect the public health, safety, and welfare by establishing standard setbacks, maximum building heights, and other development standards that apply to various uses. For lands or uses with unique characteristics the intent and purpose of the development standards may be maintained while allowing for a variance to quantifiable requirements. A variance may be approved for those requests resulting in greater than a 10% change in a quantifiable standard.

5.03.020 Process

Variance applications shall be reviewed in accordance with the Type III review procedures specified in Chapter 5.19.

5.03.030 Application

An application for a variance shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 5.19.

5.03.040 Submittal Requirements

The applicant shall prepare and submit an application, site plan, and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. The site plan shall show pertinent information to scale to facilitate the review of the proposed development.

(1) **General Information.** The following general information shall be shown on the site plan:

- a. Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
- b. North arrow and scale of drawing.
- c. Tax map and tax lot number or tax account of the subject property.
- d. Dimensions and size in square feet or acres of the subject property and of any proposed parcels or lots.
- e. Location of all existing easements within the property.
- f. Location of City utilities (water, sanitary sewer, storm drainage) within the property.
- g. Existing use of the property, including location of existing structures with dimensions of the structures and distances from property lines. It shall be

ARTICLE V REVIEW PROCEDURES

Chapter 5.03 Processing Variances

noted whether the existing structures are to remain or be removed from the property.

- h. A site plan clearly indicating the proposed variance including dimensions.
- (2) At the discretion of the Planning Director the previous requirements may be waived provided there is sufficient information to allow processing of an application.

5.03.050 Variance Applicability

Under the following provisions, a property owner or his designate may propose a modification or variance from a standard or requirement of this Code, except when one or more of the following apply:

- (1) The proposed variance would allow a use which is not permitted in the zone.
- (2) Another procedure and/or criterion is specified in the Code for modifying or waiving the particular requirement or standard.
- (3) Modification of the requirement or standard is prohibited within the zone.

5.03.060 Decision Criteria

The Planning Commission may allow a variance from a requirement or standard of this Code after a public hearing conducted in accordance with the Type III review procedures provided that the applicant provides evidence that the following circumstances substantially exist:

- (1) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this Code, topography, or other circumstances over which the applicant has no control.
- (2) Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or zone.
- (3) The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or zone in which property is located, or otherwise conflict with the objectives of any City plan or policy.
- (4) That the special conditions and circumstances on which the application is based do not result from a self-imposed hardship or a negligent or knowing violation of this Code by the applicant.
- (5) The variance requested is the minimum variance which would alleviate the hardship.

ARTICLE V REVIEW PROCEDURES

Chapter 5.04 Processing Conditional Use Permits

CHAPTER 5.04 PROCESSING CONDITIONAL USE PERMITS

5.04.010 Applicability

A conditional use is a use which is generally acceptable as a land use activity in a particular zone, but due to certain aspects of the activity, buffering, screening, time limitations or other conditions are necessary to ensure compatibility with adjacent property. Conditional uses are presumed to be allowed unless conditions to ensure their compatibility cannot be established.

5.04.020 Process

Conditional use shall be reviewed in accordance with the Type III review procedures specified in Chapter 5.19.

5.04.030 Application

An application for a conditional use shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 5.19.

5.04.040 Submittal Requirements

The applicant shall prepare and submit an application, site plan, and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. The site plan shall show pertinent information to scale to facilitate the review of the proposed development.

(1) **General Information.** The following general information shall be shown on the site plan:

- a. Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
- b. North arrow and scale of drawing.
- c. Tax map and tax lot number or tax account of the subject property.
- d. Dimensions and size in square feet or acres of the subject property and of any proposed parcels or lots.
- e. Location of all existing easements within the property.
- f. Location of City utilities (water, sanitary sewer, storm drainage) within the property.
- g. Existing use of the property, including location of existing structures with dimensions of the structures and distances from property lines. It shall be noted whether the existing structures are to remain or be removed from the property.

ARTICLE V REVIEW PROCEDURES

Chapter 5.04 Processing Conditional Use Permits

- h. A site plan clearly indicating the proposed location of the proposed conditional use including the dimensions of any existing, expanded, or new structure proposed to house the conditional use along with all site improvements including parking, lighting, screening, landscaping, etc.
- (2) At the discretion of the Planning Director the previous requirements may be waived provided there is sufficient information to allow processing of an application.

5.04.050 Decision Criteria

A conditional use shall be approved if the applicant provides supporting evidence that all the requirements of this Code relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:

- (1) The use is listed as a conditional use in the underlying zone and complies with the development requirements of the underlying zone.
- (2) The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and location of improvements and natural features.
- (3) The proposed development is timely, considering the adequacy of transportation systems, public facilities, and services, existing or planned for the area affected by the use.
- (4) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying zone

ARTICLE V REVIEW PROCEDURES
Chapter 5.05 Processing Site Development Reviews

CHAPTER 5.05 PROCESSING SITE DEVELOPMENT REVIEWS

5.05.010 Applicability

- (1) The site development review is intended to:
 - a. Guide future growth and development in accordance with the Comprehensive Plan and other related regulations;
 - b. Provide an efficient process and framework to review development proposals;
 - c. Ensure safe, functional, energy-efficient developments which are compatible with the natural and man-made environment; and
 - d. Resolve potential conflicts that may arise between proposed developments and adjacent uses.
- (2) The site development review provisions relate to physical characteristics of a property, proposed site improvements, and proposed buildings. The site development review provisions do not deal with the use of property. Use is regulated by the provisions of each individual zone.

5.05.020 Process

Site development review applications shall be reviewed in accordance with the Type III review procedures in Chapter 5.19.

5.05.030 Application

An application for site development reviews shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 5.19.

5.05.040 Applicability of Provisions

- (1) Site Development review is applicable to all new industrial, commercial, mixed-use, and multi-family developments and expansions involving a 20% or more increase in total square footage of existing industrial, commercial, mixed-use, and multi-family.
- (2) All of the provisions and regulations of the underlying zone shall apply unless modified by other Sections of this Code.
- (3) Expansions of 20% or less shall be permitted and processed as a building permit, provided the expansion and associated use(s) comply with all applicable development requirements such as parking, setbacks, height restrictions.

5.05.050 Submittal Requirements

The following information shall be submitted as part of a complete application for site Development review. The application shall include a statement explaining the proposal

ARTICLE V REVIEW PROCEDURES

Chapter 5.05 Processing Site Development Review

and providing analysis of the proposal relative to the approval criteria. At the discretion of the City, the information may be submitted graphically or by written summary.

(1) **Site Analysis.**

- a. Existing site topography;
- b. Identification of areas exceeding 10% slopes;
- c. Site drainage, identified flood zones and areas within the greenway;
- d. Existing structures, roadway access, and utilities; and
- e. Existing and proposed streets, bikeways, and pedestrian facilities within 300 feet.

(2) **Site Plan.**

- a. Proposed grading and topographical changes;
- b. All proposed structures including finished floor elevations, setbacks, exterior elevations, and exterior finishing;
- c. Vehicular and pedestrian circulation patterns, parking, loading, and service areas;
- d. Proposed access to public roads and highways, railroads, or transportation systems;
- e. Site drainage plan including methods of storm drainage, sanitary sewer system, water supply system, and electrical services;
- f. Proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses;
- g. Proposed on-premise signs, fencing or other fabricated barriers, together with their heights and setbacks;
- h. Proof of ownership and signed authorization for the proposed development if applicant is not the owner of the site;
- i. A schedule of expected development;
- j. A traffic impact analysis if requested by the City Manager;
- k. Computation of gross density for residential developments; and
- l. Other appropriate studies and information that may be required by the City to adequately evaluate the project.

5.05.060 Decision Criteria

The review of a site plan shall be based upon the following criteria:

- (1) The proposed use is allowed in the zone and complies with the underlying zone development standards.

ARTICLE V REVIEW PROCEDURES

Chapter 5.05 Processing Site Development Reviews

- (2) The proposed use will not create negative impacts on the surrounding area resulting from traffic flow, noise, dust, glare, odor, potential incompatible adjacent uses such as parking lots, or other impacts identified in the public hearing process.
- (3) The City may impose conditions of approval intended to mitigate potential impacts including but not limited to:
 - a. Provisions for public utilities, including drainage and erosion control needs;
 - b. Parking, traffic safety, and connectivity of internal circulation to existing and proposed streets, bikeways, and pedestrian facilities;
 - c. Provision for adequate noise and/or visual buffering from non-compatible uses including using site and landscaping design to provide needed buffering; and
 - d. Protections from any potential hazards.

