

Chapter 4.0 - Applications and Review Procedures

4.0 Administration of Land Use and Development Permits

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Chapter 4.0 - Administration of Land Use and Development Permits

4.0.1 Introduction.

Chapter 4 provides all of the application requirements and procedures for obtaining permits required by this Code. Please refer to Table 4.1.2 in Chapter 4.1 for a key to determining which land use permits and procedures are required, and the decision-making body for a particular type of permit application.

Chapter 4.1 - Types of Applications and Review Procedures

Sections:

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4.1.1 Purpose.

The purpose of this chapter is to establish standard decision-making procedures that will enable the City, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way.

4.1.2 Description of Permit/Decision-making Procedures.

All land use and development permit applications, except building permits, shall be decided by using the procedures contained in this Chapter. General procedures for all permits are contained in Section 4.1.7. Specific procedures for certain types of permits are contained in Section 4.1.2 through 4.1.6. The procedure “type” assigned to each permit governs the decision-making process for that permit. There are four types of permit/decision-making procedures: Type I, II, III, and IV. These procedures are described in subsections A-D below. In addition, Table 4.1.2 lists all of the City’s land use and development applications and their required permit procedure(s).

- A. Type I Procedure (Ministerial). Type I decisions are made by the City Recorder/Clerk, or someone they officially designate, without public notice and without public hearing. The Type I procedure is used when there are clear and objective approval criteria, and applying City standards and criteria requires no use of discretion.
- B. Type II Procedure (Administrative). Type II decisions are made by the City Recorder/Clerk with public notice and an opportunity for a public hearing. The appeal of a Type II decision is heard by the City Council.
- C. Type III Procedure (Quasi-Judicial). Type III decisions are made by the City Council after a public hearing. Type III decisions generally use discretionary approval criteria.
- D. Type IV Procedure (Legislative). Type IV procedures apply to legislative matters. Legislative matters involve creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations, zone changes, and comprehensive plan amendments which apply to entire districts). Type IV matters are considered initially by the Planning Commission with final decisions made by the City Council.

Table 4.1.2

**Summary of Development Decisions/Permit by
Type of Decision-making Procedure***

Access Permit (public street)	Type I	Chapters 3.1, 4.2, 4.3
Annexation	Type III/IV	Comprehensive Plan and city/county intergovernmental agreement(s), as applicable.
Building Permit	N/A	Building Code
Code Interpretation	Type II	Chapter 4.8
Code Amendment	Type IV	Chapter 4.7
Comprehensive Plan Amendment	Type IV	Comprehensive Plan
Conditional Use Permit	Type III	Chapter 4.4
Flood Plain Development Permit	Type I	Building Code (requires permit per Section 3.7 first)
Home Occupation Permit	Type I	Chapter 4.9
Modification to Approval	Type II/III	Chapter 4.6
Land Use District Map Change		
Quasi-Judicial (no plan amendment required)	Type III	Chapter 4.7
Legislative (plan amendment required)	Type IV	Chapter 4.7
Lot Line Adjustment	Type I	Chapter 4.3
Non-Conforming Use or Development Confirmation	Type I	Chapter 5.2
Partition	Type II	Chapter 4.3
Sign Permit	Type I	Chapter 3.6
Development Review	Type I	Chapter 4.2, Building Code
Site Design Review		
Type II	Type II	Chapter 4.2
Type III	Type III	Chapter 4.2
Subdivision	Type II/III	Chapter 4.3
Temporary Use Permit	Type II/III	Chapter 4.9
Variance		
Class A	Type I	Chapter 5.1
Class B	Type II	Chapter 5.1
Class C	Type III	Chapter 5.1

*Note: The Chapters referenced above in the right-hand column describe the types of land uses and development activity that require permits under each type of decision-making procedure.

4.1.3 Type I Procedure (Ministerial)

A. Application Requirements.

1. Application Forms. Type I applications shall be made on forms provided by the City.
2. Application Requirements. Type I applications shall:
 - a. Include the information requested on the application form;
 - b. Address the criteria in sufficient detail for review and action; and
 - c. Be filed with the required fee.

B. Administrative Decision Requirements. The City Recorder's decision shall address all of the approval criteria. Based on the criteria and the facts contained within the record, the City Recorder shall approve, approve with conditions, or deny the requested permit or action. A written record of the decision shall be provided to the applicant and kept on file at City Hall.

C. Final Decision. The decision shall be final on the date it is mailed or otherwise provided to the applicant, whichever occurs first. The decision is the final decision of the City. It cannot be appealed to the City Council.

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

4.1.4 Type II Procedure (Administrative)

A. Preapplication conference. A preapplication conference is required for Type II applications. Preapplication conference requirements and procedures are in Section 4.1.7.

B. Application requirements.

1. Application Forms. Type II applications shall be made on forms provided by the City.
2. Submittal Information. The application shall:
 - a. Include the information requested on the application form;
 - b. Be filed with 3 copies of a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making;
 - c. Be accompanied by the required fee;
 - d. Include one set of pre-stamped and pre-addressed envelopes for all real property owners of record who will receive a notice of the application as required in Section 4.1.4.C. The records of the Marion County Assessor Department are the official records for determining ownership. The applicant shall demonstrate that

the most current assessment records have been used to produce the notice list. *[Alternatively, the applicant may pay a fee for the City to prepare the public notice mailing];*

- e. Include an impact study for all land division applications. The impact study shall quantify/assess the effect of the development on public facilities and services. The study shall address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water system, and the noise impacts of the development. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users. In situations where this Code requires the dedication of real property to the City, the applicant shall either specifically agree to the dedication requirement, or provide evidence that shows that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

C. Notice of Application for Type II Administrative Decision.

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

- e. Identify the specific permits or approvals required;
- f. Describe the street address or other easily understandable reference to the location of the site;
- g. State that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence.
- h. State that all evidence relied upon by the City Recorder 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 Recorder shall issue a Type II Administrative Decision. The decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;
- j. Contain the following note: “Notice to mortgagee, lienholder, vendor, or seller: The Scotts Mills Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser.”

D. Administrative Decision Requirements. The City Recorder shall make Type II written decisions addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the City Recorder shall approve, approve with conditions, or deny the requested permit or action.

E. Notice of Decision.

1. Within 5 days after the City Recorder signs the decision, a Notice of Decision shall be posted on the property and sent by mail to:
 - a. Any person who submits a written request to receive notice, or provides comments during the application review period;
 - b. The applicant and all owners or contract purchasers of record of the site which is the subject of the application;
 - c. Any person who submits a written request to receive notice, or provides comments during the application review period;
 - d. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies which were notified or provided comments during the application review period.
2. The City Recorder shall cause an affidavit of mailing and posting of the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was

mailed and posted, and shall demonstrate that the notice was mailed to the people and within the time required by law.

3. The Type II Notice of Decision shall contain:

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

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

G. Appeal. A Type II administrative decision may be appealed to the City Council as follows:

1. Who may appeal. The following people have legal standing to appeal a Type II Administrative Decision:
 - a. The applicant;
 - b. Any person who was mailed written notice of the Type II administrative decision;
 - c. Any other person who participated in the proceeding by submitting written comments.

2. Appeal procedure.

a. Notice of appeal. Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type II Administrative Decision by filing a Notice of Appeal according to the following procedures:

1. Time for filing. A Notice of Appeal shall be filed with the City Recorder within 12 days of the date the Notice of Decision was mailed;

2. Content of notice of appeal. The Notice of Appeal shall contain:

a. An identification of the decision being appealed, including the date of the decision;

b. A statement demonstrating the person filing the Notice of Appeal has standing to appeal;

c. A statement explaining the specific issues raised on appeal;

d. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period;

e. Filing fee.

3. The amount of the filing fee shall be established by the City. The maximum fee for an initial hearing shall be the City's cost for preparing and for conducting the hearing, or the statutory maximum, whichever is less.

b. Scope of appeal. The appeal of a Type II Administrative Decision by a person with standing shall be limited to the specific issues raised during the written comment period, as provided under Section 4.1.4.C, unless the hearings body allows additional evidence or testimony concerning any other relevant issue. The City Council may allow such additional evidence if they determine that such evidence is necessary to resolve the case. The purpose of this requirement is to limit the scope of Type II Administrative Appeals by encouraging persons with standing to submit their specific concerns in writing during the comment period. The written comments received during the comment period will usually limit the scope of issues on appeal. Only in extraordinary circumstances should new issues be considered by the hearings body on appeal of a Type II Administrative Decision.

c. Appeal procedures. Type III notice and hearing procedures shall be used for all Type II Administrative Appeals, as provided in Section 4.1.5.C-G.

H. Appeal to City Council. The decision of the City Council is the final decision of the City.

4.1.5 Type III Procedure (Quasi-Judicial)

A. Preapplication conference. A preapplication conference is required for all Type III applications. The requirements and procedures for a preapplication conference are described in Section 4.1.7.C.

