

# Chapter 4.0 — Applications and Review Procedures

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## **4.0 — Administration of Land Use and Development Permits**

### **4.0.1 Introduction**

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

# Chapter 4.1 — Types of Applications and Review Procedures

## Sections:

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### 4.1.1 Purpose.

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

### 4.1.2 Description of Permit/Decision-making Procedures.

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

- A. Type I Procedure (Ministerial). Type I decisions are made by zoning administrator or someone he or she officially designates, without public notice and without a public hearing. The Type I procedure is used when there are clear and objective approval criteria, and applying city standards and criteria requires no use of discretion. The appeal of a Type I decision is heard by the Planning Commission.
- B. Type II Procedure (Administrative). Type II decisions are made by the zoning administrator after the mailing of a public notice and publication of notice in accordance with Section 4.1.4C. The appeal of a Type II decision is heard by the Planning Commission.
- C. Type III Procedure (Quasi-Judicial). Type III decisions are made by the Planning Commission after a public hearing, with appeals reviewed by the City Commission. Type III decisions generally use discretionary approval criteria.

- D. Type IV Procedure (Legislative and Map Amendments). Type IV procedures apply to legislative matters and map amendments. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations and comprehensive plan amendments which apply to entire districts). The Type IV procedure is also used for land use district map amendments and comprehensive plan map amendments. Type IV matters are considered initially by the Planning Commission with final decisions made by the City Commission.

**Table 4.1.2**  
**Summary of Development Decisions and**  
**Permit by Type of Decision-Making Procedure**

| <b>Permit Type or Development Decision</b> | <b>Decision-Making Procedure</b>               | <b>Code, Statute, or Ordinance Reference</b>                         |
|--|--|--|
| Access Permit                              | Type I   | WDC Chapters 3.1, 4.2, and 4.3                                       |
| Address Assignment                         | Type I   | City Ordinance No. 359-A   |
| Annexation                                 | City Commission Public Hearing per ORS 222.120 | City Charter (n/a); ORS 222  |
| Appeal                                     | Type III                                       | WDC Chapter 4.1  |
| Business License                           | Type I   | City Ordinance 857-A   |
| Building Permit                            | N/A  | Uniform Building Code (requires a development or site design review) |
| Code Interpretation                        | Type II  | WDC Chapter 4.8  |
| Code Amendment                             | Type IV  | WDC Chapter 4.7  |
| Comprehensive Plan Amendment               | Type IV  | Comprehensive Plan Article 20  |
| Conditional Use Permit                     | Type III                                       | WDC Chapter 4.4  |
| Demolition Permit                          | N/A  | Uniform Building Code  |
| Development Review                         | Type I   | WDC Chapter 4.2  |
| Fill Permit (non-wetland)                  | Type I   | WDC Chapter 3.9 and Uniform Building Code                            |
| Floodplain Development Permit              | Type I   | WDC Chapter 2.17   |
| Flood Zone Determination                   | Type I   | Flood Insurance Rate Maps (FIRM) for Warrenton/Hammond               |
| Grading Permit                             | Type I   | WDC Chapter 3.9 and Uniform Building Code                            |
| Hardship (Wetland) Variance                | Type III                                       | WDC Chapter 3.10.7   |
| Home Occupation Permit                     | Type III                                       | WDC Chapter 4.9 and 4.4  |
| Home Office Permit                         | Type I   | WDC Chapter 4.9  |
| Land Partition (Preliminary Plat)          | Type II  | WDC Chapter 4.3  |
| Land Partition (Final Plat)                | Type I   | WDC Chapter 4.3  |

