

**ARTICLE IV
REVIEW PROCEDURES**

ARTICLE IV – REVIEW PROCEDURES

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17.90 APPLICATIONS - GENERAL

17.90.010 SUMMARY OF APPLICATION TYPES

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

17.90.020 TYPE OF ACTIONS

- A. Type I Action. A ministerial action reviewed by staff based on clear and objective standards. Conditions are limited to those that ensure compliance with Development Code requirements and implement these standards. Decisions are memorialized on the relevant permit form or other order and notice provided to applicant. Appeal is to the Planning Commission.
- B. Type II Action. A ministerial action reviewed by staff based on clear and objective standards, but with limited discretion. Conditions are limited to those that ensure compliance with Development Code requirements and implement these standards. Notice of the decision is sent to the applicant, and adjacent property owners who submitted comments, after a decision is reached. Appeal is to the Planning Commission.
- C. Type III Action. A Type III action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow discretion. Public notice and a public hearing are provided. Appeal of a Type III decision is to the City Council.
- D. Type IV Action. A Type IV action can be either quasi-judicial or legislative actions. The quasi-judicial process applies to map amendments for individual properties. Plan and zone amendments or text amendments that impact larger areas are legislative actions. These later amendments must be initiated by City staff, Planning Commission, or City Council, although a private party may suggest such amendments. Both actions require hearings before both the Planning Commission and City Council with the Planning Commission providing an advisory role and the City

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Council rendering the Final Decision. Public notice is provided for both and public hearings. Appeal of the decision is to the Land Use Board of Appeals (LUBA).

17.90.030 TABLE OF LAND USE APPLICATION PROCEDURES

Land Use Action	Type	Staff	Planning Commission	City Council
Property Line Adjustment	Type - I	Final Decision unless appealed	Appeal - Staff Decision	Appeal - Planning Commission Decision
Home Occupation	Type - I	Final Decision unless appealed	Appeal - Staff Decision	Appeal - Planning Commission Decision
Interpretations	Type - I	Final Decision unless appealed	Appeal - Staff Decision	Appeal - Planning Commission Decision
Partition	Type - II	Final Decision unless appealed	Appeal - Staff Decision	Appeal - Planning Commission Decision
Adjustment	Type - II	Final Decision unless appealed	Appeal - Staff Decision	Appeal - Planning Commission Decision
Site Development Review	Type III	Recommendation to Planning Commission	Final Decision unless appealed	Appeal - Planning Commission Decision
Conditional Use	Type - III	Recommendation to Planning Commission	Final Decision unless appealed	Appeal - Planning Commission Decision
Variance	Type - III	Recommendation to Planning Commission	Final Decision unless appealed	Appeal - Planning Commission Decision
Nonconforming Uses	Type - III	Recommendation to Planning Commission	Final Decision unless appealed	Appeal - Planning Commission Decision
Subdivision & Planned Development	Type - III	Recommendation to Planning Commission	Final Decision unless appealed	Appeal - Planning Commission Decision
Comp. Plan Map Amendment	Type - IV	Recommendation to Planning Commission	Recommendation to City Council	Final Decision unless appealed
Zone Map Amendment	Type - IV	Recommendation to Planning	Recommendation to City Council	Final Decision unless appealed

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		Commission		
Text Amendment	Type - IV	Recommendation to Planning Commission	Recommendation to City Council	Final Decision unless appealed
Annexation	Type - IV	Recommendation to Planning Commission	Recommendation to City Council	Final Decision unless appealed

17.90.040 OTHER REVIEWS

The City shall process the following activities administratively. These are non-discretionary actions by City staff whose decision is final and not subject to appeal:

- A. Building permits
- B. Sign permits
- C. Fence permits
- D. Temporary Use

17.90.050 EXPIRATION OF APPROVAL AND TIME EXTENSION

- A. Time Limit. Unless otherwise specifically stated, Type I and Type II approvals shall be effective for two years following final approval. The applicant or developer shall exercise the approved decision within this time period. Type III time limits shall be dependent upon the type of application and applicable conditions. Type IV approvals shall have no time limits. If the approval period is allowed to lapse, the applicant must resubmit the proposal, including all applicable fees. The applicant will be subject to all applicable standards currently in effect.
- B. Time Extension. Extensions may be granted in accordance with the original procedure for the application. Requests for extension of approval time shall be submitted, in writing, 30 days prior to the expiration date of the approval period.
- C. Decision. For a time extension request, the only matter to be considered is the extension. Approval shall be based on a determination that the approved application cannot proceed due to circumstances beyond the applicant's control.

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- D. Conditions of Approval. During the review of an extension request, the conditions of approval may be revised to reflect Development Code changes and/or changes in site or area conditions.
- E. Number of Extensions. No more than two extensions shall be granted. Any further action shall require the submittal of a new application and fee.
- F. Time Extension Provisions for Subdivisions and Planned Developments. The Planning Commission may extend the approval period for any subdivision or PD for not more than two additional years. The Planning Commission may grant the request for extension if the circumstances are the same and the findings of fact are still appropriate. The Planning Commission may modify the original conditions of approval as part of any time extension review.

17.90.060 EXERCISING A LAND USE APPROVAL

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

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

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17.90.070 MODIFICATION OF DECISIONS

- A. Except as noted in "B.", below, modifications to a final approved land use application shall be processed as a new application. However, the review of the modified request shall be limited to the proposed modification(s) with a determination on whether the change or changes comply with the decision criteria. Further:
1. The modified request shall be considered a new application, with new notice, final decision date and rights of appeal.
 2. Conditions of approval may be revised to address the modified findings.
- B. Modification of a final approved plan or existing development by the Planning Commission may be processed as a Type II decision by the City Planner only if the following threshold criteria can be met:
1. There will be no change in land use;
 2. The proposed change does not result in an increase in the overall impacts to adjacent properties;
 3. There is no increase in the amount of operational activity;
 4. The proposed change does not violate the standards of the land use zone;
 5. The proposed change does not result in a change to lot or parcel boundary lines.

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17.92 PROPERTY LINE ADJUSTMENTS

17.92.010 APPLICABILITY

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

17.92.020 PROCESS

A Property Line Adjustment application shall be reviewed in accordance with the Type I review procedures specified in Chapter 17.122.

17.92.030 APPLICATION

An application for a Property Line Adjustment shall be filed with The City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Chapter. Notice shall be subject to the provisions in Chapter 17.122.

17.92.040 SUBMITTAL REQUIREMENTS

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

- A. The application must be signed by the owners of all lots affected by the application.
- B. In addition, the following information shall be submitted by the applicant:
 - 1. Copies of the officially recorded title transfer instrument (deed, warranty deed, or contract) that shows the legal description for the affected parcels.
 - 2. Plan, map or other document showing the properties before and after the adjustment.
 - 3. A written statement which explains the applicants' reasons for adjusting the boundaries and demonstrating that the adjustment conforms to City land use regulations of the applicable zone.

17.92.050 DECISION CRITERIA

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

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- A. A property line adjustment cannot create or vacate a parcel. Creation or vacation of a parcel requires approval of a land division.
- B. Following the adjustment, all lots or parcels must comply with the area and dimension standards of the applicable zone. For existing non-conforming lots or parcels, the adjustment shall not increase the degree of non-conformance of the subject property or surrounding properties.
- C. If there are existing structures on the lots or parcels, the boundary adjustment shall not reduce required setbacks or place a boundary beneath a structure.

17.92.060 IMPLEMENTATION

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

- A. A legal description of the adjusted lots is recorded with the Linn County Clerk.
- B. If required by ORS Chapter 92, or the County Surveyor, a final map and boundary survey are prepared and all new boundaries are monumented as required by ORS Chapters 92 and 209. The final map is submitted to The City for signatures and approval as outlined in Chapter 17.98.