ARTICLE V REVIEW PROCEDURES
Chapter 5.05 Processing Site Development Review

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ARTICLE V REVIEW PROCEDURES
Chapter 5.06 Processing Property Boundary Adjustments

CHAPTER 5.06 PROCESSING PROPERTY BOUNDARY ADJUSTMENTS

5.06.010 Applicability

A property line adjustment is a change to a property line that only extinguishes property lines or modifies existing lots or parcels and does not create a new parcel of land. This may include the elimination of property line to consolidate lots or parcels.

5.06.020 Process

A property line adjustment application shall be reviewed in accordance with the Type I review procedures specified in Chapter 5.17.

5.06.030 Application

An application for a property line adjustment shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Chapter. Notice shall be subject to the provisions in Chapter 5.17.

5.06.040 Submittal Requirements

The following information and material must be submitted by the applicant:

- (1) The application must be signed by the owners of all lots affected by the application.
- (2) In addition, the following information shall be submitted by the applicant:
 - a. Copies of the officially recorded title transfer instrument (deed, warranty deed, or contract) that shows the legal description for the affected parcels.
 - b. Plan, map, or other document showing the properties before and after the adjustment.
 - c. A written statement which explains the applicant's reasons for adjusting the property line and demonstrating that the adjustment conforms to City land use policies and regulations of the applicable zone.
 - d. The applicant(s) shall certify in writing that the application does not violate any deed restrictions that may be attached to or imposed upon the subject property.

5.06.050 Decision Criteria

Approval of a property boundary adjustment shall require compliance with the following criteria:

- (1) A property boundary adjustment cannot create or vacate a parcel. Creation or vacation of a parcel requires approval of a land division.

ARTICLE V REVIEW PROCEDURES

Chapter 5.06 Processing Property Boundary Adjustments

- (2) Following the adjustment, all lots or parcels must comply with the area and dimension standards of the applicable zone. For existing nonconforming lots or parcels, the adjustment shall not increase the degree of nonconformance of the subject property or surrounding properties.
- (3) If there are existing structures on the lots or parcels, the boundary adjustment shall not reduce required setbacks or place a boundary beneath a structure.

5.06.060 Implementation

After a property line adjustment is approved, the new boundary becomes effective only after the following steps are completed:

- (1) A legal description of the adjusted lots is recorded with Linn County Clerk.
- (2) If required by ORS Chapter 92, or the County Surveyor, a final map and boundary survey are prepared, and all new boundaries are monumented as required by ORS Chapters 92 and 209. The final map is submitted to the City for signatures and approval as outlined in Chapter 5.07.

ARTICLE V REVIEW PROCEDURES
Chapter 5.07 Processing Partitions

CHAPTER 5.07 PROCESSING PARTITIONS

5.07.010 Applicability

A partition is required for any land division which creates two or three parcels in any calendar year.

5.07.020 Process

Preliminary plats for partitions shall be reviewed in accordance with the Type II review procedures in Chapter 5.18.

5.07.030 Application

An application for a partition shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Section 5.18.

5.07.040 Expedited Land Division

When an expedited land division for residential use only is requested by an applicant the City shall use the procedures for expedited land divisions specified under ORS 197.365 in lieu of the procedures described in Chapter 5.07 if the application complies with the conditions and standards of ORS 197.360 through 197.380.

5.07.050 Submittal Requirements

The applicant shall prepare and submit a preliminary plan and other supplemental information as may be required by City staff. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. The preliminary plan should show pertinent information to scale to facilitate the review of the proposed development.

- (1) **General Information.** The following general information shall be shown on the tentative plan:
 - a. Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
 - b. North arrow and scale of drawing.
 - c. Tax map and tax lot number or tax account of the subject property.
 - d. Dimensions and size in square feet or acres of the subject property and of all proposed parcels.

- (2) **Existing Conditions.**
 - a. Location of all existing easements within the property.
 - b. Location of City utilities (water, sanitary sewer, storm drainage) within or adjacent to the property proposed for use to serve the development.

ARTICLE V REVIEW PROCEDURES

Chapter 5.07 Processing Partitions

- c. The location and direction of water courses or drainage swales on the subject property.
- d. Existing use of the property, including location of existing structures with dimensions of the structures and distances from property lines. It shall be noted whether the existing structures are to remain or be removed from the property.

(3) **Proposed Plan.**

- a. Locations, approximate dimensions, and area in square feet of all proposed parcels. All parcels shall be numbered consecutively.
- b. Location, width, and purpose of any proposed easements.

- (4) At the discretion of the Planning Director the previous requirements may be waived provided there is sufficient information to allow processing of an application.

5.07.060 Decision Criteria

Approval of a partition shall be subject to the following decision criteria:

- (1) Each parcel shall satisfy the dimensional standards of the applicable zone, unless a variance from these standards is approved.
- (2) The parcels shall meet the Development Standards for Land Division of Chapter 4.02.
- (3) Existing dwellings and accessory structures shall comply with the setback requirements of the applicable zone, including accessory structures which have a setback established by the building size, unless a variance from the requirements is approved.
- (4) Adequate public facilities, including access, shall be available to serve the existing and newly created parcels. If adjacent properties are undeveloped or landlocked, extending appropriate access to those properties will be required in accordance with adopted City policy.

5.07.070 General Provisions

- (1) Partition approval is valid in perpetuity upon recording of the final surveyed plat.
- (2) A master plan for development is required for any application which leaves a portion of the subject property capable of being further partitioned in accordance with the applicable zone. If this would allow the creation of four or more parcels, the partition is considered a serial partition and must be processed as a subdivision.

5.07.080 Final Plat Approval

- (1) **Survey.** Within one year of the Final Decision approving a preliminary plat, unless modified in the conditions of approval, a final survey of the approved plat shall be

ARTICLE V REVIEW PROCEDURES

Chapter 5.07 Processing Partitions

recorded. Failure to record a plat within the required time period shall void the approval and require a new partitioning application.

- (2) **Final Approval.** The City Manager shall sign the final plat if the plat substantially conforms to the approved preliminary plat, and if the conditions of approval are satisfied.
- (3) **Final Plat.** The final plat shall conform to the requirements in ORS Chapter 92 and applicable County surveying requirements.
- (4) **Recording of Approved Plat.** No building permit shall be issued, or parcel sold, transferred, or assigned until the final approved Plat has been recorded with the County Clerk. The applicant shall be responsible for all recording fees.

ARTICLE V REVIEW PROCEDURES
Chapter 5.07 Processing Partitions

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ARTICLE V REVIEW PROCEDURES
Chapter 5.08 Processing Subdivisions and
Planned Unit Developments (PUD)

**CHAPTER 5.08 PROCESSING SUBDIVISIONS AND PLANNED
UNIT DEVELOPMENTS (PUD)**

5.08.010 Applicability

All subdivisions and planned unit developments (PUD) shall conform to all applicable standards of the underlying zone, as well as the development standards and other provisions of this Code unless otherwise modified by provisions in this Section.

5.08.020 Process

Preliminary plats for subdivisions shall be reviewed in accordance with the Type II review procedures and planned unit developments shall be reviewed in accordance with the Type III review procedures in Chapter 5.19.

5.08.030 Expedited Land Division

When an expedited land division for residential use only is requested by an applicant the City shall use the procedures for expedited land divisions specified under ORS 197.365 in lieu of the procedures described in Chapter 5.08 if the application complies with the conditions and standards of ORS 197.360 through 197.380.

5.08.040 Application

An application for a subdivision or planned unit development shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 5.19.

5.08.050 Submittal Requirements

The following submittal requirements shall apply to all preliminary plat applications for subdivisions or planned unit development.

- (1) All applications shall be submitted on forms provided by the City to the City Manager along with the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria.
- (2) **General Information.** The following general information shall be shown on the tentative plan:
 - a. Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
 - b. North arrow and scale of drawing.
 - c. Tax map and tax lot number or tax account of the subject property.

ARTICLE V REVIEW PROCEDURES
Chapter 5.08 Processing Subdivisions and
Planned Unit Developments (PUD)

- d. Dimensions and size in square feet or acres of the subject property.
- e. Name of the subdivision or PUD.

(3) **Existing Conditions.**

- a. Location of all existing easements within the property.
- b. Location of City utilities (water, sanitary sewer, storm drainage) within or adjacent to the property proposed for use to serve the development.
- c. The location and direction of water courses or drainage swales on the subject property.
- d. Existing use of the property, including location of existing structures. It should be noted whether the existing structures are to remain or be removed from the property.
- e. Direction of drainage and approximate grade of abutting streets.
- f. Proposed streets, approximate grade, and radius of curves.
- g. Any other legal access to the subdivision other than a public street.
- h. Contour lines related to an established benchmark on City datum, having the following minimum intervals:
 - I. Areas with less than 5% slope: One-foot contours
 - II. Areas with slope between 5% and 10%: Two-foot contours.
 - III. Areas with slope greater than 10%: Five-foot contours.