| <b>Permit Type or Development Decision</b>       | <b>Decision-Making Procedure</b>           | <b>Code, Statute, or Ordinance Reference</b>                             |
|--|--|--|
| Land Use Compatibility Statement (LUCS)          | Type I                                     | WDC and Comprehensive Plan   |
| Land Use District Map Amendment (Quasi-Judicial) | Type IV                                    | WDC Chapter 4.7  |
| Land Use District Map Amendment (Legislative)    | Type IV                                    | WDC Chapter 4.7  |
| Large-Scale Development                          | Type I/III                                 | WDC Chapter 3.19   |
| Legal Lot / Lot of Record Determination          | Type I                                     | WDC, Clatsop County Deed Records, and ORS Chapter 92                     |
| Lot Line Adjustment                              | Type I                                     | WDC Chapter 4.3  |
| Manufactured Dwelling Park                       | Type III                                   | WDC Chapter 3.14, ORS Chapter 446, and OAR Division 918                  |
| Mechanical Permit                                | N/A  | International Mechanical Code  |
| Modification to Approval                         | Type II/III                                | WDC Chapter 4.6  |
| Non-Conforming Use or Development Confirmation   | Type I                                     | WDC Chapter 5.2  |
| Planned Unit Development                         | Type III                                   | WDC Chapter 4.5  |
| Plumbing Permit                                  | N/A  | Uniform Plumbing Code  |
| Right-of-Way Development/Use Permit              | Type I                                     | WDC, Oregon Standards Specifications for Construction, Uniform Fire Code |
| Sign Permit                                      | Type I                                     | WDC Chapter 3.6, Uniform Building Code                                   |
| Site Design Review                               | Type II/III                                | WDC Chapter 4.2  |
| Subdivision (Preliminary Plat)                   | Type III                                   | WDC Chapter 4.3  |
| Subdivision (Final Plat)                         | Type I                                     | WDC Chapter 4.3  |
| Temporary Use Permit                             | Type II/III                                | WDC Chapter 4.9  |
| Vacation (Street)                                | City Commission Public Hearing per ORS 271 | ORS Chapter 271  |
| Variance   | Type II/III                                | WDC Chapter 5.1  |
| Wetland Boundary Adjustment                      | Type I                                     | WDC Chapter 3.10.8   |
| Wetland Significance Determination Amendment     | Type III                                   | WDC Chapter 3.10.9   |
| Wireless Communication Facility (WCF) Permit     | Type III                                   | WDC Chapter 3.8 and 4.4.   |
| Zoning Map Amendment (see Land Use District Map) | Type IV                                    | WDC Chapter 4.7  |

Note: The Code, Statute, or Ordinance References in Table 4.1.2 above are not intended to be inclusive of all applicable review criteria. Please refer to the referenced document for all applicable criteria.

Note II: In addition to any project that abuts, or requires direct access from, a state highway, the City shall send notice to ODOT for the following applications: annexation, code amendment, comprehensive plan amendment, conditional use permit, home occupation permit, land use district map amendment (quasi-judicial & legislative), large-scale development, manufactured dwelling park, subdivision (preliminary plat), vacation (street), wireless communication facility permit, and zoning map amendment.

#### 4.1.3 Type I Procedure (Ministerial)

##### A. Application Requirements.

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

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

C. Notice of Decision. The decision shall be final on the date it is mailed or otherwise provided to the applicant, whichever occurs first. For ministerial decisions, Notices of Decision may be in the form of a letter to the applicant. The decision is the final decision of the City, unless appealed by the applicant.

D. Appeal. A Type I ministerial decision may be appealed to the Planning Commission as follows:

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

- a. The applicant or property owner.

2. Appeal procedure.

- a. Notice of appeal. Any person with standing to appeal, as provided in subsection 1 above, may appeal a Type I Ministerial Decision by filing a Notice of Appeal according to the following procedures;

- (1) Time for filing. A Notice of Appeal shall be filed with the zoning administrator within 14 days from the date the Notice of Decision it is mailed, or otherwise provided to the applicant, whichever occurs first.

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

- (a) An identification of the decision being appealed, including the date of the decision;

- (b) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;

- (c) A statement explaining the specific issues raised on appeal;
      - (d) Filing fee.
    - (3) The amount of the filing fee shall be established by the City. The maximum fee for an initial hearing shall be the City's cost for preparing and for conducting the hearing, or the statutory maximum, whichever is less.
  - b. Scope of appeal. The appeal of a Type I Ministerial Decision by a person with standing shall be limited to the specific issues raised during the review period, unless the hearings body allows additional evidence or testimony concerning any other relevant issue. The hearings body may allow such additional evidence if it determines that such evidence is necessary to resolve the case. Only in extraordinary circumstances should new issues be considered by the hearings body on appeal of a Type I Ministerial Decision;
  - c. Appeal procedures. Type III notice and hearing procedures shall be used for all Type I Ministerial Appeals, as provided in Sections 4.1.5.C - G;
- E. Appeal to City Commission. The decision of the Planning Commission regarding an appeal of a Type I Ministerial Decision is the final decision of the City unless appealed to City Commission. An appeal to City Commission shall follow the same notification and hearing procedures as for the Planning Commission appeal.
- F. Effective Date. The decision is effective the day after it is final.