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17.94 HOME OCCUPATION

17.94.010 APPLICABILITY

The purpose of this Section is to provide a means to allow residents to create and operate a business within their residence without creating significant impacts on adjacent properties.

17.94.020 PROCESS

- A. No Employees. A Home Occupation where there are no employees other than family members residing in the residence or no more than one vehicle associated with the home occupation shall be reviewed in accordance with the Type I review procedures specified in Chapter 17.122.
- B. With Employees. Home Occupations proposed to have employees in addition to family members residing in the residence or more than one vehicle associated with the home occupation shall be reviewed as a Conditional Use in accordance with the Type III review procedures specified in Chapter 17.104.

17.94.030 APPLICATION

Any application for a Home Occupation use shall be filed with The City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.

17.94.040 SUBMITTAL REQUIREMENTS

The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. If appropriate, a preliminary plan should show pertinent information to scale to facilitate the review of the proposed development.

17.94.050 DECISION CRITERIA

- A. No Employees. The proposed home occupation must comply with the requirements in Chapter 17.68.
- B. With Employees. In addition to requirements in Chapter 17.68, the proposed home occupation must comply with the Conditional Use criteria.

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17.96 INTERPRETATIONS

17.96.010 APPLICABILITY

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

Commented [AC1]: Commissioner Jurney concerned with verbiage

Commented [BL2R1]: I think the adjustments I made will help.

Commented [WW3R1]: One other tweak.

17.96.020 PROCESS

Interpretation requests shall be reviewed in accordance with the Type I review procedures in Chapter 17.122.

17.96.030 APPLICATION

Any application for an Interpretation shall be filed with The City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Notice shall be subject to the provisions in Chapter 17.122.

17.96.040 DECISION CRITERIA

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

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

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17.98 PARTITIONS

17.98.010 APPLICABILITY

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

17.98.020 PROCESS

Preliminary plats for partitions shall be reviewed in accordance with the Type II review procedures in Chapter 17.124.

17.98.030 APPLICATION

An application for a Partition shall be filed with The City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 17.124.

17.98.040 SUBMITTAL REQUIREMENTS

- A. The applicant shall prepare and submit a preliminary plan and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. The applicant shall submit one 11" x 17" copy of the preliminary plan along with one digital copy. The plan shall include the following information:
1. General Information. The following general information shall be shown on the tentative plan:
 - a. Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
 - b. North arrow and scale of drawing.
 - c. Tax map and tax lot number or tax account of the subject property.
 - d. Dimensions and size in square feet or acres of the subject property and of all proposed parcels.
 2. Existing Conditions:
 - a. Location of all existing easements within the property.
 - b. Location of City utilities (water, sanitary sewer, storm drainage) within or adjacent to the property proposed for use to serve the development.
 - c. The location and direction of water courses or drainage swales on the subject property.

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- d. Existing use of the property, including location of existing structures with dimensions of the structures and distances from property lines. It shall be noted whether the existing structures are to remain or be removed from the property.
- 3. Proposed Plan:
 - a. Locations, approximate dimensions and area in square feet of all proposed parcels. All parcels shall be numbered consecutively.
 - b. Location, width and purpose of any proposed easements.
- B. At the discretion of The City, specific requirements may be waived provided there is sufficient information to allow processing of an application.

17.98.050 DECISION CRITERIA

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

- A. Each parcel shall satisfy the dimensional standards of the applicable zone, unless a variance from these standards is approved.
- B. The parcels shall meet the Development Standards for Land Division of Chapter 17.58.
- C. Existing dwellings and accessory structures shall comply with the setback requirements of the applicable zone, including accessory structures which have a setback established by the building size, unless a variance from the requirements is approved.
- D. Adequate public facilities, including access, shall be available to serve the existing and newly created parcels. If adjacent properties are undeveloped, not developed to their maximum density, or landlocked, consideration will be given to extending appropriate access to those properties in accordance with provisions in Chapters 17.42 and 17.44.

17.98.060 FINAL PLAT APPROVAL

- A. Survey. Unless the Final Decision approving a preliminary plat is appealed, a final survey of the approved plat shall be recorded within two years. Failure to record a plat within the required time period shall void the approval and require a new partitioning application.
- B. Final Approval. The City Manager shall sign the final plat if the plat substantially conforms to the approved preliminary plat, and if the conditions of approval are satisfied.

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- C. Final Plat. The final plat shall conform to the requirements in ORS Chapter 92 and applicable County surveying requirements.
- D. Recording of Approved Plat. The final Plat shall be recorded with Linn County and a copy of the recorded document shall be submitted to The City. The applicant shall be responsible for all recording fees.
- E. Sale and Development. No parcel shall be sold, transferred or assigned until the final approved Plat is recorded and evidence of the recording is submitted to The City. Building permits shall not be issued prior to recording of the final plat if the proposed structure will violate this Code absent recording the partition.
- F. Validity. Partition approval is valid in perpetuity upon recording of the final surveyed plat.

17.98.070 EXPEDITED LAND DIVISION

When an expedited land division for residential use is requested by an Applicant, The City shall use the procedures for expedited land divisions specified under ORS 197.365 in lieu of the procedures described in Chapter 17.98, if the application complies with the conditions and standards of ORS 197.360 through 197.380.

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17.100 ADJUSTMENTS

17.100.010 APPLICABILITY

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

17.100.020 PROCESS

Adjustments applications shall be reviewed in accordance with the Type II review procedures specified in Chapter 17.124.

17.100.030 APPLICATION

An application for an Adjustment shall be filed with The City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 17.124.

17.100.040 SUBMITTAL REQUIREMENTS

- A. The applicant shall prepare and submit an application, site plan, and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. The site plan shall show pertinent information to scale to facilitate the review of the proposed development.
 - 1. General Information. The following general information shall be shown on the site plan:
 - a. Vicinity map showing all streets, property lines and other pertinent data to locate the proposal.
 - b. North arrow and scale of drawing.
 - c. Tax map and tax lot number or tax account of the subject property.
 - d. Dimensions and size in square feet or acres of the subject property.
 - e. Location of all existing easements and City utilities (water, sanitary sewer, storm drainage) within the property.
 - f. Existing use of the property, including location of existing structures with dimensions of the structures and distances

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

- g. A site plan or other information clearly indicating the proposed adjustment, including dimensions if applicable.
- B. At the discretion of The City, specific requirements may be waived provided there is sufficient information to allow processing of an application.

17.100.050 ADJUSTMENT APPLICABILITY

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

- A. The proposed request would allow a use which is not permitted in the district.
- B. Another procedure and/or criterion is specified in the Development Code for modifying or waiving the particular requirement or standard.
- C. Modification of the requirement or standard is prohibited within the district.
- D. Adjustments are not allowed for sign standards, or minimum lot sizes.

Commented [WW4]: Audit suggested allowing adjustments to lot sizes. Given current smaller lot sizes (for SFD and Duplexes) recommend leaving this as a variance request.

17.100.060 DECISION CRITERIA

Approval of an Adjustment shall require compliance with the following:

- A. The particular proposed development otherwise clearly satisfies the intent and purpose of the provision being adjusted.
- B. The proposed development will not unreasonably impact adjacent existing or planned uses and development.
- C. The Adjustment does not expand or reduce a quantifiable standard by more than 10% and is the minimum necessary to achieve the purpose of the Adjustment.
- D. There has not been a previous land use action prohibiting an application for an Adjustment.

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17.102 SITE DEVELOPMENT REVIEW

17.102.010 PURPOSE

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

17.102.020 PROCESS

Site Development Review applications shall be reviewed in accordance with the Type III review procedures in Chapter 17.126.

17.102.030 APPLICATION

An application for Site Development Review shall be filed with The City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 17.126.