(4) **Proposed Plan:**

- a. Locations, approximate dimensions, and area in square feet of all proposed lots. All lots shall be numbered consecutively.
- b. Location, width, and purpose of any proposed easements.
- c. All areas to be offered for public dedication.
- d. If any portion of the property is not proposed to be included in the subdivision or any public dedication, that portion shall be identified as a remnant parcel. A draft subdivision or development plan shall be included showing how the proposed subdivision will provide needed access and utilities to serve future development of the remnant parcel.
- e. Proposed phasing.

(5) **PUD Preliminary Plan applications** shall include the following required supplemental information:

- a. Proposed uses on the property, including sites, if any, for attached dwelling units, recreational facilities, parks and playgrounds, or other public or semi-

ARTICLE V REVIEW PROCEDURES
Chapter 5.08 Processing Subdivisions and
Planned Unit Developments (PUD)

- public uses, with the purpose, condition, and limitations of such reservations clearly indicated.
- b. Designation of the location of the building pads, or areas, or setback lines or setback standards for all buildings to be constructed.
- c. Architectural renderings of the proposed residential and commercial buildings and structures.
- d. The approximate location and dimensions of all commercial, mixed-use, or multi-family structures proposed to be located on the site.
- e. Landscaping plan indicating location of existing vegetation and proposed improvements.
- f. Statement of improvements to be made or installed including streets, sidewalks, bikeways, trails, lighting, tree planting, landscaping, and time such improvements are to be made or completed.
- g. Written statement outlining proposals for ownership and maintenance of all open space areas and any commonly owned facilities.

5.08.060 Decision Criteria

- (1) Each parcel shall satisfy the dimensional standards of the applicable zone, unless a variance from these standards is approved.
- (2) The parcels shall meet the Development Standards for Land Division of Chapter 4.02.
- (3) Existing buildings shall comply with the setback requirements of the applicable zone, unless a variance from the requirements is approved.
- (4) Adequate public facilities, including access, shall be available to serve the existing and newly created parcels. If adjacent properties are undeveloped or landlocked, extending appropriate access to those properties will be required in accordance with adopted City policy. Adequate means the development will not cause streets (including sidewalks, intersections, and traffic control devices), sewer facilities, water facilities, and storm drainage facilities to exceed the relevant capacity for each type of facility established in the most recently adopted, Sewer Master Plan, Water Master Plan, Storm Water Master Plan, and the Transportation System Plan development in accordance with the State Transportation Planning Rule for which the determination will be made in accordance with Section 3.02.120. Adequacy can be established in three ways:
 - a. Professional Engineering analysis determining the subdivision will not exceed the capacity of existing and future public facilities as projected in the most recently adopted water, sewer, and stormwater master plans and transportation system plan;

ARTICLE V REVIEW PROCEDURES

Chapter 5.08 Processing Subdivisions and Planned Unit Developments (PUD)

- b. Professional Engineering analysis determining what improvements will be required to increase the capacity of public facilities to adequately accommodate the subdivision and how those will be financed; or
 - c. A combination of both a and b.
- (5) **PUD.** Approval of a planned unit development shall require compliance with the following in addition to the criteria listed above:
- a. Conformance with provisions of 4.02.010 (Purpose Statement).
 - b. The proposal shall comply with the applicable development and layout provisions contained in Section 4.02.030 of this Code.
 - c. Infrastructure shall be available and appropriate to serve the proposed development.

5.08.070 Final Plat Requirements

- (1) Approvals of any preliminary plat for a phased subdivision or planned unit development shall be valid for 10 years after the date of final approval. Any unphased subdivision, or the first phase of a phased subdivision, shall be recorded within three years or the approval shall lapse, unless an extension is granted.
- (2) The Final Plat shall be submitted to the City in a form and with information consistent with Linn County survey and map standards and State laws regarding plats of record and surveys. Where the Development Code directly conflicts with State or County laws, codes or regulations, the provisions of the State and County laws, codes or regulations shall apply.
- (3) The applicant shall submit three identical reproducible copies of the Final Plat for signature. The plats shall be Mylar, meeting the requirements of the County Surveyor.
- (4) All monumentation shall meet the requirements of State law including provisions for post-monumentation.
- (5) The Final Plat will be signed by the City Manager as certification of compliance with the approved preliminary plat, to accept dedication of rights-of-way, easements, and any other dedications to the City or public, and to acknowledge completion and acceptance of all public improvements or the entering into of an agreement between the developer and the City guaranteeing future completion of those improvements. Additional endorsements required by State or County, or City laws, codes or regulations shall also be supplied. Signature blanks for these endorsements shall be provided on the Final Plat.
- (6) **Supplemental Information with Final Plat.**
 - a. An amended title report or subdivision guarantee, as appropriate, issued by a title insurance company in the name of the owner of the land, showing all parties with a title or interest in the property and whose consent is necessary,

ARTICLE V REVIEW PROCEDURES
Chapter 5.08 Processing Subdivisions and
Planned Unit Developments (PUD)

as well as all existing easements, restrictions, covenants, and other encumbrances pertaining to the subject property.

- b. Copy of any dedication requiring separate documents.
- c. Where applicable, all homeowners association agreements, articles and bylaws shall be submitted with the Final Plat for review by the City Attorney.
 - (i) The Final Plat shall not be approved by the City until the homeowners association agreement, articles and bylaws are approved.
 - (ii) The homeowners association agreement shall be consistent with State law, including ORS 94.
 - (iii) A certificate of formation of a non-profit corporation for the homeowners association, with a State seal, shall be submitted with the final plat for review by the City.
 - (iv) Signed, original documents of the homeowners association agreement, articles and bylaws and the certificate of formation shall be recorded with the Final Plat.
- d. Maintenance agreements for common property or common access easements shall be submitted with the Final Plat for review by the City Attorney.

5.08.080 Process for Final Plat Approval

- (1) Within three years of the Final Decision unless appealed approving a preliminary plat, a final approved plat (or first phase) shall be recorded with the County. If the first phase Final Plat is not recorded within three years, the preliminary approval shall lapse. All phases of an approved plat shall be recorded within 10 years of the final date of decision.
- (2) A Final Plat shall be submitted to the City Manager. After the Final Plat has been submitted, the City staff shall review and compare it with the approved tentative plat to ascertain whether the Final Plat conforms substantially to the approved tentative plat and with such conditions of approval as may have been imposed.
- (3) No Final Plat shall be approved unless:
 - a. The plat is in substantial conformance with this Code and the provisions of the tentative plat as approved, including any conditions imposed in connection therewith.
 - b. The plat contains land free and clear of all liens and encumbrances. All dedications to the public of all public improvements, including but not limited to streets, roads, sewage disposal, and water supply systems, the donation of which is required by this Code or was made a condition of the approval of the tentative plat.

ARTICLE V REVIEW PROCEDURES
Chapter 5.08 Processing Subdivisions and
Planned Unit Developments (PUD)

- c. Any common areas or improvements to be held jointly by the future owners of the lots or by a homeowners association are indicated on the plat with the appropriate references to the structure of ownership. Any bylaws or agreements subject to approval by the City will be approved before the City Manager signs the plat.
 - d. The City has received adequate assurances that the applicant has agreed to make all public improvements which are required as conditions of approval of the tentative plan, including but not limited to streets, alleys, pedestrian ways, storm drainage, sewer, and water systems. The provisions for providing adequate assurance are found in the Public Works Design Standards.
- (4) If the City Manager finds that conditions specified in subsection (3) of this section have not been met, the applicant shall be advised of the changes that must be made and afforded the opportunity to comply. Rejection of a Final Plat shall not affect the tentative plan approval.
- (5) When the City Manager finds that the Final Plat is in substantial conformity to the approved tentative plan and is otherwise in lawful form, the City Manager shall sign and date all three reproducible copies of the plat.
- (6) Following endorsement of the plat by the City Manager, and the City Engineer, the applicant shall submit the plats to the Linn County Surveyor for final review and compliance with applicable State and County regulations.
- (7) The approval process for a development shall become final upon the recording of the approved Final Plat together with any required documents with the County. Approved final plats shall become void one year after final City approval if they are not recorded.

ARTICLE V REVIEW PROCEDURES
Chapter 5.09 Processing Comprehensive Plan
Map Amendments

**CHAPTER 5.09 PROCESSING COMPREHENSIVE PLAN MAP
AMENDMENTS**

5.09.010 Applicability

The Comprehensive Plan map designates property for long term development purposes. A plan map amendment is required to change the designation of property.

5.09.020 Process

Amendments to the Comprehensive Plan map shall be reviewed in accordance with the Type IV review procedures specified in Chapter 5.20.