#### 4.1.4 Type II Procedure (Administrative)

- A. Preapplication conference. A preapplication conference is optional for Type II applications. Preapplication conference requirements and procedures are in Section 4.1.7.
- B. Application requirements.
  - 1. Application Forms. Type II applications shall be made on forms provided by the City of Warrenton;
  - 2. Submittal Information. The application shall:
    - a. Include the information requested on the application form;
    - b. Be filed with 3 copies of a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making;
    - c. Be accompanied by the required fee;

- d. Include one set of pre-stamped and pre-addressed envelopes for all real property owners of record who will receive a notice of the application as required in Section 4.1.4.C. The records of the Clatsop County Department of Assessment and Taxation are the official records for determining ownership. The applicant shall demonstrate that the most current assessment records have been used to produce the notice list. Alternatively, the applicant may pay a fee for the city to prepare the public notice mailing.
- e. Include an impact study for all land division applications. The impact study shall quantify/assess the effect of the development on public facilities and services. The study shall address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water system, the sewer system, and the noise impacts of the development. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users. In situations where this Code requires the dedication of real property to the City, the applicant shall either specifically agree to the dedication requirement, or provide evidence that shows that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

C. Notice of Application for Type II Administrative Decision.

- 1. Before making a Type II Administrative Decision, the zoning administrator shall mail notice to:
  - a. All owners of record of real property within 100 feet of the subject site not less than 20 days prior to the decision date;
  - b. A newspaper of general circulation in the City of Warrenton for publication not less than 10 days prior to the decision date.
  - c. All City-recognized neighborhood groups or associations whose boundaries include the site;
  - d. Any person who submits a written request to receive a notice; and
  - e. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies, as appropriate, for review of the application. ODOT shall be notified when there is a land division abutting a state facility for review of, comment on, and suggestion of conditions of approval for, the application.
- 2. The purpose of the notice is to give nearby property owners and other interested people the opportunity to submit written comments about the application, before the Type II decision is made. The goal of this notice is to invite people to participate early in the decision-making process;



3. Notice of a pending Type II Administrative Decision shall:
  - a. Provide a minimum 14-day period for submitting written comments before a decision is made on the permit;
  - b. List the relevant approval criteria by name and number of code sections;
  - c. State the place, date and time the comments are due, and the person to whom the comments should be addressed;
  - d. Include the name and telephone number of a contact person regarding the Administrative Decision;
  - e. Identify the specific permits or approvals requested;
  - f. Describe the street address or other easily understandable reference to the location of the site;
  - g. State that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence;
  - h. State that all evidence relied upon by the zoning administrator to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City;
  - i. State that after the comment period closes, the zoning administrator shall issue a Type II Administrative Decision. The decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;
  - j. Contain the following notice: "Notice to mortgagee, lienholder, vendor, or seller: The City of Warrenton Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

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

E. Notice of Decision.

1. Within five days after the zoning administrator signs the decision, a Notice of Decision shall be sent by mail to:

- a. Any person who submits a written request to receive notice, or provides

- comments during the application review period;
- b. The applicant and all owners or contract purchasers of record of the site which is the subject of the application;
  - c. Any person who submits a written request to receive notice, or provides comments during the application review period;
  - d. Any City-recognized neighborhood group or association whose boundaries include the site;
  - e. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies which were notified or provided comments during the application review period.
2. The zoning administrator shall cause an affidavit of mailing and posting of the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and posted, and shall demonstrate that the notice was mailed to the people and within the time required by law.
3. The Type II Notice of Decision shall contain:
- a. A description of the applicant's proposal and the City's decision on the proposal (i.e., may be a summary);
  - b. The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area, where applicable;
  - c. A statement of where the City's decision can be obtained;
  - d. The date the decision shall become final, unless appealed;
  - e. A statement that all persons entitled to notice or who are otherwise adversely affected or aggrieved by the decision may appeal the decision;
  - f. A statement briefly explaining how an appeal can be filed, the deadline for filing an appeal, and where further information can be obtained concerning the appeal process; and
  - g. A statement that unless appellant (the person who files the appeal) is the applicant, the hearing on the appeal shall be limited to the specific issues identified in the written comments submitted during the comment period. Additional evidence related to the Notice of Appeal (See subsection G.2.a, below) may be submitted by any person during the appeal hearing, subject to any rules of procedure adopted by the Planning Commission.

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

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

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

- a. The applicant;
- b. Any person who was mailed written notice of the Type II administrative decision;
- c. Any other person who participated in the proceeding by submitting written comments.

2. Appeal procedure.

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

(1) Time for filing. A Notice of Appeal shall be filed with the zoning administrator within 14 days of the date the Notice of Decision was mailed;

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

- (a) An identification of the decision being appealed, including the date of the decision;
- (b) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
- (c) A statement explaining the specific issues raised on appeal;
- (d) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period;
- (e) Filing fee.