17.102.040 APPLICABILITY OF PROVISIONS

- A. Site Development Review is applicable to all new industrial, commercial, mixed use, and multi-family developments and expansions involving a 10% or more increase in total square footage of existing industrial, commercial, mixed use, and multi-family structures.
- B. All of the provisions and regulations of the underlying zone shall apply unless modified by other Sections of this Development Code.
- C. Expansions of 10% or less shall be permitted and processed as a building permit, provided the expansion and associated use(s) comply with all applicable development requirements such as parking, setbacks, height restrictions.

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- D. A Site Development Review shall not be required for a change in use from a permitted use identified in the underlying zone to another permitted use within the same zone

17.102.050 SUBMITTAL REQUIREMENTS

- A. The following information shall be submitted as part of a complete application for Site Development Review. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. At the discretion of The City, the information may be submitted graphically or by written summary.
1. Site Analysis
 - a. Existing site topography;
 - b. Identification of areas exceeding 10% slopes;
 - c. Site drainage and identified flood zones;
 - d. Existing structures, roadway access and utilities; and
 - e. Existing and proposed streets, bikeways, and pedestrian facilities within 300 feet.
 2. Site Plan
 - a. Proposed grading and topographical changes;
 - b. All proposed structures including finished floor elevations, setbacks, exterior elevations, and exterior finishing.
 - c. Vehicular and pedestrian circulation patterns, parking, loading and service areas;
 - d. Proposed access to public roads and highways, railroads or transportation systems;
 - e. Site drainage plan including methods of storm drainage, sanitary sewer system, water supply system and electrical services.
 - f. Proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses;
 - g. Proposed on-premise signs, fencing or other fabricated barriers, together with their heights and setbacks;
 - h. Proof of ownership and signed authorization for the proposed development if applicant is not the owner of the site; and
 - i. A schedule of expected development.
 - j. A traffic impact analysis if requested by the City Manager or designee.
 - k. Other appropriate studies and information that may be required by The City to adequately evaluate the project.

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17.102.060 DECISION CRITERIA

The review of a Site Plan shall be based upon the following criteria:

- A. The proposed use is allowed in the zone and complies with the underlying development standards, such as setbacks, height restrictions, parking and so forth.
- B. The proposed use will not create adverse negative impacts on the surrounding area ~~resulting from traffic flow, noise, dust, glare, odor, potential incompatible adjacent uses such as parking lots, or other impacts identified in the public hearing process.~~
- C. Provisions for public utilities, including drainage and erosion control needs;
- D. Parking, traffic safety, and connectivity of internal circulation to existing and proposed streets, bikeways and pedestrian facilities.
- E. Provision for adequate noise and/or visual buffering from non-compatible uses including using site and landscaping design to provide needed buffering;
- F. Protections from any potential hazards.

Commented [WW5]: The audit recommended more "Clear & Objective" standards. For example: establish specific levels of allowable noise levels. This is something the Commission can consider.

Commented [BL6]: Wait, do you have any suggestions on rewording B? See Angela's comment below.

Commented [AC7]: B. PC would like to reword so that it is not so restrictive. Talk to Walt about legally defensible options

Commented [WW8R7]: Concur. Toned it down a quite a bit – traffic, noise and buffering are reviewed in items D. and E (and F.).

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17.104 CONDITIONAL USE

17.104.010 APPLICABILITY

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

17.104.020 PROCESS

Conditional Use shall be reviewed in accordance with the Type III review procedures specified in Chapter 17.126.

17.104.030 APPLICATION

An application for a conditional use shall be filed with The City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 17.126.

17.104.040 SUBMITTAL REQUIREMENTS

- A. The applicant shall prepare and submit an application, site plan, and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. The site plan shall show pertinent information to scale to facilitate the review of the proposed development.
 - 1. General Information. The following general information shall be shown on the site plan:
 - a. Vicinity map showing all streets, property lines, streams, flood zones, and other pertinent data to locate the proposal.
 - b. North arrow and scale of drawing.
 - c. Tax map and tax lot number or tax account of the subject property.
 - d. Dimensions and size in square feet or acres of the subject property and of any proposed parcels or lots.
 - e. Location of all existing easements within the property.
 - f. Location of City utilities (water, sanitary sewer, storm drainage) within the property.
 - g. Existing use of the property, including location of existing structures with dimensions of the structures and distances

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

- h. A site plan clearly indicating the proposed location of the proposed conditional use including the dimensions of any existing, expanded, or new structure proposed to house the conditional use along with all site improvements including parking, lighting, screening, landscaping, etc.

17.104.050 DECISION CRITERIA

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

- A. The use is listed as a conditional use in the underlying district and complies with the development requirements of the underlying zone.
- B. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and location of improvements and natural features.
- C. The proposed development is timely, considering the adequacy of transportation systems, public facilities and services, existing or planned for the area affected by the use.
- D. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying zone.
- E. Any negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other code standards, or other reasonable conditions of approval that include but are not limited to those listed in this chapter.

17.104.060 CONDITIONS OF APPROVAL

In approving a conditional use permit application, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this chapter, additional conditions determined to be necessary to assure that the proposed development meets the decision criteria as well as the best interests of the surrounding properties, the neighborhood, and The City as a whole.

- A. These conditions may include, but are not limited to, the following:

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1. Requiring larger setback areas, lot area, and/or lot depth or width;
 2. Limiting the hours, days, place and/or manner of operation;
 3. Requiring site or architectural design features that minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor or dust;
 4. Limiting the building height, size or lot coverage, or location on the site;
 5. Designating the size, number, locations and/or design of vehicle access points, parking areas, or loading areas;
 6. Increasing the number of required parking spaces;
 7. Requiring street rights-of-way to be dedicated and streets, sidewalks, curbs, planting strips, pathways or trails to be improved, so long as findings in the development approval indicate how the dedication and/or improvements, if not voluntarily accepted by the applicant, are roughly proportional to the impact of the proposed development;
 8. Limiting the number, size, location, height and lighting of signs;
 9. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;
 10. Requiring fencing, screening, landscaping, berms, drainage, water quality facilities or other facilities to protect adjacent or nearby property, and the establishment of standards for their installation and maintenance;
 11. Designating sites for open space or outdoor recreation areas;
 12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, and historic or cultural resources;
 13. Requiring ongoing maintenance of buildings and grounds;
 14. Setting a time limit for which the conditional use is approved.
- B. Uses existing prior to the effective date of this Chapter and classified in Title 17 as a conditional use shall meet the criteria for modification of approved plans and developments.
- C. The Planning Commission may require the applicant of an approved conditional use permit to enter into an agreement with The City for public facility improvements.

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17.106 VARIANCE

17.106.010 APPLICABILITY

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

17.106.020 PROCESS

Variance applications shall be reviewed in accordance with the Type III review procedures specified in Chapter 17.126.

17.106.030 APPLICATION

An application for a Variance shall be filed with The City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 17.126.

17.106.040 SUBMITTAL REQUIREMENTS

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

- A. Vicinity map showing all streets, property lines and other pertinent data to locate the proposal.
- B. North arrow and scale of drawing.
- C. Tax map and tax lot number or tax account of the subject property.
- D. Dimensions and size in square feet or acres of the subject property.
- E. Location of all existing easements and City utilities (water, sanitary sewer, storm drainage) within the property.

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- G. Existing use of the property, including location of existing structures with dimensions of the structures and distances from property lines. It shall be noted whether the existing structures are to remain or be removed from the property.
- H. A site plan or other information clearly indicating the proposed variance, including dimensions if applicable.

17.106.050 VARIANCE APPLICABILITY

- A. Under the following provisions, a property owner or his designate may propose a modification or variance from a standard of this Development Code, except when one or more of the following apply:
 - 1. The proposed variance would allow a use which is not permitted in the district.
 - 2. Another procedure and/or criterion is specified in the Development Code for modifying or waiving the particular requirement or standard.
 - 3. Modification of the requirement or standard is prohibited within the district.
- B. Variances to the sign regulations are subject to provisions in Chapter 17.50.