5.09.030 Application

An application for a map amendment shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 5.20.

5.09.040 Submittal Requirements

The applicant shall prepare and submit an application, site plan, and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. Except for a City initiated Comprehensive Plan amendment, a site plan shall be required demonstrating the ability of the property to be used for the proposed type of uses. The site plan shall show pertinent information to scale to facilitate the review of the proposed development.

- (1) General Information. The following general information shall be shown on the site plan:
 - a. Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
 - b. North arrow and scale of drawing.
 - c. Tax map and tax lot number or tax account of the subject property.
 - d. Dimensions and size in square feet or acres of the subject property and of any proposed parcels or lots.
 - e. Location of all existing easements within the property.
 - f. Location of City utilities (water, sanitary sewer, storm drainage) within the property.
 - g. Existing use of the property, including location of existing structures with dimensions of the structures and distances from property lines. It shall be

ARTICLE V REVIEW PROCEDURES
Chapter 5.09 Processing Comprehensive Plan
Map Amendments

noted whether the existing structures are to remain or be removed from the property.

- h. A site plan clearly indicating the proposed location of proposed improvements or buildings, if any, including the dimensions of any existing, expanded, or new structures along with all site improvements including driveways, parking, lighting, screening, landscaping, etc.
- (2) At the discretion of the Planning Director the previous requirements may be waived provided there is sufficient information to allow processing of an application.

5.09.050 Decision Criteria

Plan map amendment proposals shall be approved if the applicant provides evidence substantiating the following:

- (1) All information and analysis must justify the proposed change relative to the map designation to which the property is proposed to change, and to the map designation from which the property is changing. The analysis must speak to the impacts from the decrease in land acreage of one map designation and the increase in land acreage for the proposed map designation.
- (2) Compliance is demonstrated with the Statewide Land Use Planning Goals and Guidelines and any relevant Administrative Rules applying to the subject properties or to the proposed land use designation. If the proposed designation requires an exception to the Goals, the applicable criteria in the Oregon Land Conservation and Development Commission Administrative Rules for the type of exception needed shall also apply.
- (3) Consistency with the applicable goals and policies in the Comprehensive Plan is demonstrated.
- (4) The Plan does not provide adequate areas in appropriate locations for uses allowed in the proposed land use designation and the addition of this property to the inventory of lands so designated is consistent with projected needs for such lands in the Plan.
- (5) The Plan provides more than the projected need for lands in the existing land use designation.
- (6) The proposed land use designation will not allow zones or uses that will destabilize the land use pattern in the vicinity or significantly adversely affect existing or planned uses on adjacent lands.
- (7) Public facilities and services necessary to support uses allowed in the proposed designation are available or will be available in the near future.

ARTICLE V REVIEW PROCEDURES
Chapter 5.10 Processing Zone Map Amendments

CHAPTER 5.10 PROCESSING ZONE MAP AMENDMENTS

5.10.010 Applicability

The zone map establishes zone for individual properties. A zone change approval is required to change the zoning of any property. A zone change to a zone inconsistent with the Comprehensive Plan Land Use Map requires a concurrent amendment to that Map.

5.10.020 Process

Zone changes shall be reviewed in accordance with the Type IV review procedures specified in Chapter 5.20.

5.10.030 Application

An application for a zone change shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 5.20.

5.10.040 Submittal Requirements

The applicant shall prepare and submit an application, site plan, and other supplemental information as may be required by City staff to indicate the intent of the development.

- (1) The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria.
- (2) Except for a City initiated zone change, a site plan shall be required demonstrating the ability of the property to be used for the proposed type of uses. The site plan shall show pertinent information to scale to facilitate the review of the proposed development.
- (3) **General Information.** The following general information shall be shown on the site plan:
 - a. Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
 - b. North arrow and scale of drawing.
 - c. Tax map and tax lot number or tax account of the subject property.
 - d. Dimensions and size in square feet or acres of the subject property and of any proposed parcels or lots.
 - e. Location of all existing easements within the property.
 - f. Location of City utilities (water, sanitary sewer, storm drainage) within the property.
 - g. Existing use of the property, including location of existing structures with dimensions of the structures and distances from property lines. It shall be

ARTICLE V REVIEW PROCEDURES

Chapter 5.10 Processing Text Amendments

noted whether the existing structures are to remain or be removed from the property.

- h. A site plan clearly indicating the proposed location of proposed improvements or buildings, if any, including the dimensions of any existing, expanded, or new structures along with all site improvements including driveways, parking, lighting, screening, landscaping, etc.
- (4) At the discretion of the Planning Director the previous requirements may be waived provided there is sufficient information to allow processing of an application.

5.10.050 Decision Criteria

Zone change proposals shall be approved if the applicant provides evidence substantiating the following:

- (1) The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan land use classification.
- (2) The uses permitted in the proposed zone can be accommodated on the proposed site without exceeding its physical capacity.
- (3) Allowed uses in the proposed zone can be established in compliance with the development requirements in this Code.
- (4) Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property.
- (5) For residential zone changes, the criteria listed in the purpose statement for the proposed residential zone shall be met.

ARTICLE V REVIEW PROCEDURES
Chapter 5.10 Processing Zone Map Amendments

CHAPTER 5.11 PROCESSING TEXT AMENDMENTS

5.11.010 Process

Amendments to the Comprehensive Plan and Development Code texts shall be reviewed in accordance with the Type IV review procedures specified in Chapter 5.20.

5.11.020 Application

A Plan or Code text amendment can only be initiated by motion of the Planning Commission or City Council. Private citizens, however, may suggest text changes. Upon direction of either the Commission or Council, City staff shall establish a file and set a schedule to review the proposed changes. Notice shall be subject to the provisions in Chapter 5.20.

5.11.030 Decision Criteria

Amendments to the Comprehensive Plan or Development Code text shall be approved if the evidence can substantiate the following:

- (1) There are no negative impacts of the proposed amendment on land use and development patterns within the city, as measured by:
 - a. Traffic generation and circulation patterns;
 - b. Demand for public facilities and services;
 - c. Level of park and recreation facilities;
 - d. Economic activities;
 - e. Protection and use of natural resources; and
 - f. Compliance of the proposal with existing adopted special purpose plans or programs.
- (2) A demonstrated need exists for the proposed amendment.
- (3) The proposed amendment complies with all applicable Statewide Planning Goals and Administrative Rule requirements.
- (4) The amendment is appropriate as measured by at least one of the following criteria:
 - a. It corrects identified error(s) in the provisions of the Plan.
 - b. It represents a logical implementation of the Plan.
 - c. It is mandated by changes in Federal, State, or local law.
 - d. It is otherwise deemed by the City Council to be desirable, appropriate, and proper.

ARTICLE V REVIEW PROCEDURES
Chapter 5.11 Processing Text Amendments

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ARTICLE V REVIEW PROCEDURES

Chapter 5.12 Processing Annexations

CHAPTER 5.12 PROCESSING ANNEXATIONS

5.12.010 Authority of City to Annex

The boundary of the City may be extended by the annexation of territory not then within the City and which territory is within the urban growth boundary and contiguous to the City or separated from it by a stream or right-of-way only.

5.12.020 Process

Annexations shall be reviewed in accordance with the requirements of ORS 222.111 through 222.183 as may be amended, and the City's Type IV review procedures specified in Chapter 5.20. A concurrent development proposal is not required to annex property.

5.12.030 Application

An application for an annexation shall be filed with the City and accompanied by the appropriate fee. Requirements for an application are found in ORS 222.111 through 222.183 as may be amended. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of both the Statute and this Section. Notice shall be subject to the provisions in Statute and Chapter 5.20.

5.12.040 Decision Criteria

Annexation shall be approved if the evidence can substantiate the following:

- (1) The property abuts the City limits.
- (2) Public facilities are available or can be extended in the future to serve the property.
- (3) Public access is available or may be extended in the future to serve the property.

5.12.050 Effective Date of Annexation

The annexation shall be complete from the date of filing with the Secretary of State as provided in ORS 222.150, 222.160, 222.170, and the requirements of this Chapter. Thereafter, the annexed territory shall be and remain part of the City. The date of such filing shall be the effective date of annexation.

5.12.060 Zone Designation of Annexed Property

Unless a request to amend the Comprehensive Plan map and zone map is made in conjunction with the annexation, the City Council shall establish a zone that corresponds to the underlying Plan designation.

ARTICLE V REVIEW PROCEDURES
Chapter 5.12 Processing Annexations

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ARTICLE V REVIEW PROCEDURES
Chapter 5.12 Processing Annexations

CHAPTER 5.13 PROCESSING HOME OCCUPATION PERMITS

5.13.010 Process

- (1) Home occupations are allowed as listed in individual zones where there are no employees other than family members residing in the residence or no more than one vehicle associated with the home occupation.
- (2) Home occupations proposed to have employees in addition to family members residing in the residence or more than one vehicle associated with the home occupation shall be reviewed as a conditional use in accordance with the Type III review procedures specified in Chapter 5.19.