B. Application requirements.

1. Application forms. Type III applications shall be made on forms provided by the City.
2. Content. Type III applications shall:
 - a. Include the information requested on the application form;
 - b. Be filed with 3 copies of a narrative statement that explains how the application satisfies each and all of the relevant criteria in sufficient detail for review and action;
 - c. Be accompanied by the required fee;
 - d. Include one set of pre-stamped and pre-addressed envelopes for all property owners of record as specified in Section 4.1.4.C (Notice of Hearing). The records of the Marion County Assessor' Office are the official records for determining ownership. The applicant shall demonstrate that the most current assessment records have been used to produce the notice list. [*Alternatively, the applicant may pay a fee for the City to prepare the public notice mailing*];
 - e. Include an impact study for all Type III applications. The impact study shall quantify/assess the effect of the development on public facilities and services. The study shall address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water system, and the noise impacts of the development. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users. In situations where this Code requires the dedication of real property to the City, the applicant shall either specifically agree to the dedication requirement, or provide evidence that show that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

C. Notice of Hearing.

1. Mailed notice. Notice of a Type III application hearing or Type II appeal hearing shall be given by the City in the following manner:
 - a. At least 20 days before the hearing date, notice shall be mailed to:

- i. The applicant and all owners or contract purchasers of record of the property which is the subject of the application;
 - ii. All property owners of record within 250 feet of the site;
 - iii. Any governmental agency which has entered into an intergovernmental agreement with the City which includes provision for such notice, or who is otherwise entitled to such notice;
 - iv. Any person who submits a written request to receive notice; and
 - v. For appeals, the appellant and all persons who provided testimony.
 - b. The City Recorder shall have an affidavit of notice prepared and made a part of the file. The affidavit shall state the date that the notice was posted on the property and mailed to the persons who must receive notice;
 - c. At least 10 business days before the hearing, the applicant shall post notice of the hearing on the property per Subsection 2 below. The applicant shall prepare and submit an affidavit of posting of the notice which shall be made part of the administrative record.
2. Content of Notice. Notice of appeal of a Type II Administrative decision or a Type III hearing to be mailed, posted and published per Subsection 1 above shall contain the following information:
- a. The nature of the application and the proposed land use or uses which could be authorized for the property;
 - b. The applicable criteria and standards from the Development Code that apply to the application;
 - c. The street address or other easily understood geographical reference to the subject property;
 - d. The date, time, and location of the public hearing;
 - e. A statement that the failure to raise an issue in person, or by letter at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals (LUBA);
 - f. The name of a City representative to contact and the telephone number where additional information on the application may be obtained;
 - g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at City Hall at no cost and that copies shall be provided at a reasonable cost;

- h. A statement that a copy of the City’s staff report and recommendation to the City Council shall be available at no cost at least 7 days before the hearing, and that a copy shall be provided on request at a reasonable cost;
- i. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings;
- j. The following notice: “Notice to mortgagee, lienholder, vendor, or seller: The Scotts Mills Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser.”

D. Conduct of the Public Hearing.

1. At the commencement of the hearing, the hearings body shall state to those in attendance:
 - a. The applicable approval criteria and standards that apply to the application or appeal;
 - b. A statement that testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations which the person testifying believes to apply to the decision;
 - c. A statement that failure to raise an issue with sufficient detail to give the City Council and the parties an opportunity to respond to the issue means that no appeal may be made to the State Land Use Board of Appeals (LUBA) on that issue;
 - d. Before the conclusion of the initial evidentiary hearing, any participant may ask the hearings body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a “continuance”) per paragraph 2 of this subsection, or by leaving the record open for additional written evidence or testimony per paragraph 3 of this subsection.
2. If the City Council grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least 7 days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least 7 days, so that they can submit additional written evidence or testimony in response to the new written evidence.
3. If the City Council leaves the record open for additional written evidence or testimony, the record shall be left open for at least 7 days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the City Council shall reopen the record per subsection E of this section.

- a. When the City Council re-opens the record to admit new evidence or testimony, any person may raise new issues which relates to that new evidence or testimony;
 - b. An extension of the hearing or record granted pursuant to Section D is subject to the limitations of ORS 227.178 (“120 day rule”), unless the continuance or extension is requested or agreed to by the applicant;
 - c. If requested by the applicant, the City shall allow the applicant at least 7 days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant’s final submittal shall be part of the record but shall not include any new evidence.
4. The record.
- a. The record shall contain all testimony and evidence that is submitted to the City and the City Council and not rejected;
 - b. The City Council may take official notice of judicially recognizable facts under the applicable law. If the City Council takes official notice, it must announce its intention and allow persons participating in the hearing to present evidence concerning the noticed facts;
 - c. The City Council shall retain custody of the record until the City issues a final decision.
5. Participants in the appeal of a Type II Administrative decision or a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing ex parte contacts (see Section 6 below) as reasonably possible. The public has a countervailing right of free access to public officials. Therefore:
- a. At the beginning of the public hearing, City Council members shall disclose the substance of any pre-hearing ex parte contacts (as defined in Section 6 below) concerning the application or appeal. The Council member shall state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly;
 - b. A member of the City Council shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: Their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;

- c. Disqualification of a member of the City Council due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;
 - d. If all members abstain or are disqualified, those members present who declare their reasons for abstention or disqualification shall be re-qualified to make a decision;
 - e. If a member of the City Council abstains or is disqualified, the City shall provide a substitute in a timely manner subject to the impartiality rules in Section 6;
 - f. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this section.
6. Ex parte communication.
- a. Members of the City Council shall not:
 - i. Communicate, directly or indirectly, with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing, except upon giving notice, per Section 5 above;
 - ii. Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials.
 - b. No decision or action of the City Council shall be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:
 - i. Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and
 - ii. Makes a public announcement of the content of the communication and of all participants' rights to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.
 - c. A communication between City staff and the City Council is not considered ex parte contact.
7. Presenting and receiving evidence.

- a. The City Council may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;
- b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing, only as provided in Section D;
- c. Members of the City Council may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the hearing and an opportunity is provided to dispute the evidence. In the alternative, a member of the City Council may visit the property to familiarize their self with the site and surrounding area, but not to independently gather evidence. In the second situation, at the beginning of the hearing, they shall disclose the circumstances of the site visit and shall allow all participants to ask about the site visit.

E. The Decision Process.

1. Basis for decision. Approval or denial of an appeal of a Type II Administrative decision or a Type III application shall be based on standards and criteria in the development code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the Comprehensive Plan for the area in which the development would occur and to the development regulations and Comprehensive Plan for the City as a whole;
2. Findings and conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;
3. Form of decision. The City Council shall issue a final written order containing the findings and conclusions stated in subsection 2, which either approves, denies, or approves with specific conditions. The hearings body may also issue appropriate intermediate rulings when more than one permit or decision is required;
4. Decision-making time limits. A final order for any Type II Administrative Appeal or Type III action shall be filed with the City Recorder within 12 business days after the close of the deliberation.

- F. Notice of Decision. Written notice of a Type II Administrative Appeal decision or a Type III decision shall be mailed to the applicant and to all participants of record within 5 business days after the City Council decision. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice.

G. Final Decision and Effective Date. The decision of the City Council on any Type II appeal or any Type III application is final for purposes of appeal on the date it is mailed by the City. The decision is effective on the day after the appeal period expires.

4.1.6 Type IV Procedure (Legislative)

A. Pre-Application conference. A pre-application conference is required for all Type IV applications. The requirements and procedures for a preapplication conference are described in Section 4.1.7.C.

B. Timing of requests. The City Recorder shall review proposed Type IV actions no more than twice yearly, based on the City's approved schedule for such actions.

C. Application requirements.

1. Application forms. Type IV applications shall be made on forms provided by the City;
2. Submittal Information. The application shall contain:
 - a. The information requested on the application form;
 - b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
 - c. The required fee; and
 - d. Three copies of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.

D. Notice of Hearing.

1. Required hearings. A minimum of two hearings are required for all Type IV applications, except annexations where only one hearing by the City Council is required.
2. Notification requirements. Notice of public hearings for the request shall be given by the City in the following manner:
 - a. At least 20 days, but no more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - i. Each owner whose property would be rezoned in order to implement the ordinance (i.e., owners of property subject to a comprehensive plan amendment shall be notified if a zone change would be required to implement the proposed comprehensive plan amendment.

- ii. Any affected governmental agency;
 - iii. Any person who requests notice in writing;
 - iv. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
 - b. At least 10 days before the scheduled initial public hearing and 10 days before the City Council's final hearing date, notice shall be published in a newspaper of general circulation in the City.
 - c. The City shall:
 - i. For each mailing of notice, file an affidavit of mailing in the record as provided by Subsection a; and
 - ii. For each published notice, file in the record the affidavit of publication in a newspaper that is required in subsection b.
 - d. The Department of Land Conservation and Development (DLCD) shall be notified in writing of the proposed comprehensive plan and development code amendments at least 45 days before the first public hearing at which public testimony or new evidence will be received.
 - e. Notifications for annexation shall follow the provisions of this Chapter, except as required for local government boundary commissions (ORS 199).
- 3. Content of notices. The mailed and published notices shall include the following information:
 - a. The number and title of the file containing the application, and the address and telephone number of City Hall where the additional information about the application can be obtained;
 - b. A description of the location of the proposal reasonably calculated to give notice of the location of the geographic area;
 - c. A description of the proposal in enough detail for people to determine that a change is proposed, and the place where all relevant materials and information may be obtained or reviewed;
 - d. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the Council and available at City Hall (See subsection E below); and
 - e. Each mailed notice required by section D shall contain the following statement: "Notice to mortgagee, lienholder, vendor, or seller: The Scotts Mills

Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser.”

4. Failure to receive notice. The failure of any person to receive notice shall not invalidate the action, providing:
 - a. Personal notice is deemed given where the notice is deposited with the United States Postal Service;
 - b. Published notice is deemed given on the date it is published.