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

b. Scope of appeal. The appeal of a Type II Administrative Decision by a person with standing shall be limited to the specific issues raised during the written comment period, as provided under Section 4.1.4.C, unless

the hearings body allows additional evidence or testimony concerning any other relevant issue. The hearings body may allow such additional evidence if it determines that such evidence is necessary to resolve the case. The purpose of this requirement is to limit the scope of Type II Administrative Appeals by encouraging persons with standing to submit their specific concerns in writing during the comment period. The written comments received during the comment period will usually limit the scope of issues on appeal. Only in extraordinary circumstances should new issues be considered by the hearings body on appeal of a Type II Administrative Decision;

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

H. Appeal to City Commission. The decision of the Planning Commission regarding an appeal of a Type II Administrative Decision is the final decision of the City unless appealed to City Commission. An appeal to City Commission shall follow the same notification and hearing procedures as for the Planning Commission appeal.

#### 4.1.5 Type III Procedure (Quasi-Judicial)

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

B. Application requirements.

1. Application forms. Type III applications shall be made on forms provided by the City of Warrenton;
2. Content. Type III applications shall:
  - a. Include the information requested on the application form;
  - b. Be filed with three (3) copies of a narrative statement that explains how the application satisfies each and all of the relevant criteria in sufficient detail for review and action;
  - c. Be accompanied by the required fee;
  - d. Include one set of pre-stamped and pre-addressed envelopes for all property owners of record as specified in Section 4.1.4.C (Notice of Hearing). The records of the Clatsop County Department of Assessment and Taxation are the official records for determining ownership. The applicant shall demonstrate that the most current assessment records have been used to produce the notice list. Alternatively, the applicant may pay a fee for the city to prepare the public notice mailing;
  - e. Include an impact study for all Type III applications. The impact study shall quantify/assess the effect of the development on public facilities and services. The study shall address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the

parcs system, the water system, the sewer system, and the noise impacts of the development. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users. In situations where this Code requires the dedication of real property to the City, the applicant shall either specifically agree to the dedication requirement, or provide evidence that shows that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

C. Notice of Hearing.

1. Mailed notice. Notice of a Type III application hearing (or appeal) or Type I or II appeal hearing shall be given by the zoning administrator in the following manner:
  - a. At least 20 days before the hearing date, notice shall be mailed to:
    - (1) The applicant and all owners or contract purchasers of record of the property which is the subject of the application;
    - (2) All property owners of record within 200 feet of the site (N/A for Type I appeal);
    - (3) Any governmental agency which has entered into an intergovernmental agreement with the City, which includes provision for such notice, or who is otherwise entitled to such notice. ODOT shall be notified when there is a land division abutting a state facility for review of, comment on, and suggestion of conditions of approval for, the application. *[Owners of airports shall be notified of a proposed zone change in accordance with ORS 227.175.]*;
    - (4) Any neighborhood or community organization recognized by the City Commission and whose boundaries include the property proposed for development;
    - (5) Any person who submits a written request to receive notice;
    - (6) For appeals, the appellant and all persons who provided testimony; and
    - (7) For a land use district change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
  - b. The zoning administrator shall have an affidavit of notice be prepared and made a part of the file. The affidavit shall state the date that the notice was posted on the property and mailed to the persons who must receive notice;
  - c. At least 10 days before the hearing, notice of the hearing shall be printed in a newspaper of general circulation in the City. The newspaper's

affidavit of publication of the notice shall be made part of the administrative record;

2. Content of Notice. Notice of appeal of a Type I or II decision or a Type III hearing (or appeal) to be mailed and published per Subsection 1 above shall contain the following information:
  - a. The nature of the application and the proposed land use or uses which could be authorized for the property;
  - b. The applicable criteria and standards from the development code(s) that apply to the application;
  - c. The street address or other easily understood geographical reference to the subject property;
  - d. The date, time, and location of the public hearing;
  - e. A statement that the failure to raise an issue in person, or by letter at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals;
  - f. The name of a City representative to contact and the telephone number where additional information on the application may be obtained;
  - g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at Warrenton City Hall at no cost and that copies shall be provided at a reasonable cost;
  - h. A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
  - i. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings.
  - j. The following notice: "Notice to mortgagee, lienholder, vendor, or seller: The Warrenton Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

D. Conduct of the Public Hearing.

1. At the commencement of the hearing, the hearings body shall state to those in attendance that:
  - a. The applicable approval criteria and standards that apply to the application or appeal;
  - b. A statement that testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations which the person testifying believes to apply to the decision;
  - c. A statement that failure to raise an issue with sufficient detail to give the hearings body and the parties an opportunity to respond to the issue,

means that no appeal may be made to the State Land Use Board of Appeals on that issue;