17.106.060 DECISION CRITERIA

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

- A. The variance is necessary because the subject Development Code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance.
- B. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district. An economic hardship shall not be the basis for a variance request.

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- C. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or otherwise conflict with the objectives of any City plan or policy.
- D. The need for the variance is not self-imposed by the applicant or property owner (for example, the variance request does not arise as a result of a property line adjustment or land division approval previously granted to the applicant).
- E. The variance requested is the minimum variance which would alleviate the identified hardship.
- F. All applicable building code requirements and engineering design standards shall be met.

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17.108 NONCONFORMING USES

17.108.010 APPLICABILITY

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

17.108.020 PROCESS

Proposed alterations of nonconforming uses shall be reviewed in accordance with the Type III review procedures in Chapter 17.126.

17.108.030 APPLICATION

An application for an alteration or expansion of a nonconforming use shall be filed with The City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 17.126. The application shall contain sufficient information and/or plans to address the decision criteria.

17.108.040 DECISION CRITERIA

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

- A. That the alteration of structures would not result in an increase in nonconformity of the structure.
- B. A change in use to another non-conforming use shall be permitted if it is of the same or less intensity of use.

C. Conversion of an existing detached single family dwelling to a Duplex is* allowed, for a total of two dwelling units on a property, provided that the conversion does not increase nonconformance with applicable clear and objective standards in this code.

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17.108.050 CONDITIONS OF APPROVAL

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

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17.110 SUBDIVISIONS AND PLANNED DEVELOPMENTS

17.110.010 APPLICABILITY

All Subdivisions and Planned Developments (PD) shall conform to all applicable standards of the underlying zone, as well as the development standards and other provisions of this Development Code unless otherwise modified by provisions in this Section.

17.110.020 PROCESS

Preliminary plats for Subdivisions and Planned Developments shall be reviewed in accordance with the Type III review procedures in Chapter 17.126.

17.110.030 APPLICATION

An application for a Subdivision or Planned Development shall be filed with The City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 17.126.

17.110.040 SUBMITTAL REQUIREMENTS

The following submittal requirements shall apply to all Preliminary Plat applications for subdivisions or Planned Development.

- A. All applications shall be submitted on forms provided by The City along with the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria.
- B. Applicants for subdivisions shall submit one 11" x 17" copy of the preliminary plan along with one digital copy. The preliminary plan shall include the following:
 - 1. General Information. The following general information shall be shown on the tentative plan:
 - a. Vicinity map showing all streets, property lines, streams, flood plain and other pertinent data to locate the proposal.
 - b. North arrow and scale of drawing.
 - c. Tax map and tax lot number or tax account of the subject property.

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- d. Dimensions and size in square feet or acres of the subject property.
 - e. Name of the Subdivision or Planned Development.
 - 2. Existing Conditions:
 - a. Location of all existing easements within the property.
 - b. Location of City utilities (water, sanitary sewer, storm drainage) within or adjacent to the property proposed for use to serve the development.
 - c. The location and direction of water courses or drainage swales on the subject property.
 - d. Existing use of the property, including location of existing structures. It should be noted whether the existing structures are to remain or be removed from the property.
 - e. Direction of drainage and approximate grade of abutting streets.
 - f. Proposed streets, approximate grade, and radius of curves.
 - g. Any other legal access to the subdivision other than a public street.
 - h. Contour lines related to an established bench mark on City datum, having the following minimum intervals:
 - (i) Areas with less than 5% slope: One-foot contours
 - (ii) Areas with slope between 5% and 10%: Two-foot contours.
 - (iii) Areas with slope greater than 10%: Five-foot contours.
 - 3. Proposed Plan:
 - a. Locations, approximate dimensions and area in square feet of all proposed lots. All lots shall be numbered consecutively.
 - b. Location, width and purpose of any proposed easements.
 - c. All areas to be offered for public dedication.
 - d. If any portion of the property is not proposed to be included in the subdivision or any public dedication, that portion shall be identified as a remnant parcel. A draft subdivision or development plan shall be included showing how the proposed subdivision will provide needed access and utilities to serve future development of the remnant parcel.
 - e. Proposed phasing
- C. The following supplemental information shall be required for all Planned Development Preliminary Plan applications:
- 1. Proposed uses on the property, including sites, if any, for attached dwelling units, recreational facilities, parks and playgrounds or

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other public or semi-public uses, with the purpose, condition and limitations of such reservations clearly indicated.

2. Designation of the location of the building pads, or areas, or setback lines or setback standards for all buildings to be constructed.
3. Architectural renderings of the proposed residential and commercial buildings and structures
4. The approximate location and dimensions of all commercial, mixed-use, or multi-family structures proposed to be located on the site.
5. Calculations justifying the proposed density of development as required by Chapter 17.60.
6. Landscaping plan indicating location of existing vegetation and proposed improvements.
7. Statement of improvements to be made or installed including streets, sidewalks, bikeways, trails, lighting, tree planting, landscaping, and time such improvements are to be made or completed.
8. Written statement outlining proposals for ownership and maintenance of all open space areas and any commonly owned facilities.

17.110.040 DECISION CRITERIA - SUBDIVISION

- A. Each parcel shall satisfy the dimensional standards of the applicable zone, unless a variance from these standards is approved.
- B. The parcels shall meet the Development Standards for Land Division of Chapter 17.58.
- C. Existing buildings shall comply with the setback requirements of the applicable zone, unless a variance from the requirements is approved.
- D. Adequate public facilities, including access, shall be available to serve the existing and newly created parcels. If adjacent properties are undeveloped or landlocked, consideration will be given to extending appropriate access to those properties in accordance with adopted City policy.

17.110.050 DECISION CRITERIA – PLANNED DEVELOPMENT

Approval of a Planned Development shall require compliance with the following:

- A. Conformance with provisions of Chapter 17.60 (Purpose Statement) and Chapter 17.110 (Objectives of this Chapter).

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- B. The proposal shall comply with the applicable development and layout provisions contained in Chapter 17.60.
- C. Adequate public facilities, including access, shall be available to serve the existing and newly created parcels. If adjacent properties are undeveloped or landlocked, consideration will be given to extending appropriate access to those properties in accordance with adopted City policy.

17.110.050 FINAL PLAT REQUIREMENTS

- A. The final plat shall be submitted to The City in a form and with information consistent with Linn County survey and map standards and State laws regarding plats of record and surveys. Where the Development Code directly conflicts with State or County laws, codes or regulations, the provisions of the State and County laws, codes or regulations shall apply.
- B. The applicant shall submit two identical reproducible copies of the final plat for signature. The plats shall be mylar, meeting the requirements of the County Surveyor.
- C. All monumentation shall meet the requirements of State law including provisions for post-monumentation.
- D. Endorsements required: The following endorsements represent the minimum required for a final plat. Additional endorsements required by State or County, or City laws, codes or regulations shall also be supplied. Signature blanks for these endorsements shall be provided on the final plat.
 - 1. City Manager or designee.
 - 2. Public Works Director or designee
 - 3. Signature blanks for the Mayor with acceptance declaration for dedications of land to public use (other than public utility easements).
- E. Supplemental Information with Final Plat:
 - 1. An amended title report or subdivision guarantee, as appropriate, issued by a title insurance company in the name of the owner of the land, showing all parties with a title or interest in the property and whose consent is necessary, as well as all existing easements, restrictions, covenants and other encumbrances pertaining to the subject property.
 - 2. Copy of any dedication requiring separate documents.