E. Hearing Process and Procedure.

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

- e. The City Council's deliberations may include questions to the staff, comments from the staff, and inquiries directed to any person present.
- F. Continuation of the Public Hearing. The City Council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.
- G. Decision-Making Consideration. The decision by the City Council shall be based on consideration of the following factors:
 - 1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197 (for comprehensive plan amendments only);
 - 2. Comments from any applicable federal or state agencies regarding applicable statutes or regulations;
 - 3. Any applicable intergovernmental agreements; and
 - 4. Any applicable comprehensive plan policies and provisions of this Code that implement the Comprehensive Plan. Compliance with Chapter 4.6 shall be required for Comprehensive Plan Amendments, and Land Use Zone Map and Text Amendments.
- H. Approval Process and Authority. The City Council shall:
 - 1. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change; and
 - 2. Act by ordinance, which shall be signed by the Mayor after the Council's adoption of the ordinance.
- I. Vote Required for a Legislative Change. A vote by a majority of the qualified members of the City Council present is required to decide any motion made on the proposal.
- J. Notice of Decision. Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within 5 business days after the City Council decision is filed with the City. The City shall also provide notice to all persons as required by other applicable laws.
- K. Final Decision and Effective Date. A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.
- L. Record of the Public Hearing.
 - 1. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record;

2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;
3. The official record shall include:
 - a. All materials considered by the City Council;
 - b. All materials submitted by City staff to the City Council regarding the application;
 - c. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;
 - d. The final ordinance;
 - e. All correspondence; and
 - f. A copy of the notices which were given as required by this Chapter.

4.1.7 General Provisions

- A. 120-day Rule. The City shall take final action on permit applications that are subject to this Chapter, including resolution of all appeals, within 120 days from the date the application is deemed complete. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (The 120-day rule does not apply to Type IV legislative decisions - plan and code amendments - under ORS 227.178.)
- B. Time Computation. In computing any period of time prescribed or allowed by this chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday or legal holiday, including Sunday, in which event, the period runs until the end of the next day which is not a Saturday or legal holiday.
- C. Pre-application Conferences.
 1. Participants. When a preapplication conference is required, the applicant shall meet with the City Recorder or the City Recorder's designee(s).
 2. Information provided. At such conference, City Staff shall:
 - a. Cite the Comprehensive Plan policies and map designations applicable to the proposal;
 - b. Cite the ordinance provisions, including substantive and procedural requirements applicable to the proposal;
 - c. Provide available technical data and assistance which will aid the applicant;

- d. Identify other governmental policies and regulations that relate to the application; and
 - e. Reasonably identify other opportunities or constraints concerning the application.
3. Disclaimer. Failure of City Staff to provide any of the information required by this Section C shall not constitute a waiver of any of the standards, criteria or requirements for the application;
 4. Changes in the law. Due to possible changes in federal, state, regional, and local law, the applicant is responsible for ensuring that the application complies with all applicable laws on the day the application is deemed complete.

D. Applications.

1. Initiation of applications:
 - a. Applications for approval under this chapter may be initiated by:
 - i. Order of City Council;
 - ii. The Mayor
 - iii. A record owner of property (person(s) whose name is on the most recently-recorded deed), or contract purchaser with written permission from the record owner.
 - b. Any person authorized to submit an application for approval may be represented by an agent authorized in writing to make the application on their behalf.
2. Consolidation of proceedings. When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same one or more parcels of land, the proceedings shall be consolidated for review and decision.
 - a. If more than one approval authority would be required to decide on the applications if submitted separately, then the decision shall be made by the approval authority having original jurisdiction over one of the applications in the following order of preference: The Council, then the City Recorder/Clerk.
 - b. When proceedings are consolidated:
 - i. The notice shall identify each application to be decided;
 - ii. The decision on a Plan Map amendment shall precede the decision on a proposed land use district change and other decisions on a proposed development. Similarly, the decision on a Zone Map amendment shall precede the decision on a proposed development and other actions; and

- iii. Separate findings and decisions shall be made on each application.
- 3. Check for acceptance and completeness. In reviewing an application for completeness, the following procedure shall be used:
 - a. Acceptance. When an application is received by the City, the City shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant:
 - i. The required form;
 - ii. The required fee;
 - iii. The signature of the applicant on the required form, and signed written authorization of the property owner of record if the applicant is not the owner.
 - b. Completeness.
 - i. Review and notification. After the application is accepted, the City shall review the application for completeness. If the application is incomplete, the City shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant 180 days to submit the missing information;
 - ii. When application deemed complete for review. In accordance with the application submittal requirements of this chapter, the application shall be deemed complete upon the receipt by the City of all required information. The applicant shall have the option of withdrawing the application, or refusing to submit information requested by the City in (i) above. For the refusal to be valid, the refusal shall be made in writing and received by the City no later than 14 days after the date on the City's letter of incompleteness. If the applicant refuses in writing to submit the missing information, the application shall be deemed complete on the 31st day after the City first accepted the application.
 - iii. Standards and criteria that apply to the application. Approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first accepted.
- 4. Changes or additions to the application during the review period. Once an application is deemed complete:
 - a. All documents and other evidence relied upon by the applicant shall be submitted to the City at least 7 days before the notice of action or hearing is mailed, if possible. Documents or other evidence submitted after that date shall

be received by the City, and transmitted to the City Council (when applicable) but may be too late to include with the staff report and evaluation;

- b. When documents or other evidence are submitted by the applicant during the review period, but after the application is deemed complete, City staff or City Council shall determine whether or not the new documents or other evidence submitted by the applicant significantly change the application;
- c. If the assigned review determines that the new documents or other evidence significantly change the application, the reviewer shall include a written determination that a significant change in the application has occurred as part of the decision. In the alternate, the reviewer (City staff/City Council) may inform the applicant either in writing, or orally at a public hearing, that such changes may constitute a significant change (see “d”, below), and allow the applicant to withdraw the new materials submitted, in order to avoid a determination of significant change;
- d. If the applicant’s new materials are determined to constitute a significant change in an application that was previously deemed complete, the City shall take one of the following actions, at the choice of the applicant:
 - i. Continue to process the existing application and allow the applicant to submit a new second application with the proposed significant changes. Both the old and the new applications will proceed, but each will be deemed complete on different dates and may therefore be subject to different criteria and standards and different decision dates;
 - ii. Suspend the existing application and allow the applicant to submit a new application with the proposed significant changes. Before the existing application can be suspended, the applicant must consent in writing to waive the 120-day rule (Section A., above) on the existing application. If the applicant does not consent, the City shall not select this option;
 - iii. Reject the new documents or other evidence that has been determined to constitute a significant change, and continue to process the existing application without considering the materials that would constitute a significant change. The City will complete its decision-making process without considering the new evidence.
- e. If a new application is submitted by the applicant, that application shall be subject to a separate check for acceptance and completeness and will be subject to the standards and criteria in effect at the time the new application is accepted.

E. City Recorder’s Duties. The City Recorder, or their designee, shall:

1. Prepare application forms based on the criteria and standards in applicable state law, the City’s Comprehensive Plan, and implementing ordinance provisions;

2. Accept all development applications which comply with Section 4.1.7;
3. Prepare a staff report that summarizes the application(s) and applicable decision criteria, and provide findings of conformance and/or nonconformance with the criteria. The staff report should also provide a recommended decision of: approval; denial; or approval with specific conditions that ensure conformance with the approval criteria;
4. Prepare a notice of the proposal decision:
 - a. In the case of an application subject to a Type I or II review process, the City Recorder or their designee shall make the staff report and all case-file materials available at the time that the notice of the decision is issued;
 - b. In the case of an application subject to a hearing (Type III or IV process), the City Recorder shall make the staff report available to the public at least 7 days prior to the scheduled hearing date, and make the case file materials available when notice of the hearing is mailed, as provided by Sections 4.1.4.C (Type II), 4.1.5.C (Type III), or 4.1.6.D (Type IV).
5. Administer the hearings process;
6. File notice of the final decision in the City's records and mail a copy of the notice of the final decision to the applicant; all persons who provided comments or testimony; persons who requested copies of the notice; and any other persons entitled to notice by law;
7. Maintain and preserve the file for each application for the time period required by law. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given; the affidavits of notice; the application and all supporting information; the staff report; the final decision including the findings, conclusions and conditions, if any; all correspondence; minutes of any meeting at which the application was considered; and any other exhibit, information or documentation which was considered by the decision-maker(s) on the application; and
8. Administer the appeals and review process.

F. Amended Decision Process.

1. The purpose of an amended decision process is to allow City Staff to correct typographical errors, rectify inadvertent omissions and/or make other minor changes which do not materially alter the decision.
2. The City may issue an amended decision after the notice of final land decision has been issued but before the appeal period has expired. If such a decision is amended, the decision shall be issued within 12 business days after the original decision would have become final, but in no event beyond the 120-day period required by state law. A new 12-day appeal period shall begin on the day the amended decision is issued.

3. Notice of an amended decision shall be given using the same mailing and distribution list as for the original decision notice.
4. Modifications to approved plans or conditions of approval requested by the applicant shall follow the procedures contained in Section 4.5. All other requested changes to decisions that do not qualify as minor or major modifications shall follow the appeal process.

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

4.1.8 Special Procedures

A. Expedited Land Divisions. An Expedited Land Division (“ELD”) shall be defined and may be used as in ORS 197.360 which is expressly adopted and incorporated by reference here.