ARTICLE V REVIEW PROCEDURES
CHAPTER 5.13 Processing Home Occupation Permits

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CHAPTER 5.14 PROCESSING NONCONFORMING USE ALTERATIONS

5.14.010 Applicability

Within the zoning districts established by this Code, and amendments thereto, uses and structures may exist which were lawful before the date of adoption or amendment of this Code, but which would be prohibited or restricted under the terms of this Code. This Section allows nonconforming uses and structures to be altered, restored, or replaced subject to satisfaction of the review criteria specified. No alteration of a nonconforming use shall be permitted except in compliance with the provisions of this Section.

5.14.020 Process

Proposed alterations of nonconforming uses shall be reviewed in accordance with the Type III review procedures in Chapter 5.19.

5.14.030 Application

An application for an alteration or expansion of a nonconforming use shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 5.19.

5.14.040 Decision Criteria

The alteration of a nonconforming use or structure may be authorized provided that the applicant demonstrates that the proposal satisfies the following criteria:

- (1) That the alteration of structures would not result in an increase in nonconformity of the structure.
- (2) A change in use to another nonconforming use shall be permitted if it is of the same or less intensity of use.

5.14.050 Conditions of Approval

In approving the alteration, restoration, or replacement of a nonconforming use, the City Manager may impose such conditions as it deems appropriate to ensure that the intent of this Section is carried out.

**ARTICLE V REVIEW PROCEDURES
CHAPTER 5.15 INTERPRETATIONS**

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ARTICLE V REVIEW PROCEDURES
Chapter 5.14 Processing Nonconforming Use Alterations

CHAPTER 5.15 INTERPRETATIONS

5.15.010 Applicability

The purpose of this Section is to provide a means to resolve potentially conflicting requirements and unclear Code requirements and identify uses not specifically listed in a particular zoning district (similar uses) but which are similar in character, scale and performance to the permitted uses specified therein.

5.15.020 Process

Interpretation requests shall be reviewed in accordance with the Type II review procedures in Chapter 5.18.

5.15.030 Application

Any application for an interpretation use shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Notice shall be subject to the provisions in Chapter 5.18.

5.15.040 Decision Criteria

The City Manager is authorized to make such an appropriate interpretation of the Code provided that the applicant demonstrates the proposed use satisfies the following criteria:

- (1) The interpretation is consistent with the purpose of the Code and any appropriate purpose statement in an underlying zoning district or development requirement.
- (2) The resulting interpretation conforms to the applicable standards and limitations of the underlying zoning district. In approving an application for a similar use, the City may determine whether the use is prohibited or classified as permitted, special use or conditionally permitted in a specified zone.

ARTICLE V REVIEW PROCEDURES
Chapter 5.15 Interpretations

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ARTICLE V REVIEW PROCEDURES
Chapter 5.16 General Administrative Provisions

CHAPTER 5.16 GENERAL ADMINISTRATIVE PROVISIONS

5.16.010 Multiple Applications

Applications for more than one land use action for the same property may, at the applicant's discretion, be heard or reviewed concurrently. Multiple land use requests involving different processing types shall be heard and decided at the higher processing type. For example, an application involving a Subdivision (Type III) with an Adjustment (Type II) shall be reviewed and decided as a Type III request.

5.16.020 Generalized Area

Applications involving multiple properties may be aggregated if in the opinion of the City Manager a better understanding of the entire land use proposal is served by combining requests. A Final Decision unless appealed shall be granted for each request and each request is appealable individually.

5.16.030 Application Forms

All applications shall be on forms supplied by the City and include the necessary requirements, submittal information, and filing fees.

5.16.040 Time Limit

If for any reason it appears that a final action regarding an application may not be completed within the 120-day period, and unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this Code.

- (1) The City staff shall notify the City Council of the timing conflict by the 85th day after the application is deemed complete.
- (2) The Mayor shall confer with staff and schedule a hearing to render a timely decision on the application within the 120-day period.
- (3) The application will automatically transfer to the sole jurisdiction of the City Council on the 85th day after the application is deemed complete.
- (4) Public notice of the City Council's hearing on the application shall be mailed to affected parties as specified in Chapter 5.19 except the notice shall be for a period of 10 days.
- (5) The City Council shall hold in a public hearing on the specified date, in accordance with the provisions of Chapter 5.22 and render a decision approving or denying the request within the 120-day period. Such action shall be the final action by the City on the application.

ARTICLE V REVIEW PROCEDURES

Chapter 5.15 General Administrative Procedures

5.16.050 Nature of Appeal Hearings

Any Planning Commission or City Council hearing on an appeal shall be held de novo, meaning new testimony may be submitted in addition to the existing record of the case and prior hearings.

5.16.060 Modifications to Approved Plans and Conditions

- (1) **Purpose.** The purpose of this Section 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.
- (2) **Applicability.** This Section applies when an applicant proposes to modify an approved application or condition of approval.
- (3) **Major Modification.** The Planning Commission reviews applications for major modifications through the Type III procedure under Section 5.19. Any one of the following changes constitutes a major modification:
 - a. A change in land use, from a less intensive use to a more intensive use, as evidenced by parking, paved area, an estimated increase in automobile or truck trips (peak and/or average daily trips), an increase in hours of operation, an increased demand for parking, additional paved area, or similar factors, where the increase is 10 percent or more, provided the standards of Article II and Article III are met;
 - b. A reduction in required setbacks, or an increase in lot coverage, by 10 percent or more, provided the standards of Article II and Article III are met;
 - c. 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);
 - d. A reduction to screening, or a reduction to the area reserved for common open space or landscaping by 10 percent or more;
 - e. Change to a condition of approval, or a change similar to subsections a-d, above, that could have a detrimental impact on adjoining properties. The City Manager shall have discretion in determining detrimental impacts triggering a major modification; or
 - f. Other changes similar to those in subsections a-e, above, in scale, magnitude, or impact to adjacent properties, as determined by the City Manager.
- (4) **Major Modification Applications.** Applications for modifications to approved plans shall include a description of the approved project proposed for changes, the proposed changes, the existing conditions, a site plan, information on any existing and any proposed restrictions or covenants, and the same information required in Section 5.06.040. An application for modifications to approved plans shall also contain a narrative report or letter responding to the applicable approval criteria.

ARTICLE V REVIEW PROCEDURES

Chapter 5.16 General Administrative Provisions

- (5) **Major Modification Approval Criteria.** Requests for major modifications shall conform to all of the following procedures and criteria:
- a. The application shall be subject to the same approval criteria used for the initial project approval; except that a modification adding a conditional use to a project approved without a conditional use shall require findings in conformance with Section 5.04.050;
 - b. The scope of review shall be limited to the modification request. For example, a request to modify a commercial development's parking lot shall require site design review only for the proposed parking lot and any changes to associated access, circulation, etc.; and
 - c. The Planning Commission shall approve, deny, or approve with conditions an application for major modification based on written findings on the applicable Code criteria.
- (6) **Minor Modification.** The Planning Director through a Type I or II procedure, depending on whether the proposal involves the exercise of discretion, shall review proposals for minor modifications. Minor modifications include technical corrections to comply with codes and regulations, and changes that fall below the thresholds in 5.16.060(3) as determined by the Planning Director. A minor modification is a change to an approved plan or condition of approval that does not meet any of the thresholds for a major modification listed in Section 5.16.060(3).
- (7) **Minor Modification Applications.** An application for minor modification shall include an application form, filing fee, letter describing the modification, and site plan using the same plan format as in the original approval. The Planning Director may require other relevant information, as necessary, in evaluating the request.
- (8) **Minor Modification Approval Criteria.** The Planning Director, or the Planning Commission in the case of an appeal of a Type II decision, shall approve, deny, or approve with conditions an application for minor modification based on findings of compliance or noncompliance with the applicable requirements of the Development Code and the conditions of approval of the original decision.