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3. Where applicable, all Homeowner's Agreements, Articles and By-Laws shall be submitted with the final plat for review by the City Attorney.
 - a. The final plat shall not be approved by The City until the Homeowner's Association Agreement, Articles and By-Laws are approved.
 - b. The Homeowner's Association Agreement shall be consistent with State law, including ORS 94.
 - c. A Certificate of Formation of a non-profit corporation for the Homeowner's Association, with a State Seal, shall be submitted with the final plat for review by The City.
 - d. Signed, original documents of the Homeowner's Association Agreement, Articles and By-Laws and the certificate of Formation shall be recorded with the final plat.
4. Maintenance Agreements for common property or common access easements shall be submitted with the final plat for review by the City Attorney.

17.110.060 PROCESS FOR FINAL PLAT APPROVAL

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

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

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17.112 COMPREHENSIVE PLAN MAP AMENDMENT

17.112.010 APPLICABILITY

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

17.112.020 PROCESS

Amendments to the Comprehensive Plan map shall be reviewed in accordance with the Type IV review procedures specified in Chapter 17.128.

17.112.030 APPLICATION

An application for a map amendment shall be filed with The City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 17.128.

17.112.040 SUBMITTAL REQUIREMENTS

The applicant shall prepare and submit an application, site plan, and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. A site plan shall not be required to initiate a Comprehensive Plan map amendment.

17.112.050 DECISION CRITERIA

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

- A. All information and analysis must justify the proposed change relative to the Map designation to which the property is proposed to change, and to the Map designation from which the property is changing. The analysis must address the impacts from decreasing acreage of one map designation and increasing acreage for the proposed map designation.
- B. Compliance is demonstrated with the Statewide Land Use Planning Goals and Guidelines and any relevant Administrative Rules applying to the subject properties or to the proposed land use designation. If the proposed designation requires an exception to the Goals, the applicable

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criteria in the Land Conservation and Development Commission (LCDC) Administrative Rules for the type of exception needed shall also apply.

- C. Consistency with the applicable goals and policies in the Comprehensive Plan is demonstrated.
- D. The Plan does not provide adequate areas in appropriate locations for uses allowed in the proposed land use designation and the addition of this property to the inventory of lands so designated is consistent with projected needs for such lands in the Comprehensive Plan.
- E. The Plan provides more than the projected need for lands in the existing land use designation.
- F. The proposed land use designation will not allow zones or uses that will destabilize the land use pattern in the vicinity or significantly adversely affect existing or planned uses on adjacent lands.
- G. Public facilities and services, including transportation facilities, necessary to support uses allowed in the proposed designation are available, or, will be available in the near future.

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17.114 ZONE MAP AMENDMENT

17.114.010 APPLICABILITY

The Zone Map establishes zone for individual properties. A zone change approval is required to change the zoning of any property.

17.114.020 PROCESS

Zone changes shall be reviewed in accordance with the Type IV review procedures specified in Chapter 17.128.

17.114.030 APPLICATION

An application for a zone change shall be filed with The City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 17.128.

17.114.040 SUBMITTAL REQUIREMENTS

The applicant shall prepare and submit an application, ~~site plan~~, and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. A site plan shall not be required to initiate a Zone Map amendment.

Commented [WW10]: Per Audit comment. Note last sentence does not require a site plan.

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17.114.050 DECISION CRITERIA

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

- A. The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan land use classification.
- B. The uses permitted in the proposed zone can be accommodated on the proposed site without exceeding its physical capacity.
- C. Allowed uses in the proposed zone can be established in compliance with the development requirements in this Development Code.

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- D. Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property.
- E. For residential zone changes, the criteria listed in the purpose statement for the proposed residential zone shall be met.

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17.116 TEXT AMENDMENTS

17.116.010 PROCESS

Amendments to the Comprehensive Plan and Development Code texts shall be reviewed as a Type IV application as specified in Chapter 17.128.

17.116.020 APPLICATION

A Plan or Development Code text amendment can only be initiated by the Planning Commission or City Council. Private citizens, however, may suggest text changes. Upon direction of either the Planning Commission or City Council, City staff shall establish a file and set a schedule to review the proposed changes. Notice shall be subject to the provisions in Chapter 17.128.

17.116.030 DECISION CRITERIA

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

- A. ~~There are no negative impacts of the~~ The proposed amendment will not adversely impact the following: ~~on land use and development patterns within The City, as measured by:~~
1. Traffic generation and circulation patterns;
 2. Demand for public facilities and services;
 3. Level of park and recreation facilities;
 4. ~~Economic activities;~~
 5. Protection and use of natural resources;
 6. ~~Compliance with existing special purpose plans or programs.~~
- B. A demonstrated need exists for the proposed amendment.
- C. The proposed amendment complies with all applicable Statewide Planning Goals and applicable administrative rule requirements. In addition, amendments to the Development Code shall conform with applicable City Comprehensive Plan policies.
- D. The amendment is appropriate as measured by at least one of the following criteria:
1. It corrects identified error(s) in the provisions of the plan.

Commented [BL11]: Walt, do you have any suggestions on changes to this language that would allow more flexibility, and not just "no"? One of our PC is concerned that this is too rigid.

Commented [WW12R11]: I do see the Commissioner's point. Let me know if the revisions work.

Commented [AC13]: A. Henry would like to see language that is not so restrictive. Work with Walt on language.

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2. It represents a logical implementation of the plan.
3. It is mandated by changes in federal, state, or local law.
4. It is otherwise deemed by the City Council to be desirable, appropriate, and proper.

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17.118 ANNEXATIONS

17.118.01 AUTHORITY OF CITY TO ANNEX

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

17.118.02 PROCESS

Annexations shall be reviewed in accordance with the requirements of ORS 222.111 through 222.183 as may be amended, and The City's Type IV review procedures specified in Chapter 17.128. A concurrent development proposal is not required to annex property.

17.118.03 APPLICATION

An application for an annexation shall be filed with The City and accompanied by the appropriate fee. Requirements for an application are found in ORS 222.111 through 222.183 as may be amended. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of both the Statute and this Section. Notice shall be subject to the provisions in Statute and Chapter 17.128.

17.118.04 DECISION CRITERIA

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

- A. The property abuts The City limits.
- B. Public facilities are available or can be extended in the future to serve the property.
- C. Public access is available or may be extended in the future to serve the property.

17.118.05 EFFECTIVE DATE OF ANNEXATION

The annexation shall be complete from the date of filing with the Secretary of State as provided in ORS 222.150, 222.160, 222.170, 111.900 and the requirements of this Chapter. Thereafter, the annexed territory shall be and

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remain part of The City. The date of such filing shall be the effective date of annexation.

17.118.06 ZONE DESIGNATION OF ANNEXED PROPERTY

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

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17.120 GENERAL ADMINISTRATIVE PROVISIONS

17.120.010 MULTIPLE APPLICATIONS

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

17.120.020 GENERALIZED AREA

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

17.120.030 APPLICATION FORMS

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

17.120.040 TIME LIMIT

- A. The City shall take final action on all land use actions, limited land use actions or zone change applications including all appeals, within 100 days of completion of the application for all applications listed under O.R.S. 197.311 or within 120 days of completion of the application for all other land use actions, limited land use actions or zone change applications that do not also require a comprehensive plan amendment. Applications or appeals which require consideration by agencies or entities outside The City jurisdiction are excepted from this deadline. The 120-day deadline may be extended at the request of the applicant.
- B. If an application is incomplete, The City shall notify the applicant within 30 days of receipt of the application and allow the applicant to submit the missing information. If the applicant refuses to submit the missing information, the application shall be deemed incomplete and no further action shall be taken. If the applicant agreed to supply the missing information, the application shall be deemed complete for the purpose of subsection A of this section when the missing information is supplied.