1. Selection. An applicant who wishes to use an ELD procedure for a partition, subdivision or planned development instead of the regular procedure type assigned to it, must request the use of the ELD in writing at the time the application is filed, or forfeit their right to use it;
2. Review procedure. An ELD shall be reviewed in accordance with the procedures in ORS 197.365;
3. Appeal procedure. An appeal of an ELD shall be in accordance with the procedures in ORS 197.375.

Chapter 4.2 - Development Review and Site Design Review

Sections:

4.2.1 Purpose

4.2.2 Applicability

4.2.3 Development Review Approval Criteria

4.2.4 Site Design Review - Application Review Procedure

4.2.5 Site Design Review - Application Submission Requirements

4.2.6 Site Design Review Approval Criteria

4.2.7 Bonding and Assurances

4.2.8 Development in Accordance With Permit Approval

4.2.1 Purpose.

The purpose of this Chapter is to:

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

4.2.2 Applicability.

Development Review or Site Design shall be required for all new developments and modifications of existing developments, except that regular maintenance, repair and replacement of materials (e.g., roof, siding, awnings, etc.), parking resurfacing, and similar maintenance and repair shall be exempt. The criteria for each type of review are as follows:

- A. Site Design Review. Site Design Review is a discretionary review conducted by the City Council with a public hearing. (See Chapter 4.1 for review procedure.) It applies to all developments in the City, except those specifically listed under “B” (Development Review).

Site Design Review ensures compliance with the basic development standards of the land use zone (e.g., building setbacks, lot coverage, maximum building height), as well as the more detailed design standards and public improvement requirements in Chapters 2 and 3.

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

1. Single-family detached dwelling (including manufactured homes), when required by a condition of land division approval;
2. A single duplex, up to two single family attached units, or a single triplex which is not being reviewed as part of any other development, and accessory parking on the same lot;
3. Building additions of not more than 200 square feet, and minor modifications to development approvals as defined by Chapter 4.5;
4. Any proposed development which has a valid conditional use permit. Major modifications to a development with a conditional use permit shall require review and approval in accordance with Chapter 4.4 - Conditional Use Permits;
5. Home occupation, subject to review under Chapter 4.8;
6. Temporary use, except that temporary uses shall comply with the procedures and standards for temporary uses as contained in Chapter 4.8;
7. Accessory structures with less than 500 square feet of floor area;
8. Other development, when required by a condition of approval.

4.2.3 Development Review Approval Criteria

Development Review shall be conducted only for the developments listed in Section 4.2.2.B, above, and it shall be conducted as a Type I procedure, as described in Chapter 4.1, Section.3. Prior to issuance of building permits, the following standards shall be met:

1. The proposed land use is permitted by the underlying land use zone (Chapter 2);
2. The land use, building/yard setback, lot area, lot dimension, density, lot coverage, building height and other applicable standards of the underlying land use zone are met (Chapter 2);
3. All applicable building and fire code standards are met; and

4. The approval shall lapse, and a new application shall be required, if a building permit has not been issued within one year of Development Review approval, or if development of the site is in violation of the approved plan or other applicable codes.

4.2.4 Site Design Review - Application Review Procedure

Site Design Review shall be conducted as a Type II or Type III procedure as specified in “A” below, using the procedures in Chapter 4.1, and using the approval criteria contained in Section 4.2.5.

A. Site Design Review - Determination of Type II or Type III Applications. Applications for Site Design Review shall be subject to Type II or Type III review, based on the following criteria:

1. Residential buildings with 2 or fewer dwelling units shall be reviewed as a Type II application, except when Development Review is allowed under Section 4.2.3. Residential buildings with greater than 2 units shall be reviewed as a Type III application.
2. Commercial, industrial, public/semi-public, and institutional buildings with 1,500 square feet of gross floor area or smaller shall be reviewed as a Type II application, except when Development Review is allowed under Section 4.2.3. Commercial, industrial, public/semi-public, and institutional buildings with greater than 1,500 square feet of gross floor area shall be reviewed as a Type III application.
3. Developments with more than one building (e.g., two duplex buildings or an industrial building with accessory workshop) shall be reviewed as Type III applications, notwithstanding the provisions contained in subsections 1 and 2, above.
4. Developments with 6 or fewer off-street vehicle parking spaces in conformance with Chapter 3.3 shall be reviewed as Type II applications, and those with more than 6 off-street parking spaces shall be reviewed as Type III applications, notwithstanding the provisions contained in subsection 1-3 (above) and 5-6 (below).
5. Development involving the clearing and/or grading of one acre or a larger area shall be reviewed as Type III applications, notwithstanding the provisions contained in subsections 1-5 (above) and subsection 6 (below).
6. All developments in designated sensitive lands and historic overlay districts shall be reviewed as Type III applications.

4.2.5 Site Design Review - Application Submission Requirements

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

A. General Submission Requirements. The applicant shall submit an application containing all of the general information required by Chapter 4.1, Section 4 (Type II application) or Section 5 (Type III application), as applicable. The type of application shall be determined in accordance with subsection A of Section 4.2.4.

B. Site Design Review Information. An application for site design review shall include the following information, as deemed applicable by the City:

1. Site analysis map. At a minimum the site map shall contain the following:
 - a. The applicant's entire property and the surrounding property to a distance sufficient to determine the location of the development in the City, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions and gross area shall be identified;
 - b. Topographic contour lines at intervals determined by the City;
 - c. Identification of slopes greater than 15%;
 - d. The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site;
 - e. Potential natural hazard areas, including any areas identified as subject to a 100-year flood, areas subject to high water table, and areas mapped by the City, County, or State as having a potential for geologic hazards;
 - f. Resource areas, including marsh and wetland areas, streams, wildlife habitat identified by the City or any natural resource regulatory agencies as requiring protection;
 - g. Site features, including existing structures, pavement, areas having unique views, and drainage ways, and ditches;
 - h. Locally or federally designated historic and cultural resources on the site and adjacent parcels or lots;
 - i. The location, size and species of trees and other vegetation having a caliper (diameter) of 4 inches or greater at four feet above grade;
 - j. North arrow, scale, names and addresses of all persons listed as owners on the most recently recorded deed;
 - k. Name and address of project designer, engineer, surveyor, and/or planner, if applicable;
 - l. Other information, as determined by the City. The City may require studies or exhibits prepared by qualified professionals to address specific site features.

2. Proposed site plan. The site plan shall contain the following information, if applicable:
 - a. The proposed development site, including boundaries, dimensions, and gross area;
 - b. Features identified on the existing site analysis map which are proposed to remain on the site;
 - c. Features identified on the existing site map, if any, which are proposed to be removed or modified by the development;
 - d. The location and dimensions of all proposed public and private streets, drives, rights-of-way, and easements;
 - e. The location and dimensions of all existing and proposed structures, utilities, pavement and other improvements on the site. Setback dimensions for all existing and proposed buildings shall be provided on the site plan;
 - f. A calculation of the total impervious surface before development and the total effective impervious surface after development;
 - g. The location and dimensions of all storm water or water quality treatment, infiltration and/or retention facilities.
 - h. The location and dimensions of entrances and exits to the site for vehicular, pedestrian, and bicycle access;
 - i. The location and dimensions of all parking and vehicle circulation areas (show striping for parking stalls and wheel stops, as applicable);
 - j. Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails;
 - k. Loading and service areas for waste disposal, loading and delivery;
 - l. Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements, as applicable;
 - m. Location, type, and height of outdoor lighting;
 - n. Location of mail boxes, if known;
 - o. Name and address of project designer, if applicable;
 - p. Locations, sizes, and types of signs.

- q. Other information, determined by the City. The City may require studies or exhibits prepared by qualified professionals to address specific site features (e.g., traffic, noise, environmental features, natural hazards, etc.) in conformance with this Code.
3. Architectural drawings. Architectural drawings shall be submitted showing:
 - a. Building elevations (as determined by the City) with building height and width dimensions;
 - b. Building materials, color and type;
 - c. The name of the architect or designer.
 4. Preliminary grading plan. A preliminary grading plan prepared by a registered engineer shall be required for developments which would result in the grading (cut or fill) of 1,000 cubic yards or greater. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed. Surface water detention and treatment plans may also be required, in accordance with Chapter 3.4, Section 4 .
 5. Landscape plan. A landscape plan is required and shall show the following:
 - a. The location and height of existing and proposed fences and other buffering or screening material;
 - b. The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;
 - c. The location, size, and species of the existing and proposed plant materials (at time of planting);
 - d. Existing and proposed building and pavement outlines;
 - e. Specifications for soil at time of planting, irrigation if plantings are not drought tolerant (may be automatic or other approved method or irrigation) and anticipated planting schedule.
 6. Sign drawings shall be required in conformance with the City's Sign Code (Chapter 3.6).
 7. Copies of all existing and proposed restrictions and covenants.
 8. Letter or narrative report documenting compliance with the applicable approval criteria contained in Section 4.2.6.

4.2.6 Approval Criteria

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

- A. The application is complete, as determined in accordance with Chapter 4.1 - Types of Applications and Section 4.2.5, above.
- B. The application complies with all of the applicable provisions of the underlying Land Use Zone (Chapter 2), including: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, and other special standards as may be required for certain land uses.
- C. The applicant shall be required to upgrade any existing development that does not comply with the applicable land use zone standards, in conformance with Chapter 4.2, Nonconforming Uses and Development.
- D. The application complies with the Design Standards contained in Chapter 3. All of the following standards shall be met:
 - 1. Chapter 3.1 - Access and Circulation
 - 2. Chapter 3.2 - Landscaping, Significant Vegetation, Street Trees, Fences and Walls;
 - 3. Chapter 3.3 - Vehicle and Bicycle Parking;
 - 4. Chapter 3.4 - Public Facilities Standards;
 - 5. Chapter 3.5 - Surface Water Management [*reserved*];
 - 6. Chapter 3.6 - Other Standards (e.g., Signs), as applicable.
- E. Conditions required as part of a Land Division (Chapter 4.3), Conditional Use Permit (Chapter 4.4), or other approval shall be met.
- F. Exceptions to criteria D.1-6, above, may be granted only when approved as a Variance (Chapter 5.1).