- d. Before the conclusion of the initial evidentiary hearing, any participant may ask the hearings body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a “continuance”) per paragraph 2 of this subsection, or by leaving the record open for additional written evidence or testimony per paragraph 3 of this subsection.
2. If the hearings body grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or testimony in response to the new written evidence;
  3. If the hearings body leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the Planning Commission shall reopen the record per subsection E of this section;
    - a. When the planning commission re-opens the record to admit new evidence or testimony, any person may raise new issues which relates to that new evidence or testimony;
    - b. An extension of the hearing or record granted pursuant to Section D is subject to the limitations of ORS 227.178 (“120-day rule”), unless the continuance or extension is requested or agreed to by the applicant;
    - c. If requested by the applicant, the City shall allow the applicant at least seven days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant’s final submittal shall be part of the record but shall not include any new evidence.
  4. The record.
    - a. The record shall contain all testimony and evidence that is submitted to the City and the hearings body and not rejected;
    - b. The hearings body may take official notice of judicially cognizable facts under the applicable law. If the review authority takes official notice, it must announce its intention and allow persons participating in the hearing to present evidence concerning the noticed facts;
    - c. The review authority shall retain custody of the record until the City issues a final decision.

5. Participants in the appeal of a Type I or II decision or a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing ex parte contacts (see Section 6 below) as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:
  - a. At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing ex parte contacts (as defined in Section 6 below) concerning the application or appeal. He or she shall state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly;
  - b. A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: Their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;
  - c. Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;
  - d. If all members abstain or are disqualified, those members present who declare their reasons for abstention or disqualification shall be re-qualified to make a decision;
  - e. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this section.
  
6. Ex parte communications.
  - a. Members of the hearings body shall not:
    - (1) Communicate, directly or indirectly, with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing, except upon giving notice, per Section 5 above;
    - (2) Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials.
  
  - b. No decision or action of the hearings body shall be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:



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

E. The Decision Process.

- 1. Basis for decision. Approval or denial of an appeal of a Type I or II decision or a Type III application shall be based on standards and criteria in the development code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the comprehensive plan for the area in which the development would occur and to the development regulations and comprehensive plan for the City as a whole;
- 2. Findings and conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;
- 3. Form of decision. The hearings body shall issue a final written order containing the findings and conclusions stated in subsection 2, which either approves, denies, or approves with specific conditions. The hearings body may also issue

appropriate intermediate rulings when more than one permit or decision is required;

4. Decision-making time limits. A final order for any Type I or II Appeal or Type III action shall be filed with the zoning administrator within ten business days after the close of the deliberation.
- F. Notice of Decision. Written notice of a Type I or II Appeal decision or a Type III decision shall be mailed to the applicant and to all participants of record within five business days after the hearings body decision. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice.
- G. Final Decision and Effective Date. The decision of the hearings body on any Type I or II appeal or any Type III application is final for purposes of appeal on the date it is mailed by the City. The decision is effective on the day after the appeal period expires. If an appeal is filed, the decision becomes effective on the day after the appeal is decided by the City Commission.
- H. Appeal. A Type III decision may be appealed to the City Commission following the same procedure as appeals of a Type II decision (see Section 4.1.4.G). The notification and hearings procedures for appeals of Type III applications shall be the same as for the initial hearing (see Sections 4.1.5C-G).

#### 4.1.6 Type IV Procedure (Legislative and Map Amendments)

- A. Pre-Application conference. A pre-application conference is required for all Type IV applications. The requirements and procedures for a preapplication conference are described in Section 4.1.7.C.
- B. Timing of requests. The zoning administrator shall review proposed Type IV actions no more than twice yearly, based on the City's approved schedule for such actions.
- C. Application requirements.
  1. Application forms. Type IV applications shall be made on forms provided by the zoning administrator;
  2. Submittal Information. The application shall contain:
    - a. The information requested on the application form;
    - b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
    - c. The required fee; and
    - d. Three (3) copies of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.