ARTICLE V REVIEW PROCEDURES
Chapter 5.15 General Administrative Procedures

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ARTICLE V REVIEW PROCEDURES
Chapter 5.16 General Administrative Provisions

CHAPTER 5.17 TYPE I APPLICATION AND REVIEW PROCEDURES

5.17.010 Procedure for Type I Action

- (1) **Decision Authority.** Applications subject to a Type I review shall be reviewed and decided by the City Manager or designee.
- (2) **Application.** Upon receipt of an application for a Type I land use action, the City staff shall review the application for completeness.
 - a. If determined to be complete, the 120-day time period shall begin.
 - b. If determined to be incomplete, the applicant shall be notified and provided an additional 30 days to submit supplemental information as necessary.
- (3) **Completeness.** The application shall be deemed complete for the purposes of scheduling and all related timing provisions either:
 - a. Upon receipt of the requested acceptable additional information; or, refusal by the applicant to submit the requested information; or
 - b. On the 31st day after the original application submittal.
- (4) **Decision.** The City Manager or designee shall review the application and shall make a decision based on an evaluation of the proposal and on applicable clear and objective standards as set forth in this Code.
- (5) **Appeals.** Type I land use decisions are not appealable.

ARTICLE V REVIEW PROCEDURES
Chapter 5.17 Type I Application and Review Procedures

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ARTICLE V REVIEW PROCEDURES
Chapter 5.18 Type II Application and Review Procedures

CHAPTER 5.18 TYPE II APPLICATIONS AND REVIEW PROCEDURES

5.18.010 Procedure for Type II Action

- (1) **Decision Authority.** Applications subject to a Type II procedure shall be reviewed and decided by the City Manager or his/her designee, or by the Planning Commission upon referral or appeal, or the Council upon appeal.
- (2) **Application.** Upon receipt of an application for Type II land use action, the City staff shall review the application for completeness.
 - a. If determined to be complete, the 120-day time period shall begin.
 - b. If determined to be incomplete, the applicant shall be notified and provided an additional 30 days to submit supplemental information as necessary.
- (3) **Completeness.** The application shall be deemed complete for the purposes of scheduling and all related timing provisions either:
 - a. Upon receipt of the requested acceptable additional information; or, refusal by the applicant to submit the requested information; or
 - b. On the 31st day after the original application submittal.
- (4) **Hearing Option.** The City Manager or designee may schedule a public hearing and decision by the Planning Commission processed as a Type III application. A Type III process with a hearing may also be requested by the applicant. The procedures for conducting the public hearing shall comply with the standards in Chapter 5.21.
- (5) Before making a Type II decision, the City shall mail notice of the application to:
 - a. All owners of record of real property within 100-feet of the subject site;
 - b. Any person who submits a written request to receive a notice;
 - c. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City or required by State statute;
 - d. The road authority, and rail authority and owner, when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of decision for the application; and
 - e. The City may notify other affected agencies, as appropriate, for review of the application.
- (6) The notice of a pending Type II decision in Subsection (5) above shall include the following:

ARTICLE V REVIEW PROCEDURES

Chapter 5.18 Type II Application and Review Procedures

- a. Provide a 14-day period for submitting written comments before a decision is made on the land use application.
 - b. Identify the specific land use decisions or decisions requested.
 - c. Describe the street address or other easily understandable reference to the location of the site.
 - d. List the relevant decision criteria by name and number of Code sections.
 - e. State the place, date, and time the comments are due, and the person to whom the comments should be addressed.
 - f. Include the name and telephone number of a contact person regarding the administrative decision.
 - g. State that if any person fails to address the relevant decision 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 decision criteria are considered relevant evidence.
 - h. State that all evidence relied upon by the City 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 City shall issue a 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.
- (7) **Decision.** The City Manager or designee shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this Code.
- (8) **Notice of Decision.** Within five working days after a decision is made, a Notice of Decision shall be sent by mail to:
- a. The applicant and all owners or contract purchasers of record of the site that is the subject of the application.
 - b. Any person who submits a written request to receive notice or provides comments during the application review period.
 - c. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies that were notified or provided comments during the application review period.
- (9) **Appeals and Reconsideration.** All Type II land use decisions may be appealed to the Planning Commission. The appeal shall be submitted within 15 days of the date the decision is mailed and in conformance with provisions in Chapter 5.21.
- (10) **Commission Hearing and Notice of Appeal.** If a Type II decision is appealed, City staff shall schedule a hearing before the Planning Commission. The Commission shall conduct the hearing consistent with procedures set forth in Chapter 5.21.

ARTICLE V REVIEW PROCEDURES
Chapter 5.18 Type II Application and Review Procedures

Written notice of a public hearing on the appeal shall be mailed to the applicant and those who received notice of the original decision. This notice shall be mailed at least 10 days prior to the public hearing on the appeal and shall contain the information required in Chapter 5.21.

- (11) **Commission Action.** The Commission action on a Type II appeal shall be in the form of a decision. Within seven days of the Commission decision, the applicant and all individuals who participated in the public hearing or requested notice of the decision, shall be mailed written notice of the decision. The notice shall specify findings justifying the decision to approve or deny the request and any conditions of approval.
- (12) **Appeals.** All appeals of Type II land use decisions of the Planning Commission may be appealed to the City Council by any party with standing. The appeal shall be submitted within 15 days of the date the decision is mailed and in conformance with provisions in Chapter 5.21.
- (13) **Council Hearing and Notice of Appeal.** If the Commission decision on a Type II decision is appealed, City staff shall schedule a hearing before the City Council. The Council shall conduct the hearing consistent with procedures set forth in Chapter 5.22. Written notice of a public hearing on the appeal shall be mailed to the applicant and those who received notice of the Commission decision on appeal. This notice shall be mailed at least 10 days prior to the public hearing on the appeal and shall contain the information required in Chapter 5.22.
- (14) **Notice of Council Decision.** Within seven days of the final City Council decision, the applicant and those who attended the hearing or requested notice, shall be mailed written notice of the Council decision. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval.
- (15) **Appeal of Council Decision.** All appeals heard by the City Council may be appealed to the Land Use Board of Appeals (LUBA). The appeal shall be submitted within 21 days of the date the decision is mailed. Appeals shall comply with LUBA procedures.

5.18.020 Conditions of Approval

- (1) **Authorization for Conditions.** Approvals of a Type II action may be granted subject to conditions. Conditions shall be designed to protect public health, safety and general welfare from potential adverse impacts caused by a proposed land use described in an application. Conditions shall either ensure compliance with the standards of the development code or fulfill the need for public service demands created by the proposed use.
- (2) **Timing of Conditions.** Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant demonstrates that it is not practical to fulfill all conditions prior to issuance of such permit, the City Manager may require a performance bond or other guarantee to ensure compliance with zoning regulations or fulfillment of

ARTICLE V REVIEW PROCEDURES

Chapter 5.18 Type II Application and Review Procedures

required conditions. Bonding shall comply with adopted City regulations and procedures.

- (3) **Modify Conditions.** A request to change or alter conditions of approval shall be processed as a new Type II action.

ARTICLE V REVIEW PROCEDURES
Chapter 5.19 Type III Application and Review Procedures

CHAPTER 5.19 TYPE III APPLICATIONS AND REVIEW PROCEDURES

5.19.010 Procedures for Type III Actions

- (1) **Decision Authority.** Applications subject to a Type III procedure shall be reviewed and decided by the Planning Commission.
- (2) **Application.** Upon receipt of an application for a Type III land use action, the City staff shall review the application for completeness.
 - a. If determined to be complete, the 120-day time period shall begin.
 - b. If determined to be incomplete, the applicant shall be notified and provided an additional 180 days to submit supplemental information as necessary.
- (3) **Completeness.** The application shall be deemed complete for the purposes of scheduling and all related timing provisions either:
 - a. Upon receipt of the requested adequate additional information; or, refusal by the applicant to submit the requested information; or
 - b. On the 31st day after the original application submittal.
- (4) **Agency Referrals.** Referrals will be sent to interested agencies such as City departments, police and fire departments, the school district, utility companies, and applicable State agencies. If a County road or State highway is impacted, referrals should be sent to the applicable County Public Works Department and/or ODOT.
- (5) **Commission Hearing and Notification Area.** City staff shall schedule a hearing before the Planning Commission. Written notice of the public hearing shall be mailed at least 15 days prior to the hearing date to the applicant, owners of property within 200 feet of the boundaries of the subject property and to affected County and State agencies responsible for roads and highways. The Commission shall conduct the hearing consistent with procedures set forth in Chapter 5.21. The notice of a pending Type III hearing shall include the following:
 - a. Explain the nature of the application.
 - b. Cite the applicable criteria from the Code.
 - c. Identify the location of the property.
 - d. State the date, time, and location of the Planning Commission hearing.
 - e. Include the name of the City representative to contact and the telephone number where additional information may be obtained.
 - f. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals.