4.2.7 Bonding and Assurances

- A. Performance Bonds for Public Improvements. On all projects where public improvements are required, the City shall require a bond in an amount not greater than 100% or other adequate assurances as a condition of site development approval in order to guarantee the public improvements;
- B. Release of Performance Bonds. The bond or assurance shall be released when the City finds the completed project conforms to the site development approval, including all conditions of approval.

4.2.8 Development in Accordance with Permit Approval


Developments shall not commence until the applicant has received all of the appropriate land use and development approvals (i.e., site design review approval) and building permits. Construction of public improvements shall not commence until the City has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.). The City may require the applicant to enter into a development agreement (e.g., for phased developments and developments with required off-site public improvements), and may require bonding or other assurances for improvements, in accordance with Section 4.2.7. Development Review and Site Design Review approvals shall be subject to all of the following standards and limitations:

- A. Modifications to Approved Plans and Developments. Minor modifications of an approved plan or existing development, as defined in Section 4.5, shall be processed as a Type I procedure and require only Site Review. Major modifications, as defined in Section 4.5, shall be processed as a Type II or Type III procedure and shall require site design review. For information on Type I, Type II and Type III procedures, please refer to Chapter 4.1. For Modifications approval criteria, please refer to Chapter 4.5.

- B. Approval Period. Development Review and Site Design Review approvals shall be effective for a period of one year from the date of approval. The approval shall lapse if:
 - 1. A building permit has not been issued within a one-year period; or
 - 2. Construction on the site is in violation of the approved plan.

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

- D. Phased Development. Phasing of development may be approved with the Site Design Review application, subject to the following standards and procedures:
 - 1. A phasing plan shall be submitted with the Site Design Review application.
 - 2. City Staff or the City Council, whichever is applicable, shall approve a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than 3 years without reapplying for site design review.

3. Approval of a phased site design review proposal requires satisfaction of all of the following criteria:
 - a. The public facilities required to serve each phase are constructed in conjunction with or prior to each phase;
 - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require City Council approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required public improvements, in accordance with Section 4.2.4. A temporary public facility is any facility not constructed to the applicable City standard, subject to review by the City Engineer.
 - c. The phased development shall not result in requiring the City or other property owners to construct public facilities that were required as part of the approved development proposal; and
 - d. An application for phasing may be approved after Site Design Review approval as a modification to the approved plan, in accordance with the procedures for minor modifications (Chapter 4.6).
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Chapter 4.3 - Land Divisions and Lot Line Adjustments

Sections:

4.3.1 Purpose

4.3.2 General Requirements

4.3.3 Approval Process

4.3.4 Preliminary Plat Submission Requirements

4.3.5 Approval Criteria: Preliminary Plat

4.3.6 Variances Authorized

4.3.7 Final Plat Submission Requirements and Approval Criteria

4.3.8 Public Improvements

4.3.9 Performance Guarantees

4.3.10 Filing and Recording

4.3.11 Replatting and Vacation of Plats

4.3.12 Lot Line Adjustments

4.3.1 Purpose

The purpose of this chapter is to:

- A. Provide rules, regulations and standards governing the approval of subdivisions, partitions and lot line adjustments.
 - 1. Subdivisions involve the creation of 4 or more lots from one parent lot, parcel or tract, within one calendar year.
 - 2. Partitions involve the creation of 3 or fewer lots within one calendar year.
 - 3. Lot line adjustments involve modifications to lot lines or parcel boundaries which do not result in the creation of new lots (includes consolidation of lots).
- B. Carry out the City's development pattern, as envisioned by the Comprehensive Plan.
- C. Encourage efficient use of land resources, full utilization of urban services, and transportation options;
- D. Promote the public health, safety and general welfare through orderly and efficient urbanization;
- E. Lessen or avoid traffic congestion, and secure safety from fire, flood, pollution and other dangers;
- F. Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provisions for transportation, water supply, sewage and drainage;
- G. Encourage the conservation of energy resources; and

H. Protect and enhance water quality.

4.3.2 General Requirements

- A. Subdivision and Partition Approval Through Two-step Process. Applications for subdivision or partition approval shall be processed through a two-step process: the preliminary plat and the final plat.
1. The preliminary plat shall be approved before the final plat can be submitted for approval consideration; and
 2. The final plat shall include all conditions of approval of the preliminary plat.
- B. Compliance with ORS Chapter 92. All subdivision and partition proposals shall be in conformance with state regulations set forth in Oregon Revised Statutes (ORS) Chapter 92, Subdivisions and Partitions.
- C. Future Re-division Plan. When subdividing or partitioning tracts into large lots (i.e., greater than two times or 200% the minimum lot size allowed by the underlying land use zone), the City shall require that the lots be of such size, shape, and orientation as to facilitate future re-division in accordance with the requirements of the land use zone and this Code. A re-division plan shall be submitted which identifies:
1. Potential future lot division(s) in conformance with the housing and density standards of Chapter 2;
 2. Potential street right-of-way alignments to serve future development of the property and connect to adjacent properties, including existing or planned rights-of-way.
 3. A disclaimer that the plan is a conceptual plan intended to show potential future development. It shall not be binding on the City or property owners, except as may be required through conditions of land division approval. For example, dedication and improvement of rights-of-way within the future plan area may be required to provide needed secondary access and circulation.
- D. Lot Size Averaging. Single family residential lot size may be averaged to allow lots less than the minimum lot size in the Residential Zones, as long as the average area for all lots is not less than allowed by the zone. No lot created under this provision shall be less than 85% of the minimum lot size allowed in the underlying district. For example, if the minimum lot size is 8,000 square feet, the following 3 lots could be created: 6,800 square feet, 8,200 square feet, and 9,000 square feet.
- E. Temporary Sales Office. A temporary sales office in conjunction with a subdivision may be approved as set forth in Chapter 4.8., Section 1, Temporary Uses.
- F. Minimize Flood Damage. All subdivisions and partitions shall be designed based on the need to minimize the risk of flood damage. No new building lots shall be created entirely within a floodway. All new lots shall be buildable without requiring development within the floodway.

Development in a 100-year flood plain shall comply with Federal Emergency Management Agency requirements, including filling to elevate structures above the base flood elevation. The applicant shall be responsible for obtaining such approvals from the appropriate agency before City approval of the final plat.

- G. Determination of Base Flood Elevation. Where a development site consists of 3 or more lots, or is located in or near areas prone to inundation, and the base flood elevation has not been provided or is not available from another authoritative source, it shall be prepared by a qualified professional, as determined by the City.
- H. Need for Adequate Facilities. All lots created through land division shall have adequate public utilities and facilities such as electrical and water systems located and constructed to prevent or minimize flood damage to the greatest extent practicable.
- I. Need for Adequate Drainage. All subdivision and partition proposals shall have adequate surface water drainage provided to reduce exposure to flood damage. Water quality or quantity control improvements may be required.

4.3.3 Approval Process

- A. Review of Preliminary Plat. Review of a preliminary plat for partitions and subdivisions shall be processed by means of a Type III procedure, as governed by Section 4.1.5. All preliminary plats shall be reviewed using approval criteria contained in Section 4.3.5.
- B. Review of Final Plat. Review of a final plat for a subdivision or partition shall be processed by means of a Type I procedure under Section 4.1.3, using the approval criteria in Section 4.3.7.
- C. Preliminary Plat Approval Period. Preliminary plat approval shall be effective for a period of one year from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted within a one-year period.
- D. Modifications and Extension. The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Chapter 4.5 - Modifications. The City shall, upon written request by the applicant and payment of the required fee, grant one extension of the approval period not to exceed one year, provided that:
 - 1. Any changes to the preliminary plat follow the procedures in Chapter 4.5;
 - 2. The applicant has submitted written intent to file a final plat within the one-year extension period;
 - 3. An extension of time will not prevent the lawful development of abutting properties; and
 - 4. There have been no changes to the applicable Code provisions on which the approval is based. If such changes have occurred, a new preliminary plat application shall be required.

E. Phased Development.

1. The City may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period (i.e., for required public improvements, utilities, streets) for any partition or subdivision phase be greater than 3 years without reapplying for a preliminary plat;
2. The criteria for approving a phased land division proposal are:
 - a. Public facilities shall be constructed in conjunction with or prior to each phase;
 - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require City Council approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required permanent public improvements, in accordance with Section 4.3.9. A temporary public facility is any facility not constructed to the applicable City or district standard;
 - c. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that were required as part of the approved development proposal; and
 - d. The application for phased development approval shall be reviewed concurrently with the preliminary plat application and the decision may be appealed in the same manner as the preliminary plat.