#### D. Notice of Hearing.

1. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Commission, are required for all Type IV applications except annexations where only a hearing by the City Commission is required.
2. Notification requirements. Notice of public hearings for the request shall be given by the zoning administrator in the following manner:
  - a. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
    - (1) Each owner whose property would be rezoned in order to implement the ordinance (i.e., owners of property subject to a comprehensive plan amendment shall be notified if a zone change would be required to implement the proposed comprehensive plan amendment). For quasi-judicial map amendments only, all property owners within 200 feet of the site;
    - (2) Any affected governmental agency;
    - (3) Recognized neighborhood groups or associations affected by the ordinance;
    - (4) Any person who requests notice in writing;
    - (5) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
    - (6) Owners of airports shall be notified of a proposed zone change in accordance with ORS 227.175.
  - b. At least 10 days before the scheduled Planning Commission public hearing date, and 10 days before the City Commission hearing date, notice shall be published in a newspaper of general circulation in the City.
  - c. The zoning administrator shall:
    - (1) For each mailing of notice, file an affidavit of mailing in the record as provided by Subsection a; and
    - (2) For each published notice, file in the record the affidavit of publication in a newspaper that is required in subsection b.
  - d. The Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and development code amendments at least 45 days before the first public hearing at which public testimony or new evidence will be received.
  - e. Notifications for annexation shall follow the provisions of this Chapter, except as required for local government boundary commissions (ORS 199).

3. Content of notices. The mailed and published notices shall include the following information:
  - a. The number and title of the file containing the application, and the address and telephone number of the zoning administrator's office where additional information about the application can be obtained;
  - b. A description of the location of the proposal reasonably calculated to give notice of the location of the geographic area;
  - c. A description of the proposal in enough detail for people to determine that a change is proposed, and the place where all relevant materials and information may be obtained or reviewed;
  - d. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the Council and available at City Hall (See subsection E below); and
  - e. Each mailed notice required by section D shall contain the following statement: "Notice to mortgagee, lienholder, vendor, or seller: The Warrenton Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."
  
4. Failure to receive notice. The failure of any person to receive notice shall not invalidate the action, providing:
  - a. Personal notice is deemed given where the notice is deposited with the United States Postal Service;
  - b. Published notice is deemed given on the date it is published.

E. Hearing Process and Procedure.

1. Unless otherwise provided in the rules of procedure adopted by the City Commission:
  - a. The presiding officer of the Planning Commission and of the City Commission shall have the authority to:
    - (1) Regulate the course, sequence, and decorum of the hearing;
    - (2) Direct procedural requirements or similar matters; and
    - (3) Impose reasonable time limits for oral presentations.
  
  - b. No person shall address the Planning Commission or the City Commission without:
    - (1) Receiving recognition from the presiding officer; and
    - (2) Stating their full name and residence address.
  
  - c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.

2. Unless otherwise provided in the rules of procedures adopted by the City Commission, the presiding officer of the Planning Commission and of the City Commission, shall conduct the hearing as follows:
  - a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the City Council or the final decision of the Council;
  - b. The zoning administrator's report and other applicable staff reports shall be presented;
  - c. The public shall be invited to testify;
  - d. The public hearing may be continued to allow additional testimony or it may be closed; and
  - e. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.

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

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

1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197 (for comprehensive plan amendments only);
2. Comments from any applicable federal or state agencies regarding applicable statutes or regulations;
3. Any applicable intergovernmental agreements; and
4. Any applicable comprehensive plan policies and provisions of this Code that implement the comprehensive plan. Compliance with Chapter 4.7 shall be required for Comprehensive Plan Amendments, and Land Use District Map and Text Amendments.

H. Approval Process and Authority.

1. The Planning Commission shall:
  - a. After notice and a public hearing, vote on and prepare a recommendation to the City Commission to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and

- b. Within 10 business days of determining a recommendation, the presiding officer shall sign the written recommendation, and it shall be filed with the zoning administrator.
  - 2. Any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file a written statement of opposition with the zoning administrator before the City Commission public hearing on the proposal. The zoning administrator shall send a copy to each City Commissioner and place a copy in the record;
  - 3. If the Planning Commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal, within 90 days of its first public hearing on the proposed change, the planning official shall:
    - a. Report the failure together with the proposed change to the City Commission; and
    - b. Provide notice and put the matter on the City Commission's agenda, a public hearing to be held, and a decision to be made by the City Commission. No further action shall be taken by the Planning Commission.
  - 4. The City Commission shall:
    - a. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application;
    - b. Consider the recommendation of the Planning Commission; however, it is not bound by the Planning Commission's recommendation; and
    - c. Act by ordinance, which shall be signed by the Mayor after the City Commission's adoption of the ordinance.
- I. Vote Required for a Legislative Change.
- 1. A vote by a majority of the qualified voting members of the Planning Commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.
  - 2. A vote by a majority of the qualified members of the City Commission present is required to decide any motion made on the proposal.
- J. Notice of Decision. Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five business days after the City Commission decision is filed with the zoning administrator. The City shall also provide notice to all persons as required by other applicable laws.