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- C. If the application was complete when first submitted, or if the applicant supplies requested additional information within 180 days of initial submittal, approval or denial of the application shall be based upon the standards and conditions which were in effect at the time of submittal.
- D. If for any reason it appears that a final action may not be completed within the 120-day period, and unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this Development Code.
 - 1. The City staff shall notify the City Council of the timing conflict by the 85th day. The Mayor shall set a time for an emergency meeting within the 120-day period.
 - 2. Public notice shall be mailed to affected parties as specified in Chapter 17.126 except the notice shall be for a period of 10 days
 - 3. The City Council shall hold in a public hearing on the specified date, in accordance with the provisions of Chapter 17.132 and render a decision approving or denying the request within the 120-day period. Such action shall be the final action by The City on the application.
- E. If an application is not acted upon within the time period specified in subsection A. of this section:
 - 1. The City shall refund to the applicant either the unexpended portion of any application fees previously paid or 50% of the total amount of the fees, whichever is greater.
 - 2. The applicant may apply in the Circuit Court of Linn County for a writ of mandamus to compel The City to issue the approval.

17.120.050 NATURE OF APPEAL HEARINGS

Any Planning Commission or City Council hearing on an appeal shall be held de novo, meaning new testimony may be submitted along with the existing record.

17.120.060 NOTICE

All mailed notices shall include an affidavit confirming the date and time the notice was mailed along with a list of those to receive notice. Failure to receive a notice shall not invalidate the mailed notice.

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17.122 TYPE I APPLICATION AND REVIEW PROCEDURES

17.122.010 PROCEDURE FOR TYPE I ACTION

- A. Decision Authority. Applications subject to a Type I review shall be reviewed and decided by the City Manager or designee.
- B. Application and Completeness. The application and completeness review process shall comply with provisions in Chapter 17.120.040.
- C. Decision. The City Manager or designee shall review the application and shall make a decision based on an evaluation of the proposal and on applicable clear and objective standards as set forth in this Development Code.
- D. Notice. Notice of the decision is provided only to the applicant.
- E. Appeals. All Type I land use decisions may be appealed to the Planning Commission. The appeal shall be submitted within 12 days of the date the decision is mailed on forms provided by The City.
- F. Planning Commission Hearing and Notice of Appeal. If a Type I decision is appealed, City staff shall schedule a hearing before the Planning Commission. The Planning Commission shall conduct the hearing consistent with procedures set forth in Chapter 17.130. Written notice of a public hearing on the appeal shall be mailed to the applicant and those who received notice of the original decision. This notice shall be mailed at least 10 days prior to the public hearing on the appeal and shall contain the information required in Chapter 17.130.
- G. Planning Commission Action. The Planning Commission action on a Type I appeal shall be in the form of a decision. Within 7 days of the Planning Commission decision, the applicant and all individuals who participated in the public hearing or requested notice of the decision, shall be mailed written notice of the decision. The notice shall specify findings justifying the decision to approve or deny the request and any conditions of approval.
- H. Appeals. All appeals of Type I land use decisions of the Planning Commission may be appealed to the City Council. The appeal shall be submitted within 12 days of the date the decision is mailed.

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- I. City Council Hearing and Notice of Appeal. If the Planning Commission decision on a Type I decision is appealed, City staff shall schedule a hearing before the City Council. The City Council shall conduct the hearing consistent with procedures set forth in Chapter 17.132. Written notice of a public hearing on the appeal shall be mailed to the applicant and those who received notice of the Planning Commission decision on appeal. This notice shall be mailed at least 10 days prior to the public hearing on the appeal and shall contain the information required in Chapter 17.126.01.
- J. Notice of City Council Decision. Within 7 days of the final City Council decision, the applicant and those who attended the hearing or requested notice, shall be mailed written notice of the City Council decision. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval.
- K. Appeal of City Council Decision. All appeals heard by the City Council may be appealed to the Land Use Board of Appeals (LUBA). The appeal shall be submitted within 21 days of the date the decision is mailed. Appeals shall comply with LUBA procedures.

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17.124 TYPE II APPLICATIONS AND REVIEW PROCEDURES

17.124.010 PROCEDURE FOR TYPE II ACTION

- A. Decision Authority. Applications subject to a Type II procedure shall be reviewed and decided by the City Manager or designee.
- B. Application and Completeness. The application and completeness review process shall comply with provisions in Chapter 17.120.040.
- C. Hearing Option. The City Manager or designee may request a public hearing before the Planning Commission. A public hearing may also be requested by the applicant. The procedures for conducting the public hearing shall comply with the standards in Chapter 17.130.
- D. Notice. Before making a Type II decision, The City shall mail notice of the application to:
 - 1. All owners of record of real property within 100-feet of the subject site.
 - 2. Any person who submits a written request to receive a notice.
 - 3. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with The City, or required by State statute.
 - 4. The road authority, and rail authority and owner, when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of decision for the application.
 - 5. The City may notify other affected agencies, as appropriate, for review of the application.
- E. The notice of a pending Type II decision in item E. above shall include the following:
 - 1. Provide a 14-day period for submitting written comments before a decision is made on the land use application.
 - 2. Identify the specific land use decisions or decisions requested.
 - 3. Describe the street address or other easily understandable reference to the location of the site.
 - 4. List the relevant decision criteria by name and number of Development Code sections.

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5. State the place, date and time the comments are due, and the person to whom the comments should be addressed.
 6. Include the name and telephone number of a contact person regarding the Administrative Decision.
 7. State that if any person fails to address the relevant decision criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant decision criteria are considered relevant evidence.
 8. State that all evidence relied upon by The City to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from The City. application
 9. State that after the comment period closes, The City shall issue a decision. The decision shall be mailed to the applicant and to any person or agency who submitted written comments or who is otherwise legally entitled to notice.
- F. Decision. The City Manager or designee shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this Development Code.
- G. Notice of Decision. Within five working days after a decision is made, a Notice of Decision shall be sent by mail to:
1. The applicant and all owners or contract purchasers of record of the site that is the subject of the application.
 2. Any person or agency who submits a written request to receive notice, or provides comments during the application review period.
 3. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with The City, and other agencies that were notified or provided comments during the application review period.
- H. Appeals and Reconsideration. All Type II land use decisions may be appealed to the Planning Commission. The appeal shall be submitted within 12 days of the date the decision is mailed.
- I. Planning Commission Hearing and Notice of Appeal. If a Type II decision is appealed, City staff shall schedule a hearing before the Planning Commission. The Planning Commission shall conduct the hearing consistent with procedures set forth in Chapter 17.130. Written notice of a public hearing on the appeal shall be mailed to the applicant and those

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who received notice of the original decision. This notice shall be mailed at least 10 days prior to the public hearing on the appeal and shall contain the information required in Chapter 17.126.01.

- J. Planning Commission Action. The Planning Commission action on a Type II appeal shall be in the form of a decision. Within five working days of the Planning Commission decision, the applicant and all individuals who participated in the public hearing or requested notice of the decision, shall be mailed written notice of the decision. The notice shall specify findings justifying the decision to approve or deny the request and any conditions of approval.
- K. Appeals. All appeals of Type II land use decisions of the Planning Commission may be appealed to the City Council. The appeal shall be submitted within 12 days of the date the decision is mailed on forms provided by The City.
- L. City Council Hearing and Notice of Appeal. If the Planning Commission decision on a Type II decision is appealed, City staff shall schedule a hearing before the City Council. The City Council shall conduct the hearing consistent with procedures set forth in Chapter 17.132. Written notice of a public hearing on the appeal shall be mailed to the applicant and those who received notice of the Planning Commission decision on appeal. This notice shall be mailed at least 10 days prior to the public hearing on the appeal and shall contain the information required in Chapter 17.126.01.
- M. Notice of City Council Decision. Within five working days of the final City Council decision, the applicant and those who attended the hearing or requested notice, shall be mailed written notice of the City Council decision. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval.
- N. Appeal of City Council Decision. All appeals heard by the City Council may be appealed to the Land Use Board of Appeals (LUBA). The appeal shall be submitted within 21 days of the date the decision is mailed. Appeals shall comply with LUBA procedures.