4.3.4 Preliminary Plat Submission Requirements

- A. General Submission Requirements. For partitions and subdivisions, the application shall contain all of the information required for a Type III procedure under Section 4.1.5.
- B. Preliminary Plat Information. In addition to the general information described in Subsection A above, the preliminary plat application shall consist of drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide the following information:
 1. General information:
 - a. Name of subdivision (not required for partitions). This name must not duplicate the name of another subdivision in Marion County (please check with County Surveyor);
 - b. Date, north arrow, and scale of drawing;
 - c. Location of the development sufficient to define its location in the city, boundaries, and a legal description of the site;

- d. Names, addresses and telephone numbers of the owners, designer, and engineer or surveyor if any, and the date of the survey; and
 - e. Identification of the drawing as a “preliminary plat”.
2. Site analysis:
- a. Streets: Location, name, present width of all streets, alleys and rights-of-way on and abutting the site;
 - b. Easements: Width, location and purpose of all existing easements of record on and abutting the site;
 - c. Utilities: Location and identity of all utilities on and abutting the site. If water mains are not on or abutting the site, indicate the direction and distance to the nearest ones;
 - d. Ground elevations shown by contour lines at 5-foot vertical intervals for ground slopes exceeding 10% and at 2-foot intervals for ground slopes of less than 10%. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor. This requirement may be waived for partitions when grades, on average, are less than 5%;
 - e. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);
 - f. Potential natural hazard areas, including any flood plains, areas subject to high water table, landslide areas, and areas having a high erosion potential;
 - g. Sensitive lands, including wetland areas, streams, wildlife habitat, and other areas identified by the City or natural resource regulatory agencies as requiring protection. (See also, Chapter 3.7 and relevant portions of the Comprehensive Plan);
 - h. Site features, including existing structures, pavement, areas having unique views, drainage ways, and ditches;
 - i. Designated historic and cultural resources on the site and adjacent parcels or lots;
 - j. The location, size and species of trees having a caliper (diameter) of 4 inches or greater at four feet above grade in conformance with Chapter 3.2;
 - k. North arrow, scale, name and address of owner;
 - l. Name and address of project designer, if applicable; and

- m. Other information, as deemed appropriate by the City. The City may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.

3. Proposed improvements:

- a. Public and private streets, tracts, driveways, open space and park land; location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts which are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;
- b. Easements: location, width and purpose of all easements;
- c. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all lots and tracts;
- d. Proposed uses of the property, including all areas proposed to be dedicated to the public or reserved as open space for the purpose of surface water management, recreation, or other use;
- e. Proposed improvements as required by Chapter 3 (Design Standards), and timing of improvements (e.g., in the case of streets, sidewalks, street trees, utilities, etc.);
- f. The proposed source of domestic water;
- g. The location and dimension of all storm water or water quality treatment, infiltration and/or retention facilities;
- h. The proposed method of sewage disposal, and method of surface water drainage and treatment if required;
- i. The approximate location and identity of other utilities, including the locations of street lighting fixtures;
- j. Changes to navigable streams or other water courses. Provision or closure of public access to these areas shall be shown on the preliminary plat, as applicable;
- k. Identification of the base flood elevation for development greater than 3 lots or 1 acre, whichever is less. Evidence of contact with the Federal Emergency Management Agency to initiate a flood plain map amendment shall be required when development is proposed to modify a designated 100-year flood plain; and

1. Evidence of contact with the applicable natural resource regulatory agency(ies) for any development within or adjacent to jurisdictional wetlands and other sensitive lands, as identified in Chapter 3.7.

4.3.5 Approval Criteria: Preliminary Plat

A. General Approval Criteria. The City may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:

1. The proposed preliminary plat complies with all of the applicable Development Code sections and other applicable ordinances and regulations. At a minimum, the provisions of this Chapter, and the applicable sections of Chapter 2.0 (Land Use Zones) and Chapter 3.0 (Design Standards) shall apply. Where a variance is necessary to receive preliminary plat approval, the application shall also comply with the relevant sections of Chapter 5.0 (Exceptions);
2. The proposed plat name is not already recorded for another subdivision; and satisfies the provisions of ORS Chapter 92;
3. The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions and maps of partitions already approved for adjoining property as to width, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary plat; and
4. All proposed private common areas and improvements (e.g., home owner association property) are identified on the preliminary plat.

B. Housing Density. The subdivision meets the City's housing standards of Chapter 2.

C. Block and Lot Standards. All proposed blocks (i.e., one or more lots bound by public streets), lots and parcels conform to the specific requirements below:

1. All lots shall comply with the lot area, setback, and dimensional requirements of the applicable land use zone (Chapter 2), and the standards of Chapter 3.1, Section 2.J - Street Connectivity and Formation of Blocks.
2. Setbacks shall be as required by the applicable land use zone (Chapter 2).
3. Each lot shall conform to the standards of Chapter 3.1 - Access and Circulation.
4. Landscape or other screening may be required to maintain privacy for abutting uses. See also, Chapter 2 - Land Use Zones, and Chapter 3.2 - Landscaping.
5. In conformance with the Uniform Fire Code, a 20-foot wide apparatus access drive shall be provided to serve all portions of a building that are located more than 150 feet from a public right-of-way or approved access drive. See also, Chapter 3.1 - Access and Circulation.

6. Where a common drive is to be provided to serve more than one lot, a reciprocal easement which will ensure access and maintenance rights shall be recorded with the approved subdivision or partition plat.

D. Conditions of Approval. The City may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations, and may require reserve strips be granted to the City for the purpose of controlling access to adjoining undeveloped properties. See also, Chapter 3.4, Section 0.D (Public Facilities, Conditions of Development).

4.3.6 Variances Authorized

Adjustments to the standards of this Chapter shall be processed in accordance with Chapter 5.1 - Variances. Applications for variances shall be submitted at the same time an application for land division or lot line adjustment is submitted.

4.3.7 Final Plat Submission Requirements and Approval Criteria

A. Submission Requirements. Final plats shall be reviewed and approved by the City prior to recording with Marion County. The applicant shall submit the final plat within 1 year of the approval of the preliminary plat as provided by Section 4.3.3. Specific information about the format and size of the plat, number of copies and other detailed information can be obtained from the City Recorder.

B. Approval Criteria. By means of a Type I procedure, the City Recorder shall review the final plat and shall approve or deny the final plat based on findings regarding compliance with the following criteria:

1. The final plat complies with the approved preliminary plat, and all conditions of approval have been satisfied;
2. All public improvements required by the preliminary plat have been installed and approved by the City. Alternatively, the developer has provided a performance guarantee in accordance with Section 4.3.9.
3. The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities;
4. The streets and roads held for private use have been approved by the City as conforming to the preliminary plat;
5. The plat contains a dedication to the public of all public improvements, including but not limited to streets, public pathways and trails, access reserve strips, parks, storm drainage, and water supply systems;
6. Easements outside platted areas. The dedication of an easement to the City outside a platted area requires the subdivider to submit on a City-approved form, the legal

description of the easement with the submission of the final plat prior to City Council approval. The easement shall be accepted by the City Council prior to the easement document being filed at the Marion County Recorder's/Clerk's office.

7. The applicant has provided copies of all recorded homeowners association Codes, Covenants, and Restrictions (CC&Rs); deed restrictions; private easements and agreements (e.g., for access, common areas, parking, etc.); and other recorded documents pertaining to common improvements recorded and referenced on the plat;
8. The plat complies with the applicable Sections of this Code (i.e., there have been no changes in land use or development resulting in a code violation since preliminary plat approval);
9. Certification by the City that water service is available to each and every lot depicted on the plat; or bond, contract or other assurance has been provided by the subdivider to the City that such services will be installed in accordance with Chapter 3.4 - Public Facilities, and the bond requirements of Section 4.3.9. The amount of the bond, contract or other assurance by the subdivider shall be determined by a registered professional engineer, subject to review and approval by the City;
10. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Geological Survey or giving two or more permanent objects for identifying its location.

4.3.8 Public Improvements

Before City approval is certified on the final plat, all required public improvements shall be installed, inspected, and approved. Alternatively, the subdivider shall provide a performance guarantee, in accordance with Section 4.3.9.

4.3.9 Performance Guarantee

A. Performance Guarantee Required. When a performance guarantee is required under Section 4.3.8, the subdivider shall file an assurance of performance with the City supported by one of the following:

1. An irrevocable letter of credit executed by a financial institution authorized to transact business in the state of Oregon;
2. A surety bond executed by a surety company authorized to transact business in the state of Oregon which remains in force until the surety company is notified by the City in writing that it may be terminated; or
3. Cash.

- B. Determination of Sum. The assurance of performance shall be for a sum determined by the City as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.
- C. Itemized Improvement Estimate. The developer shall furnish to the City an itemized improvement estimate, certified by a registered civil engineer, to assist the City in calculating the amount of the performance assurance.
- D. Agreement. An agreement between the City and developer shall be recorded with the final plat that stipulates all of the following:
1. Specifies the period within which all required improvements and repairs shall be completed;
 2. A provision that if work is not completed within the period specified, the City may complete the work and recover the full cost and expenses from the applicant;
 3. Stipulates the improvement fees and deposits that are required.
 4. (Optional) Provides for the construction of the improvements in stages and for the extension of time under specific conditions therein stated in the contract.

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

- E. When Subdivider Fails to Perform. In the event the developer fails to carry out all provisions of the agreement and the City has un-reimbursed costs or expenses resulting from such failure, the City shall call on the bond, cash deposit or letter of credit for reimbursement.
- F. Termination of Performance Guarantee. The developer shall not cause termination of nor allow expiration of the guarantee without having first secured written authorization from the City.