- K. Final Decision and Effective Date. A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.
- L. Record of the Public Hearing.
1. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record;
  2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;
  3. The official record shall include:
    - a. All materials considered by the hearings body;
    - b. All materials submitted by the zoning administrator to the hearings body regarding the application;
    - c. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;
    - d. The final ordinance;
    - e. All correspondence; and
    - f. A copy of the notices which were given as required by this Chapter.

#### 4.1.7 General Provisions

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

- b. Cite the ordinance provisions, including substantive and procedural requirements applicable to the proposal;
  - c. Provide available technical data and assistance, which will aid the applicant;
  - d. Identify other governmental policies and regulations that relate to the application; and
  - e. Reasonably identify other opportunities or constraints concerning the application.
- 3. Disclaimer. Failure of the zoning administrator or his/her designee to provide any of the information required by this Section C shall not constitute a waiver of any of the standards, criteria or requirements for the application;
  - 4. Changes in the law. Due to possible changes in federal, state, regional, and local law, the applicant is responsible for ensuring that the application complies with all applicable laws on the day the application is deemed complete.

D. Applications.

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



- (2) The decision on a plan map amendment shall precede the decision on a proposed land use district change and other decisions on a proposed development. Similarly, the decision on a zone map amendment shall precede the decision on a proposed development and other actions; and
  - (3) Separate findings and decisions shall be made on each application.
  
3. Check for acceptance and completeness. In reviewing an application for completeness, the following procedure shall be used:
  - a. Acceptance. When an application is received by the City, the zoning administrator or its designee shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant;
    - (1) The required form;
    - (2) The required fee;
    - (3) The signature of the applicant on the required form, and signed written authorization of the property owner of record if the applicant is not the owner.
  
  - b. Completeness.
    - (1) Review and notification. After the application is accepted, the zoning administrator shall review the application for completeness. If the application is incomplete, the zoning administrator shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant 180 days to submit the missing information;
    - (2) When application deemed complete for review. In accordance with the application submittal requirements of this chapter, the application shall be deemed complete upon the receipt by the zoning administrator of all required information. The applicant shall have the option of withdrawing the application, or refusing to submit information requested by the zoning administrator in (1), above. For the refusal to be valid, the refusal shall be made in writing and received by the zoning administrator no later than 14 days after the date on the zoning administrator's letter of incompleteness. If the applicant refuses in writing to submit the missing information, the application shall be deemed complete on the 31st day after the zoning administrator or its designee first accepted the application.
    - (3) Standards and criteria that apply to the application. Approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first accepted.

- (4) Coordinated Review. When required by this Code, or at the direction of the zoning administrator, the City shall submit the application for review and comment to ODOT and other applicable City, County, State, and federal review agencies.
4. Changes or additions to the application during the review period. Once an application is deemed complete:
  - a. All documents and other evidence relied upon by the applicant shall be submitted to the zoning administrator at least seven days before the notice of action or hearing is mailed, if possible. Documents or other evidence submitted after that date shall be received by zoning administrator, and transmitted to the hearings body, but may be too late to include with the staff report and evaluation;
  - b. When documents or other evidence are submitted by the applicant during the review period, but after the application is deemed complete, the assigned review person or body shall determine whether or not the new documents or other evidence submitted by the applicant significantly change the application;
  - c. If the assigned reviewer determines that the new documents or other evidence significantly change the application, the reviewer shall include a written determination that a significant change in the application has occurred as part of the decision. In the alternate, the reviewer may inform the applicant either in writing, or orally at a public hearing, that such changes may constitute a significant change (see “d”, below), and allow the applicant to withdraw the new materials submitted, in order to avoid a determination of significant change;
  - d. If the applicant's new materials are determined to constitute a significant change in an application that was previously deemed complete, the City shall take one of the following actions, at the choice of the applicant:
    - (1) Continue to process the existing application and allow the applicant to submit a new second application with the proposed significant changes. Both the old and the new applications will proceed, but each will be deemed complete on different dates and may therefore be subject to different criteria and standards and different decision dates;
    - (2) Suspend the existing application and allow the applicant to submit a new application with the proposed significant changes. Before the existing application can be suspended, the applicant must consent in writing to waive the 120-day rule (Section A., above) on the existing application. If the applicant does not consent, the City shall not select this option;
    - (3) Reject the new documents or other evidence that has been determined to constitute a significant change, and continue to process the existing application without considering the materials that would constitute a significant change. The City will complete its decision-making process without considering the new evidence;

- e. If a new application is submitted by the applicant, that application shall be subject to a separate check for acceptance and completeness and will be subject to the standards and criteria in effect at the time the new application is accepted.