17.124.020 CONDITIONS OF APPROVAL

- A. Authorization for Conditions. Approvals of a Type II action may be granted subject to conditions. Conditions shall be designed to protect public health, safety and general welfare from potential adverse impacts caused

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by a proposed land use described in an application. Conditions shall either ensure compliance with the standards of the Development Code; or fulfill the need for public service demands created by the proposed use.

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

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17.126 TYPE III APPLICATIONS AND REVIEW PROCEDURES

17.126.01 PROCEDURES FOR TYPE III ACTIONS

- A. Decision Authority. Applications subject to a Type III procedure shall be reviewed and decided by the Planning Commission.
- B. Application and Completeness. The application and completeness review process shall comply with provisions in Chapter 17.120.040.
- C. Agency Referrals. Referrals will be sent to interested agencies such as City departments, police and fire departments, the school district, utility companies, and applicable state agencies. If a county road or state highway is impacted, referrals should be sent to the applicable County Public Works Department and/or Oregon Department of Transportation.
- D. Planning Commission Hearing and Notification Area. City staff shall schedule a hearing before the Planning Commission. Written notice of the public hearing shall be mailed at least twenty (20) days prior to the hearing date to the applicant, owners of property within 300 feet of the boundaries of the subject property and to affected county and state agencies, including highways and roads. The Planning Commission shall conduct the hearing consistent with procedures set forth in Chapter 17.130. The notice of a pending Type III hearing shall include the following:
 - 1. Explain the nature of the application.
 - 2. Cite the applicable criteria from the Development Code.
 - 3. Identify the location of the property.
 - 4. State the date, time and location of the Planning Commission hearing.
 - 5. Include the name of The City representative to contact and the telephone number where additional information may be obtained;
 - 6. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals;
 - 7. State that a copy of the application, all documents and evidence relied upon by the applicant and application criteria are available for inspection at no cost and a copy will be available at reasonable cost;

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8. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost;
 9. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearing.
- E. Planning Commission Action. The Planning Commission action on a Type III request shall be in the form of a decision. Decisions are to be signed by the Planning Commission Chair or acting Planning Commission Chair. Within 7 days of the Planning Commission decision, the applicant and all individuals who participated in the public hearing or requested notice of the decision, shall be mailed written notice of the decision. The notice shall specify findings justifying the decision to approve or deny the request and any conditions of approval.
- F. Appeals. All appeals of Type III land use decisions of the Planning Commission may be appealed to the City Council. The appeal shall be submitted within 12 days of the date the decision is mailed.
- G. City Council Hearing and Notice of Appeal. If the Planning Commission decision on a Type III decision is appealed, City staff shall schedule a hearing before the City Council. The City Council shall conduct the hearing consistent with procedures set forth in Chapter 17.132. Written notice of a public hearing on the appeal shall be mailed to the applicant and those who received notice of the Planning Commission decision. This notice shall be mailed at least 10 days prior to the public hearing on the appeal and shall contain the information required in Chapter 17.126.01.
- H. Notice of City Council Decision. Within 7 days of the final City Council decision, the applicant and those who attended the hearing or requested notice, shall be mailed written notice of the City Council decision. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval.
- I. Appeal of City Council Decision. All appeals heard by the City Council may be appealed to the Land Use Board of Appeals (LUBA). The appeal shall be submitted within 21 days of the date the decision is mailed. Appeals shall comply with LUBA procedures.

17.126.020 CONDITIONS OF APPROVAL

- A. Authorization for Conditions. Approvals of any Type III action may be granted subject to conditions. Conditions shall be designed to protect

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public health, safety and general welfare from potential adverse impacts caused by a proposed land use described in an application. Conditions shall either ensure compliance with the standards of the Development Code; or fulfill the need for public service demands created by the proposed use.

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

17.126.030 CALL UP BY THE CITY MANAGER

- A. After consultation with the City Attorney, the City Manager may call up a decision by the Planning Commission on a quasi-judicial land use application for review by the City Council.
- B. On receiving a call by the City Manager, the Community and Economic Development Department shall provide to the City Council the application and all other documents constituting the entire record for the quasi-judicial land use request.
- C. The City Manager shall set a date and time for a public hearing before the City Council to consider the call under the notice of public hearing per Chapter 17.126.01 and the process listed in Chapter 17.132. The decision resulting from this public hearing by the City Council shall constitute the final City decision.
- D. A call by the City Manager stays all proceedings by all parties in connection with the matter until the City Council has made a decision on the application.

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17.128 TYPE IV APPLICATIONS AND REVIEW PROCEDURES

17.128.010 PROCEDURES FOR TYPE IV ACTIONS (QUASI-JUDICIAL)

- A. Decision Authority. Zone Changes and Comprehensive Plan Map amendments initiated at the request of a property owner are quasi-judicial applications and subject to a Type IV procedure and shall be reviewed and decided by the City Council with the recommendation of the Planning Commission.
- B. Application and Completeness. The application and completeness review process shall comply with provisions in Chapter 17.120.040.
- C. Agency Referrals. Referrals will be sent to interested agencies such as City departments, police and fire departments, the school district, utility companies, and applicable state agencies. If a county road or state highway is impacted, referrals should be sent to the applicable County Public Works Department and/or Oregon Department of Transportation.
- D. Planning Commission Hearing and Notice. City staff shall schedule a hearing before the Planning Commission. The City Council and Planning Commission hearings can be combined if approved by the Mayor. The Planning Commission shall conduct the hearing consistent with procedures set forth in Chapter 17.130. Notice of the public hearings before the Planning Commission and City Council for a Type IV land use action, shall be published in a newspaper of general circulation in The City at least 20 days prior to each public hearing. Affected property owners within 300-feet of the subject property shall be notified by mail at least 20 days prior to the initial Planning Commission hearing. Mailed notice of a pending Type IV hearing shall include the following:
 - 1. Identify the specific land use decisions or decisions requested.
 - 2. Describe the street address or other easily understandable reference to the location of the site.
 - 3. List the relevant decision criteria by name and number of Development Code sections.
 - 4. State the place, date and time of the Planning Commission hearing.
 - 5. Include the name and telephone number of a contact person regarding the Administrative Decision.

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6. State that if any person fails to address the relevant decision criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant decision criteria are considered relevant evidence.
 7. State that all evidence relied upon by The City to make this decision is in the public record, available for public review. Copies of this evidence are available for inspection at no cost and a copy can be obtained at a reasonable cost.
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- E. Planning Commission Action. The Planning Commission action on a Type IV request shall be in the form of a recommendation to the City Council. Within 7 days of the Planning Commission decision, the applicant and all individuals who requested notice of the decision, shall be mailed written notice of the Planning Commission decision. The notice shall specify findings justifying the recommendation to approve or deny the request and any recommended conditions of approval.
 - F. City Council Hearing. Subsequent to the Planning Commission hearing, City staff shall schedule a hearing before the City Council. Notice shall be provided as per Chapter 17.126.01. The City Council shall conduct the hearing consistent with procedures set forth in Chapter 17.132. The City Council and Planning Commission hearings can be combined if approved by the Mayor.
 - G. Notice of City Council Decision. Within 7 days of the final City Council decision, the applicant and all individuals who requested notice of the decision, shall be mailed written notice of the City Council decision. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval. City Council approval shall be in the form of an ordinance; a denial shall be in a form acceptable to the City Council.
 - H. Appeals. All Type IV land use decisions of the City Council may be appealed to the Land Use Board of Appeals (LUBA). The appeal shall be submitted within 21 days of the date the decision is mailed. Appeals shall comply with LUBA procedures.
 - I. Joint Notice Publication. The City has the option of publishing a single notice for both the Planning Commission and City Council hearings, provided the notice is set to publish at least 20-days prior to the Planning Commission hearing.