4.3.10 Filing and Recording

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

2. No plat shall be recorded until it is approved by the County surveyor in the manner provided by ORS Chapter 92.

4.3.11 Replatting and Vacation of Plats

- A. Replatting and Vacations. Any plat or portion thereof may be replatted or vacated upon receiving an application signed by all of the owners as appearing on the deed.
- B. Procedure. All applications for a replat or vacation shall be processed in accordance with the procedures and standards for a subdivision or partition (i.e., the same process used to create the plat shall be used to replat or vacate the plat). The same appeal rights provided through the subdivision and partition process shall be afforded to the plat vacation process. (See Chapter 4.1 - Types of Applications and Review Procedures).
- C. Basis for denial. A replat or vacation application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable criteria.
- D. Recording of vacations. All approved plat vacations shall be recorded in accordance with Section 4.3.10 and the following procedures:
 1. Once recorded, a replat or vacation shall operate to eliminate the force and effect of the plat prior to vacation; and
 2. Vacations shall also divest all public rights in the streets, alleys and public grounds, and all dedications laid out or described on the plat.
- E. After sale of lots. When lots have been sold, the plat may be vacated only in the manner herein, and provided that all of the owners of lots within the platted area consent in writing to the plat vacation.
- F. Vacation of streets. All street vacations shall comply with the procedures and standards set forth in ORS Chapter 271.

4.3.12 Lot Line Adjustments

Lot Line Adjustments include the consolidation of lots, and the modification of lot boundaries, when no new lots are created. The application submission and approval process is as follows:

- A. Submission Requirements. All applications for Lot Line Adjustments shall be made on forms provided by the City and shall include information required for a Type I application, as governed by Chapter 4.1.3. The application shall include a preliminary lot line map identifying all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; location of significant vegetation as defined and mapped in Chapter 3.2, Sections 2.B and C; existing fences and walls; and any other information deemed necessary by the City for ensuring compliance with City codes.

B. Approval Process.

1. Decision-making process. Lot line adjustments shall be reviewed by means of a Type I procedure, as governed by Section 4.1.3, using approval criteria contained in subsection C, below.
2. Time limit on approval. The lot line adjustment approval shall be effective for a period of one year from the date of approval, during which time it must be recorded.
3. Lapsing of approval. The lot line adjustment approval shall lapse if:
 - a. The lot line adjustment is not recorded within the time limit in subsection 2.
 - b. The lot line adjustment has been improperly recorded with Marion County without the satisfactory completion of all conditions attached to the approval; or
 - c. The final recording is a departure from the approved plan.

C. Approval Criteria. The City Recorder/Clerk shall approve or deny a request for a lot line adjustment in writing based on findings that all of the following criteria are satisfied:


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

D. Recording of Lot Line Adjustments.

1. Recording. Upon the City's approval of the proposed lot line adjustment, the applicant shall record the lot line adjustment with Marion County within 60 days of approval (or the decision expires), and submit a copy of the recorded survey map to the City, to be filed with the approved application.

2. Time limit. The applicant shall submit the copy of the recorded lot line adjustment survey map to the City within 15 days of recording and prior to the issuance of any building permits on the re-configured lots.

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

1. No changes are made to the original plan as approved by the City;
 2. The applicant can show intent of recording the approved partition or lot line adjustment within the one year extension period; and
 3. There have been no changes in the applicable Code or plan provisions on which the approval was based. In the case where the lot line adjustment conflicts with a code change, the extension shall be denied.
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Chapter 4.4 - Conditional Use Permits

Sections:

4.4.1 Purpose

4.4.2 Approval Process

4.4.3 Application Submission Requirements

4.4.4 Criteria, Standards and Conditions of Approval

4.4.5 Additional Development Standards for Conditional Use Types

4.4.1 Purpose

There are certain uses which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. These are identified as “Conditional Uses” in Chapter 2 - Land Use Zones. The purpose of Chapter 4.4 is to provide standards and procedures under which a conditional use may be permitted, enlarged or altered if the site is appropriate and if other appropriate conditions of approval can be met.

4.4.2 Approval Process

- A. Initial Application. An application for a new conditional use shall be processed as a Type III procedure (Section 4.1.5). The application shall meet submission requirements in Section 4.4.3, and the approval criteria contained in Section 4.4.4.
- B. Modification of Approved or Existing Conditional Use. Modifications to approved or existing conditional uses shall be processed in accordance with Chapter 4.5 - Modifications.

4.4.3 Application Submission Requirements

In addition to the submission requirements required in Chapter 4.1, an application for conditional use approval must include the following information (A-H), as applicable. For a description of each item, please refer to Section 4.2.5 - Site Design Review Application Submission Requirements.

- A. Existing site conditions;
- B. Site plan;
- C. Preliminary grading plan;
- D. A landscape plan;
- E. Architectural drawings of all structures;
- F. Drawings of all proposed signs;
- G. A copy of all existing and proposed restrictions or covenants.

H. Narrative report or letter documenting compliance with all applicable approval criteria in Section 4.4.4.

4.4.4 Criteria, Standards and Conditions of Approval

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

A. Use Criteria.

1. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations;
2. The negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other Code standards, or other reasonable conditions or approval; and
3. All required public facilities have adequate capacity to serve the proposal.

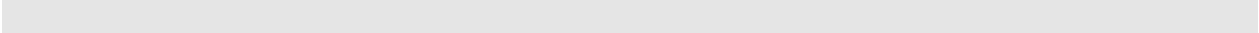
B. Site Design Standards. The criteria for Site Design Review approval (Chapter 4.2, Section 6) shall be met.

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

1. Limiting the hours, days, place and/or manner of operation;
2. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;
3. Requiring larger setback areas, lot area, and/or lot depth or width;
4. Limiting the building height, size of lot coverage, and/or location on the site;
5. Designating the size, number, location and/or design of vehicle access points or parking areas;
6. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved;
7. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;

8. Limiting the number, size, location, height and/or lighting of signs;
9. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;
10. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
11. Requiring and designating the size, height, location and/or materials for fences;
12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands (Chapter 3.7);
13. Requiring the dedication of sufficient land to the public, and/or construction of pedestrian/bicycle pathways in accordance with the adopted plans. Dedication of land and construction shall conform to the provisions of Chapter 3.1, and Section 3.1.0.D in particular.

4.4.5 Additional Development Standards for Conditional Use Types

- A. Concurrent Variance Application(s). A conditional use permit shall not grant variances to regulations otherwise prescribed by the Development Code. Variance application(s) may be filed in conjunction with the conditional use application and both applications may be reviewed at the same hearing.
 - B. Additional Development Standards. Development standards for specific uses are contained in Chapter 2 - Land Use Zones.
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Chapter 4.5 - Modifications to Approved Plans and Conditions of Approval

Sections:

4.5.1 Purpose

4.5.2 Applicability

4.5.3 Major Modifications

4.5.4 Minor Modifications

4.5.1 Purpose

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

4.5.2 Applicability

A. This Chapter applies to all development applications approved through the provisions of Chapter 4, including:

1. Site Design Review approvals;
2. Subdivisions, Partitions, and Lot Line Adjustments;
3. Conditional Use Permits; and
4. Conditions of approval on any of the above application types.

B. This Chapter does not apply to land use zone changes, text amendments, temporary use permits, or other permits.

4.5.3 Major Modifications

A. Major Modification Defined. The City shall determine that a major modification(s) is required if one or more of the changes listed below are proposed:

1. A change in land use;
2. An increase in the number of dwelling units;
3. A change in the type and/or location of access ways, drives or parking areas that affect off-site traffic;
4. An increase in the floor area proposed for nonresidential use by more than 25% where previously specified;

5. A reduction of more than 30% of the area reserved for common open space and/or usable open space;
6. A reduction to specified setback requirements by more than 25%, or to a degree that the minimum setback standards of the land use zone cannot be met; or
7. Changes similar to those listed in 1-6, which are likely to have an adverse impact on adjoining properties.

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

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

4.5.4 Minor Modifications

A. Minor Modification Defined. Any modification to a land use decision or approved development plan which is not within the description of a major modification as provided in Section 4.5.5, above, shall be considered a minor modification.

B. Minor Modification Request. An application for approval of a minor modification is reviewed using Type II procedure in Chapter 4.1, Section 4. A minor modification shall be approved, approved with conditions, or denied by the City Recorder/Clerk based on written findings on the following criteria:

1. The proposed development is in compliance with all applicable requirements of the Development Code; and
2. The modification is not a major modification as defined in Section 4.5.3, above.

Chapter 4.6 - Land Use Zoning Map and Text Amendments

Sections:

4.6.1 Purpose

4.6.2 Legislative Amendments

4.6.3 Quasi-Judicial Amendments

4.6.4 Conditions of Approval

4.6.5 Record of Amendments

4.6.1 Purpose

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this Code and the land use zoning map. These will be referred to as “map and text amendments.” Amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law.

4.6.2 Legislative Amendments

Legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV procedure in Chapter 4.1, Section 5, and shall conform to Section 4.6.6, as applicable.

4.6.3 Quasi-Judicial Amendments

A. Quasi-Judicial Amendments. Quasi-judicial amendments are those that involve the application of adopted policy to a specific development application or Code revision. Quasi-judicial map amendments shall follow the Type III procedure, as governed by Chapter 4.1, Section 5, using standards of approval in subsection “D” below. The approval authority shall be as follows:

1. The City Council shall decide land use district map changes which do not involve comprehensive plan map amendments;
2. The City Council shall decide on applications for a comprehensive plan map amendment; and
3. The City Council shall make a decision on a land use zoning change application which also involves a comprehensive plan map amendment application.