ARTICLE V REVIEW PROCEDURES

Chapter 5.19 Type III Application and Review Procedures

- g. State that a copy of the application, all documents and evidence relied upon by the applicant and application criteria are available for inspection at no cost and a copy will be available at reasonable cost.
 - h. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost.
 - i. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearing.
- (6) **Commission Action.** The Commission action on a Type III request shall be in the form of a decision. Decisions are to be signed by the Planning Commission Chair or acting Planning Commission Chair. Within seven days of the Commission decision, the applicant and all individuals who participated in the public hearing or requested notice of the decision, shall be mailed written notice of the decision. The notice shall specify findings justifying the decision to approve or deny the request and any conditions of approval.
- (7) **Appeals.** All appeals of Type III land use decisions of the Planning Commission may be appealed to the City Council. The appeal shall be submitted within 15 days of the date the decision is mailed and in conformance with provisions in Chapter 5.22.
- (8) **Council Hearing and Notice of Appeal.** If the Commission decision on a Type III decision is appealed, City staff shall schedule a hearing before the City Council. The Council shall conduct the hearing consistent with procedures set forth in Chapter 5.22. Written notice of a public hearing on the appeal shall be mailed to the applicant and those who received notice of the Commission decision. This notice shall be mailed at least 10 days prior to the public hearing on the appeal and shall contain the information required in Chapter 5.22.
- (9) **Notice of Council Decision.** Within seven days of the final City Council decision, the applicant and those who attended the hearing or requested notice, shall be mailed written notice of the Council decision. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval.
- (10) **Appeal of Council Decision.** All appeals heard by the City Council may be appealed to the Land Use Board of Appeals (LUBA). The appeal shall be submitted within 21 days of the date the decision is mailed. Appeals shall comply with LUBA procedures.

5.19.020 Conditions of Approval

- (1) **Authorization for Conditions.** Approvals of any Type III action may be granted subject to conditions. Conditions shall be designed to protect public health, safety, and general welfare from potential adverse impacts caused by a proposed land use described in an application. Conditions shall either ensure

ARTICLE V REVIEW PROCEDURES

Chapter 5.19 Type III Application and Review Procedures

compliance with the standards of the development code or fulfill the need for public service demands created by the proposed use.

- (2) **Timing of Conditions.** Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant demonstrates that it is not practical to fulfill all conditions prior to issuance of such permit, the City Manager may require a performance bond or other guarantee to ensure compliance with zoning regulations or fulfillment of required conditions. Bonding shall comply with adopted City regulations and procedures.
- (3) **Modify Conditions.** A request to change or alter conditions of approval shall be processed as a new Type III action.

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ARTICLE V REVIEW PROCEDURES
Chapter 5.20 Type IV Application and Review Procedures

CHAPTER 5.20 TYPE IV APPLICATIONS AND REVIEW PROCEDURES

5.20.010 Procedures for Type IV Actions (Quasi-Judicial)

- (1) **Decision Authority.** Zone changes, Comprehensive Plan map amendments, and Comprehensive Plan and Development Code text amendments initiated at the request of a property owner are quasi-judicial applications and subject to a Type IV procedure and shall be reviewed and decided by the City Council with the recommendation of the Planning Commission.
- (2) **Application.** Upon receipt of an application for a Type IV land use action, the City staff shall review the application for completeness.
 - a. If determined to be complete, the 120-day time period shall begin.
 - b. If determined to be incomplete, the applicant shall be notified and provided an additional 180 days to submit supplemental information as necessary.
- (3) **Completeness.** The application shall be deemed complete for the purposes of scheduling and all related timing provisions either:
 - a. Upon receipt of the additional information; or, refusal by the applicant to submit the requested information; or
 - b. On the 31st day after the original application submittal.
- (4) **Agency Referrals.** Referrals will be sent to interested agencies such as City departments, police and fire departments, the school district, utility companies, and applicable state agencies. If a County road or State highway is impacted, referrals should be sent to the applicable County Public Works Department and/or ODOT.
- (5) **Commission Hearing and Notice.** City staff shall schedule a hearing before the Planning Commission. The City Council and Planning Commission hearings can be combined if approved by the Mayor. The Commission shall conduct the hearing consistent with procedures set forth in Chapter 5.21. Notice of the public hearings before the Planning Commission and City Council for a Type IV land use action, shall be published in a newspaper of general circulation in the City at least 20 days prior to each public hearing. Affected property owners within 200 feet of the subject property shall be notified by mail at least 20 days prior to the initial Planning Commission hearing. Mailed notice of a pending Type IV hearing shall include the following:
 - a. Identify the specific land use decisions or decisions requested.
 - b. Describe the street address or other easily understandable reference to the location of the site.
 - c. List the relevant decision criteria by name and number of Code sections.
 - d. State the place, date, and time of the Planning Commission hearing.

ARTICLE V REVIEW PROCEDURES

Chapter 5.20 Type IV Application and Review Procedures

- e. Include the name and telephone number of a contact person regarding the Administrative Decision.
 - f. State that if any person fails to address the relevant decision 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 decision criteria are considered relevant evidence.
 - g. State that all evidence relied upon by the City 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.
- (6) **Commission Action.** The Commission action on a Type IV request shall be in the form of a recommendation to the City Council. Within five days of the Commission decision, the applicant and all individuals who requested notice of the decision, shall be mailed written notice of the Commission decision. The notice shall specify findings justifying the recommendation to approve or deny the request and any recommended conditions of approval.
- (7) **Council Hearing.** Subsequent to the Commission hearing, City staff shall schedule a hearing before the City Council. Notice shall be provided consistent with requirements in Chapter 5.19. The Council shall conduct the hearing consistent with procedures set forth in Chapter 5.22. The City Council and Planning Commission hearings can be combined if approved by the Mayor.
- (8) **Notice of Council Decision.** Within seven days of the final City Council decision, the applicant and all individuals who requested notice of the decision, shall be mailed written notice of the Council decision. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval. City Council approval shall be in the form of an ordinance; a denial shall be in a form acceptable to the Council.
- (9) **Appeals.** All Type IV land use decisions of the City Council may be appealed to the Land Use Board of Appeals (LUBA). The appeal shall be submitted within 21 days of the date the decision is mailed. Appeals shall comply with LUBA procedures.
- (10) **Joint Notice Publication.** The City has the option of publishing a single notice for both the Planning Commission and City Council hearings, provided the notice is set to publish at least 20 days prior to the Planning Commission hearing.

5.20.020 Conditions of Approval

- (1) **Authorization of Conditions.** Approvals of a zone change may be granted subject to conditions to the extent permitted under this Code.
- (2) **Timing of Conditions.** Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant demonstrates that it is not practical to fulfill all conditions prior to issuance of such permit, the City Manager may require a performance bond or other guarantee to ensure compliance with zoning regulations or fulfillment of

ARTICLE V REVIEW PROCEDURES
Chapter 5.20 Type IV Application and Review Procedures

required conditions. Bonding shall comply with adopted City regulations and procedures.

- (3) **Modify Conditions.** Changes of alterations of conditions shall be processed as a new administrative action.

5.20.030 Procedures for Type IV Actions (Legislative)

- (1) **Procedures.** Type IV legislative applications may be initiated by either a majority vote of the City Council or a majority vote of the Planning Commission.
- (2) **Time Limit.** Type IV legislative actions are not subject to the 120-day time limit. Type IV quasi-judicial actions are subject to the 120-day time limit.
- (3) **Agency Referrals.** Referrals will be sent to interested agencies such as city departments, police and fire departments, the school district, utility companies, and applicable State agencies. If a County road or State highway is impacted, referrals should be sent to the applicable County Public Works Department and/or ODOT.
- (4) **Public Hearings by Planning Commission.** A public hearing shall be held by the Planning Commission. Notice of the time, place, and purpose of the Planning Commission's hearings shall be given by publication of a notice in a newspaper of general circulation in the City not less than 20 days prior to the date of hearing.
- (5) **Commission Action.** The Commission action on a Type IV legislative request shall be in the form of a recommendation to the City Council. Within seven days of the Commission decision, the applicant and all individuals who requested notice of the decision, shall be mailed written notice of the Commission decision. The notice shall specify findings justifying the recommendation to approve or deny the request and any recommended conditions of approval.
- (6) **Public Hearing by City Council.** Following Planning Commission action, the City Council shall hold a public hearing to consider the Planning Commission's recommendation on proposed amendments. Notice of the time, place, and purpose of the Council hearings shall be given by publication of a notice in a newspaper of general circulation in the City not less than 10 days prior to the date of hearing.
- (7) **Notice of Council Decision.** Within seven days of the final City Council decision, the applicant and all individuals who requested notice of the decision, shall be mailed written notice of the Council decision. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval. City Council approval shall be in the form of an ordinance; a denial shall be in a form acceptable to the Council.
- (8) **Appeals.** All Type IV land use decisions by the City Council may be appealed to the Land Use Board of Appeals (LUBA). The appeal shall be submitted within 21 days of the date the decision is mailed. Appeals shall comply with LUBA procedures.