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17.128.020 PROCEDURES FOR TYPE IV ACTIONS (LEGISLATIVE)

- A. Procedures. Type IV legislative applications may be initiated by either a majority vote of the City Council or a majority vote of the Planning Commission. Citizens may suggest possible amendments to either body.
- B. Time Limit. Type IV legislative actions are not subject to the 120-day time limit.
- C. Agency Referrals. Referrals will be sent to interested agencies such as city departments, police and fire departments, the school district, utility companies, and applicable state agencies. If a county road or state highway is impacted, referrals should be sent to the applicable County Public Works Department and/or Oregon Department of Transportation.
- D. Public Hearings by Planning Commission. A public hearing shall be held by the Planning Commission. Notice of the time, place and purpose of the Planning Commission's hearings shall be given by publication of a notice in a newspaper of general circulation in The City not less than 20 days prior to the date of hearing.
- E. Planning Commission Action. The Planning Commission action on a Type IV legislative request shall be in the form of a recommendation to the City Council. Within 7 days of the Planning Commission decision, the applicant and all individuals who requested notice of the decision, shall be mailed written notice of the Planning Commission decision. The notice shall specify findings justifying the recommendation to approve or deny the request and any recommended conditions of approval.
- F. Public Hearing by City Council. Following Planning Commission action, the City Council shall hold a public hearing to consider the Planning Commission's recommendation on proposed amendments. Notice of the time, place and purpose of the City Council hearings shall be given by publication of a notice in a newspaper of general circulation in The City not less than 10 days prior to the date of hearing.
- G. Notice of City Council Decision. Within 7 days of the final City Council decision, the applicant and all individuals who requested notice of the decision, shall be mailed written notice of the City Council decision. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval. City Council approval shall be

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in the form of an ordinance; a denial shall be in a form acceptable to the City Council.

- H. Appeals. All Type IV land use decisions by the City Council may be appealed to the Land Use Board of Appeals (LUBA). The appeal shall be submitted within 21 days of the date the decision is mailed. Appeals shall comply with LUBA procedures.
- I. Joint Hearing and Notice of Publication. The Planning Commission and City Council hearings can be combined if approved by the Mayor. The City has the option of publishing a single notice for both the Planning Commission and City Council hearings, provided the notice is set to publish at least 20-days prior to the Planning Commission hearing.

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17.130 PUBLIC HEARING - PLANNING COMMISSION

17.130.01 GENERAL PROVISIONS

- A. Timing. Land use actions which require a public hearing by the Planning Commission under the provisions of this Development Code shall be initially heard by the Planning Commission within 45 days of the receipt of an application which is deemed complete.
- B. Planning Commission Decisions. The Planning Commission shall prepare and adopt written findings for approval or denial, and any conditions of approval. All decisions shall require an order.
- C. Hearing Action. The Planning Commission may continue a public hearing for additional information, testimony, or for decision only, to its next regular meeting or to a special meeting. In no instance, however, shall the decision be continued more than 30 days beyond the initial hearing date.
- D. Continuance and Open Record. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing for the receipt of additional written testimony.
- E. Type I and Type II Appeals. Appeal of a Type I or Type II action shall be heard by the Planning Commission. Findings of the Planning Commission on such appeals shall be final unless further appealed to the City Council.
- F. Type III Action. The decisions of the Planning Commission on applications for Type III actions shall be final unless appealed to the City Council.
- G. Type IV Actions. The recommendations of the Planning Commission on applications for Type IV actions shall be referred to the City Council for final determination. Notice of the Planning Commission recommendation is required but shall not be subject to appeal.

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17.130.020 PLANNING COMMISSION HEARING PROCEDURES

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

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- A. Open the public hearing and announce the purpose.
- B. Call for abstentions and objections to jurisdiction; and, *ex parte* contacts, conflicts of interest or bias on behalf of the Planning Commission members.
- C. Receive the staff report and recommendation.
- D. Applicant addresses Planning Commission.
- E. Those in favor of the application address the Planning Commission.
- F. Those not in favor of the application address Planning Commission.
- G. Those not necessarily in favor or opposed address the Planning Commission.
- H. Clarifying questions of proponents and opponents from the Planning Commission directed through the Chair.
- I. Applicant rebuttal.
- J. Staff comments and recommendation based on the testimony.
- K. Close of public testimony.
- L. Deliberation of Planning Commission of findings of fact.
- M. Decision of Planning Commission.
- N. Close hearing.

17.130.030 EVIDENCE

- A. Acceptance of Evidence. All evidence offered and not objected to may be received unless excluded by the Planning Commission on its own motion. Evidence may be received subject to a later ruling as to its admissibility.
- B. Exclusion of Evidence. The Planning Commission may exclude irrelevant, unduly repetitious, immaterial or cumulative evidence; but erroneous admission of evidence by the Planning Commission shall not preclude action or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party. Evidence may be received in written form.

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- C. Public Record. All evidence shall be offered and made a part of the public record in the case.
- D. Use of Other Information. The Planning Commission may take notice of judicially recognizable facts, and members may take notice of general, technical or scientific facts within their specialized knowledge. Parties shall be notified at any time during the proceeding, but in any event prior to the final decision unless appealed, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The Planning Commission members may utilize their experience, technical competence and specialized knowledge in evaluation of the evidence presented.
- E. Rights of Participants. Every party is entitled to an opportunity to present evidence, and all interested persons shall be allowed to testify.
- F. LUBA Appeal. An issue which may be the basis for an appeal to the Land Use Board of Appeals (LUBA) may be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before The City. Such issues shall be raised with sufficient specificity so as to afford the City Council or Planning Commission, and the parties, an adequate opportunity to respond to each issue.
- G. Ex parte Contacts. Ex parte contacts with a member of the decision-making body shall not invalidate a final decision or action of said body. The member receiving the information shall report the information for the record at the hearing. The Chair shall allow rebuttal of the content at the first hearing where action will be considered or taken.

17.130.040 LIMITS ON ORAL TESTIMONY

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

17.130.050 EXHIBITS

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

17.130.060 RECORD OF HEARING

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

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17.132 REVIEW AND PUBLIC HEARINGS BY CITY COUNCIL

17.132.010 GENERAL PROVISIONS

- A. Timing. All hearings or reviews required by the City Council shall be heard within 30 days of the Planning Commission's written decision or appeal request. In no instance, however, shall this period extend the date of the hearing and final action beyond 120 days from the date of the initial submission of a complete application, unless voluntarily agreed to by the applicant.
- B. City Council Decisions. The City Council shall prepare and adopt written findings for approval or denial, and any conditions of approval, within 14 days of the hearing by the City Council. In no case, however, shall this decision and the preparation of written findings extend beyond 120 days from the date of initial submittal of a complete application, unless voluntarily agreed to by the applicant. Amendments to adopted maps and texts shall require an ordinance; other decisions shall require an order.

17.132.020 CITY COUNCIL REVIEW OF APPEALS

- A. Appeals. The City Council shall hear the appeals of Planning Commission decisions, including appeals of Type II decisions rendered by staff and appealed to the Commission. the City Council action on such appeals shall be the final action of The City on the request.
- B. Submission of New Testimony and De Novo Hearings. The City Council shall admit additional testimony and other evidence by holding a de novo hearing. The hearing procedures shall be the same as for a Planning Commission hearing found in Chapter 17.130.020. Further, submittal and review of evidence shall comply with provisions in Chapter 17.130.030.
- C. City Council Action. The City Council may affirm, rescind, or amend the action of the Planning Commission and may grant approval subject to conditions necessary to carry out the decision. The City Council may also remand the matter back to the Planning Commission for additional information, subject to the agreement of the applicant to extend the 120-day review period.