B. Criteria for Quasi-Judicial Amendments. A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

1. Demonstration of compliance with all applicable comprehensive plan policies and map designations. Where this criterion cannot be met, a comprehensive plan amendment shall be a prerequisite to approval;


2. Demonstration of compliance with all applicable standards and criteria of this Code, and other applicable implementing ordinances;
3. Evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or land use zoning map regarding the property which is the subject of the application; and the provisions of 4.6.4, as applicable.

4.6.4 Conditions of Approval

A quasi-judicial decision may be for denial, approval, or approval with conditions. A legislative decision may be approved or denied.

4.6.5 Record of Amendments

The City shall maintain a record of amendments to the text of this Code and the land use zoning map in a format convenient for public use.



Chapter 4.7 - Code Interpretations

Sections:

4.7.1 Purpose

4.7.2 Code Interpretation Procedure

4.7.1 Purpose

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

4.7.2 Code Interpretation Procedure

- A. Requests. A request for a code interpretation (“interpretation”) shall be made in writing to the City. The City Council may develop written guidelines for the application process.
- B. Decision to Issue Interpretation. The City Recorder shall have the authority to review a request for an interpretation. The City shall advise the requester in writing within 14 days after the request is made, on whether or not the City will issue the requested interpretation.
- C. Declining Requests for Interpretations. The City Recorder is authorized to issue or decline to issue a requested interpretation. Basis for declining may include, but is not limited to, a finding that the subject Code section affords only one reasonable interpretation and the interpretation does not support the request. The City Recorder’s decision to issue or decline to issue an interpretation is final when the decision is mailed to the party requesting the interpretation and the decision is not subject to any further local appeal.
- D. Written Interpretation. If the City Recorder decides to issue an interpretation, it shall be issued in writing and shall be mailed or delivered to the person requesting the interpretation and any other person who specifically requested a copy of the interpretation. The written interpretation shall be issued within 14 days after the City advises the requester that an interpretation shall be issued. The decision shall become effective 12 days later, unless an appeal is filed in accordance with E-G below.
- E. Appeals. The applicant and any party who received such notice or who participated in the proceedings through the submission of written or verbal evidence of an interpretation may appeal the interpretation to the City Council within 12 days after the interpretation was mailed or delivered to the applicant. The appeal may be initiated by filing a notice of appeal with the City pursuant to Chapter 4.1, Section 4.G.
- F. Appeal Procedure. City Council shall hear all appeals of a City Recorder interpretation as a Type III action pursuant to Chapter 4.1, Section 5, except that written notice of the hearing shall be provided to the applicant, any other party who has filed a notice of appeal, and any other person who requested notice.

G. Final Decision/Effective Date. The decision of the City Council on an appeal of an interpretation shall be final and effective when it is mailed to the applicant. If an appeal of the City Council's decision is filed, the decision remains effective unless or until it is modified by the Land Use Board of Appeals or a court of competent jurisdiction.

H. Interpretation on File. The City shall keep on a file a record of all code interpretations.

Chapter 4.8 - Miscellaneous Permits

Sections:

4.8.1 Temporary Use Permits

4.8.2 Home Occupation Permits

4.8.3 [*Reserved for "Sensitive Land Permits"*]

4.8.4 [*Reserved for "Tree Removal Permits"*]

4.8.5 [*Reserved*]

4.8.6 Temporary Use Permits

Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to: construction trailers, leasing offices, temporary carnivals and fairs, parking lot sales, retail warehouse sales, and seasonal sales such as Christmas tree sales and vegetable stands. Three types of temporary uses require permit approval (See A, B and C):

A. Seasonal and Special Events. These types of uses occur only once in a calendar year and for no longer a period than 30 days. Using the Type II procedure under Chapter 4.1, Section 4, the City shall approve, approve with conditions or deny a temporary use permit based on findings that all of the following criteria are satisfied:

1. The use is permitted in the underlying land use zone and does not violate any conditions of approval for the property (e.g., prior development permit approval);
2. The applicant has proof of the property owner's permission to place the use on their property;
3. No parking will be utilized by customers and employees of the temporary use which is needed by the property owner to meet their minimum parking requirement under Chapter 3.3 - Vehicle and Bicycle Parking;
4. The use provides adequate vision clearance, as required by Chapter 3.1, Section 2, and shall not obstruct pedestrian access on public streets;
5. Ingress and egress are safe and adequate when combined with the other uses of the property, as required by Chapter 3.1, Section 2 - Access and Circulation;
6. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the zone do not affect the adjoining use; and
7. The use is adequately served by septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits).

B. Temporary Sales Office or Model Home. Using a Type II procedure under Chapter 4.1, Section 4, the City may approve, approve with conditions or deny an application for the use of any real property within the City as a temporary sales office, offices for the purpose of facilitating the sale of real property, or model home in any subdivision or tract of land within the City, but for no other purpose, based on the following criteria:

1. Temporary sales office:

- a. The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold; and
- b. The property to be used for a temporary sales office shall not be permanently improved for that purpose.

2. Model house:

- a. The model house shall be located within the boundaries of the subdivision or tract of land where the real property to be sold is situated; and
- b. The model house shall be designed as a permanent structure that meets all relevant requirements of this Code.

C. Temporary Building. Using a Type II procedure, as governed by Chapter 4.1, Section 4, the City may approve, approve with conditions or deny an application for a temporary trailer or prefabricated building for use on any real commercial or industrial property within the City as a temporary commercial or industrial office or space associated with the primary use on the property, but for no other purpose, based on the following criteria:

1. The temporary trailer or building shall be located within the boundaries of the parcel of land on which it is located;
2. The primary use on the property to be used for a temporary trailer is already developed;
3. Ingress and egress are safe and adequate when combined with the other uses of the property, as required by Chapter 3.1, Section 2 - Access and Circulation;
4. There is adequate parking for the customers or users of the temporary use as required by Chapter 3.3 - Vehicle and Bicycle Parking;
5. The use will not result in vehicular congestion on streets;
6. The use will pose no hazard to pedestrians in the area of the use;
7. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the zone do not affect the adjoining use;

8. The building complies with applicable building codes;
9. The use can be adequately served by septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits); and
10. The length of time that the temporary building will be used does not exceed 6 months. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit.

4.8.2 Home Occupation Permits

The purpose of this section is to encourage those who are engaged in small commercial ventures which could not necessarily be sustained if it were necessary to lease commercial quarters or which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence. Home occupations are encouraged for their contribution in reducing the number of vehicle trips often generated by conventional businesses. They are permitted by right in all residential units (dwellings), subject to the following standards:

A. Appearance of Residence:

1. The home occupation shall be restricted to lawfully-built enclosed structures and be conducted in such a manner as not to give an outward appearance of a business.
2. The home occupation shall not result in any structural alterations or additions to a structure that will change its primary use or building code occupancy classification.
3. The home occupation shall not violate any conditions of development approval (i.e., prior development permit approval).
4. No products and or equipment produced or used by the home occupation may be displayed to be visible from outside any structure.

B. Storage:

1. Outside storage, visible from the public right-of-way or adjacent properties, is prohibited.
2. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond those normally incidental to residential use is prohibited.
3. Storage of inventory or products and all other equipment, fixtures, and activities associated with the home occupation shall be allowed in any structure.

C. Employees:

1. Other than family members residing within the dwelling located on the home occupation site, there shall be no more than one full-time equivalent employee at the

home occupation site at any given time. As used in this chapter, the term “home occupation site” means the lot on which the home occupation is conducted.

2. Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work or pick up/deliver at the home.
3. The home occupation site shall not be routinely used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.

D. Advertising and Signs: Signs shall comply with Chapter 3.6, Section 5. In no case shall a sign exceed the Residential Zone standard of 6 square feet (e.g., 2 feet by 3 feet).

E. Vehicles, Parking and Traffic:

1. One commercially-licensed vehicle associated with the home occupation is allowed at the home occupation site. It shall be of a size that would not overhang into the public right-of-way when parked in the driveway or other location on the home occupation site.
2. There shall be no more than three commercial vehicle deliveries to or from the home occupation site daily. There shall be no commercial vehicle deliveries during the hours of 7 p.m. to 7 a.m.
3. There shall be no more than one client’s or customer’s vehicle at any one time and no more than eight per day at the home occupation site.

F. Business Hours. There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from 6 a.m. to 10 p.m. only, subject to Sections A and E, above.

G. Prohibited Home Occupation Uses:

1. Any activity that produces radio or TV interference, noise, glare, vibration, smoke or odor beyond allowable levels as determined by local, state or federal standards, or that can be detected beyond the property line is prohibited.
2. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from arts or crafts instructors, computer software from computer consultants, and similar incidental items for sale by home business are allowed subject to A-F, above.
3. Any uses described in this section or uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke or vibration, such as:
 - a. Ambulance service;

- b. Animal hospital, veterinary services, kennels or animal boarding;
- c. Auto and other vehicle repair, including auto painting;
- d. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes or large equipment on site.

H. Enforcement. City staff may visit and inspect the site of home occupations in accordance with this chapter periodically to insure compliance with all applicable regulations, during normal business hours, and with reasonable notice. Code violations shall be processed in accordance with Chapter 1.4 - Enforcement.

4.8.3 [Reserved for “Sensitive Land Permits”]

4.8.4 [Reserved for “Tree Removal Permits”]

4.8.5 [Reserved]