ARTICLE V REVIEW PROCEDURES

Chapter 5.20 Type IV Application and Review Procedures

- (9) **Joint Hearing and Notice of Publication.** The Planning Commission and City Council hearings can be combined if approved by the Mayor. The City has the option of publishing a single notice for both the Planning Commission and City Council hearings, provided the notice is set to publish at least 20 days prior to the Planning Commission hearing.

ARTICLE V REVIEW PROCEDURES
Chapter 5.21 Public Hearing Before the Planning
Commission

**CHAPTER 5.21 PUBLIC HEARING BEFORE THE PLANNING
COMMISSION**

5.21.010 General Provisions

- (1) **Timing.** Land use actions which require a public hearing by the Planning Commission under the provisions of this Code shall be initially heard by the Planning Commission within 60 days of the receipt of an application which is deemed complete.
- (2) **Hearing Action.** The Planning Commission may continue a public hearing for additional information, testimony, or for decision only, to its next regular meeting or to a special meeting. In no instance, however, shall the decision be continued more than 30 days beyond the initial hearing date.
- (3) **Continuance and Open Record.** Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing for the receipt of additional written testimony.
- (4) **Type II Appeals.** Appeal of a Type II action shall be heard by the Planning Commission. Findings of the Planning Commission on such appeal shall be final unless further appealed to the City Council
- (5) **Type III Action.** The decisions of the Planning Commission on applications for Type III actions shall be final unless appealed to the City Council.
- (6) **Type IV Actions.** The recommendations of the Planning Commission on applications for Type IV actions shall be referred to the City Council for final determination. Notice of the Commission recommendation is required but shall not be subject to appeal.

5.21.020 Planning Commission Hearing Procedures

A public hearing before the Planning Commission shall be conducted under the following procedures unless modified by the Commission for a specific hearing:

- (1) Prior to opening the hearing, the Commission Chair shall announce to the audience the necessity of signing the sign-up sheet if a person desires to address the Commission.
- (2) The Chair shall open the public hearing, announce the purpose of the hearing, and announce any time limits being placed on testimony.
- (3) The Chair or designee shall read aloud the required notice of rights and responsibilities for participating in the hearing as identified in ORS 197.763. Any audience questions to clarify the rights and responsibilities will be answered.
- (4) The Chair shall ask the Commission members and audience for:

ARTICLE V REVIEW PROCEDURES
Chapter 5.21 Public Hearing Before the Planning
Commission

- a. Any objections to jurisdiction.
 - b. Any objections to notice obligations.
- (5) The Chair shall ask the Commission members to declare:
- a. Any ex-parte contacts.
 - b. Any conflicts of interest or bias.
- (6) The Chair will call for the staff report and recommendation.
- (7) The applicant and those representing the applicant will address the Commission.
- (8) The Chair will recognize those in favor of the application who have signed the sign-up sheet. Commissioners may ask questions of the speaker.
- (9) The Chair will recognize those opposing the application who have signed the sign-up sheet. Commissioners may ask questions of the speaker.
- (10) The Chair will then ask the audience if there is any person who has not signed up on the sheet who would like to address the Commission. These speakers must provide their name and address at the speaker's table prior to addressing the Commission. Commissioners may ask questions of the speaker.
- (11) The Chair will then ask if the applicant would like to provide any rebuttal. Rebuttal is limited to responding specifically to prior testimony. No new information or arguments may be provided.
- (12) The Chair will then ask the staff to provide comments and recommendations to the Commission based upon information provided from the speaker's table from the audience and applicant.
- (13) If prior to closing the evidentiary record of the hearing a participant requests an opportunity to present additional evidence, arguments, or testimony, the record shall remain open for:
- a. At least seven days to receive additional written evidence, written arguments or written testimony.
 - b. At least four additional days for any person to present written rebuttal arguments or written evidence to rebut new written evidence, written arguments, or written testimony.
 - c. The Chair will confer with staff regarding the new dates and announce the date for the continued hearing.
- (14) The Chair will close the hearing for receipt of any additional testimony. No additional testimony, exhibits, or arguments from the public may be heard, received, or allowed, except as may be approved by a majority vote of the Commission to ask an audience member a specific question and in which case the applicant will be allowed rebuttal if the question is not asked of the applicant. Commission members may ask questions of staff or themselves.

ARTICLE V REVIEW PROCEDURES

Chapter 5.21 Public Hearing Before the Planning Commission

- (15) The Chair will call for deliberation by the Commission on the application, any proposed conditions of approval, and findings of fact to support the Commission's decision.
- (16) Before any motion is made, the Chair will close the public hearing.
- (17) The Commission will vote on a motion by a Commission member on the application, proposed conditions of approval, and findings of fact.
- (18) The Chair shall announce the decision of the Commission, any applicable appeal timeline, and adjourn the agenda item.

5.21.030 Evidence

- (1) **Acceptance of Evidence.** All evidence offered and not objected to may be received unless excluded by the Planning Commission on its own motion. Evidence may be received subject to a later ruling as to its admissibility.
- (2) **Exclusion of Evidence.** The Planning Commission may exclude irrelevant, unduly repetitious, immaterial, or cumulative evidence; but erroneous admission of evidence by the Commission shall not preclude action or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party. When a hearing will be expedited, any part of the evidence may be received in written form.
- (3) **Public Record.** All evidence shall be offered and made a part of the public record in the case.
- (4) **Use of Other Information.** The Planning Commission may take notice of judicially recognizable facts, and members may take notice of general, technical, or scientific facts within their specialized knowledge. Parties shall be notified at any time during the proceeding, but in any event prior to the final decision unless appealed, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The Planning Commission members may utilize their experience, technical competence, and specialized knowledge in evaluation of the evidence presented.
- (5) **Rights of Participants.** Every party is entitled to an opportunity to be heard and to present and rebut evidence.
- (6) **Testify.** All interested persons shall be allowed to testify.
- (7) **LUBA Appeal.** An issue which may be the basis for an appeal to the Land Use Board of Appeals (LUBA) must be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the City. Such issues shall be raised with sufficient specificity so as to afford the City Council or Planning Commission, and the parties, an adequate opportunity to respond to each issue.

ARTICLE V REVIEW PROCEDURES
Chapter 5.21 Public Hearing Before the Planning
Commission

5.21.040 Record of Hearing

A record of the proceeding shall be made by written, mechanical, or electronic means.

5.21.050 Limits on Oral Testimony

The Planning Commission Chair may set consistent, reasonable time limits for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing.

5.21.060 Exhibits

All exhibits received shall be marked so as to provide identification upon review. Such exhibits shall be retained by the City.

CHAPTER 5.22 REVIEW AND PUBLIC HEARINGS BY CITY COUNCIL

5.22.010 General Provisions

- (1) **Council Review.** The City Council may call up a Type II or Type III decision for review within the appeal period without an appeal being filed. A majority of the Council, as determined by the City Attorney by polling the Council, must concur in considering calling up the application. If there is concurrence, the agenda item will be set at a regular meeting or at a special meeting set by the Mayor. The Council must take the action to call up a decision in a public meeting and cite the reasons. The Council must find the original decision likely violated City regulations, policy, or best interest as determined by the Council. Matters called up by the Council shall be processed in the same manner as an appeal.
- (2) **Timing.** All hearings or reviews required by the City Council shall be heard within 30 days of the Planning Commission's written decision or appeal request. In no instance, however, shall this period extend the date of the hearing and final action beyond 120 days from the date of the initial submission of a complete application, unless voluntarily agreed to by the applicant.
- (3) **Council Decisions.** The City Council shall prepare and adopt written findings for approval or denial, and any conditions of approval, within two weeks of the hearing by the City Council. In no case, however, shall this decision and the preparation of written findings extend beyond 120 days from the date of initial submittal of a complete application, unless voluntarily agreed to by the applicant. Amendments to adopted maps and texts shall require an ordinance; other decisions shall require an order.

5.22.020 City Council Review of Appeals

- (1) **Appeals.** The City Council shall hear the appeals of Planning Commission decisions, including appeals of Type II decisions rendered by staff, appealed to the Commission, and subsequently appealed to the Council. The City Council action on such appeals shall be the final action of the City on the request.
- (2) **Submission of New Testimony and De Novo Hearings.** The City Council shall admit additional testimony and other evidence by holding a de novo hearing. The hearing procedures shall be the same as for a Planning Commission hearing found in Section 5.21.020.
- (3) **City Council Action.** The City Council may affirm, rescind, or amend the action and findings of fact of the Planning Commission, based on applicable criteria, and may grant approval subject to conditions necessary to carry out the decision. The City Council may also remand the matter back to the Planning Commission for additional information, subject to the agreement of the applicant to extend the 120-day review period.