E. Zoning Administrator's Duties. The zoning administrator shall:

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





F. Amended Decision Process.

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

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

**4.1.8 Special Procedures**

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

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

## Chapter 4.2 — Development Review and Site Design Review

### Sections:

- 4.2.1 Purpose
- 4.2.2 Applicability
- 4.2.3 Development Review Approval Criteria
- 4.2.4 Site Design Review - Application Review Procedure
- 4.2.5 Site Design Review - Application Submission Requirements
- 4.2.6 Site Design Review Approval Criteria
- 4.2.7 Bonding and Assurances
- 4.2.8 Development in Accordance With Permit Approval

#### 4.2.1 Purpose.

The purpose of this Chapter is to:

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

#### 4.2.2 Applicability.

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

- A. Site Design Review. Site Design Review is a discretionary review conducted by the zoning administrator with public notice (Type II) or Planning Commission with a public notice and hearing (Type III). (See Chapter 4.1 for review procedure.) It applies to all developments in the City, except those specifically listed under “B” (Development

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

B. Development Review. Development Review is a non-discretionary or “ministerial” review (Type I) conducted by the zoning administrator in consultation with other city departments without public notice or public hearing. (See Chapter 4.1 for review procedure.) It is for less complex developments and land uses that do not require Site Design Review approval. Development Review is based on clear and objective standards and ensures compliance with the basic development standards of the land use district, such as building setbacks, lot coverage, maximum building height, and similar provisions of Chapter 2. Unless required otherwise by this Code, Development Review is required for all of the types of development listed below:

1. Single-family detached dwelling, including manufactured home, on a buildable lot;
2. A single duplex, triplex, or four-plex building proposed as the sole and primary use on a buildable lot, or up to four single family attached (townhome) units, together with accessory structure(s), which are not being reviewed as part of any other development;
3. Commercial, industrial, public/semi-public, and institutional buildings with less than 4000 square feet of gross floor area using less than two acres of land within two calendar years;
4. Minor Modifications to development approvals as defined by Chapter 4.6;
5. Any proposed development that has a valid conditional use permit. Major modifications to a development with a conditional use permit shall require review and approval in accordance with Chapter 4.4 - Conditional Use Permits;
6. Temporary use, except that temporary uses shall comply with the procedures and standards for temporary uses as contained in Chapter 4.9;
7. Accessory structures with 1200 square feet or less of floor area;
8. Building additions of less than 4000 square feet of gross floor area (including total interior remodels);
9. Accessory dwelling;
10. Home office permit.



#### 4.2.3 Development Review Approval Criteria

Unless required otherwise by this Code, Development Review shall be conducted only for the developments listed in Section 4.2.2.B, above, and it shall be conducted as a Type I procedure, as described in Chapter 4.1.3. Prior to issuance of building permits, the applicant, through submission of required information, shall demonstrate that the following standards have been met:

1. The proposed land use is permitted by the underlying land use district (Chapter 2);
2. The land use, building/yard setback, lot area, lot dimension, density, lot coverage, building height and other applicable standards of the underlying land use district and any sub-district(s) are met (Chapter 2);
3. All applicable Code requirements (i.e., floodplain development permits, duplex design standards, etc.) are met;
4. All applicable building and fire code standards are met; and
5. If a building permit has not been issued within one year of Development Review approval, or if development of the site is in violation of the approved plan or other applicable codes, the approval shall lapse, and a new application shall be required.

#### 4.2.4 Site Design Review - Application Review Procedure

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

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

1. Residential developments with between five (5) and nine (9) dwelling units shall be reviewed as a Type II application, except when Development Review is allowed under Section 4.2.3. Residential developments with greater than nine (9) units shall be reviewed as a Type III application.
2. Commercial, industrial, public/semi-public, and institutional buildings (including building additions) with more than, or equal to, 4000 square feet and less than 10,000 square feet of gross floor area using less than two acres of land within two calendar years shall be reviewed as a Type II application, except when Development Review is allowed under Section 4.2.3. Commercial, industrial, public/semi-public, and institutional buildings (including building additions) with greater than, or equal to, 10,000 square feet of gross floor area or using two (2) or more acres of land within two calendar years shall be reviewed as a Type III application.

3. Residential developments with more than one building (e.g., two duplex or triplex buildings) on a single buildable lot, shall be reviewed as Type II applications, notwithstanding the provisions contained in subsections 1 and 2, above. Individual single-family, two-family, three-family dwellings and four-family dwellings with accessory structure(s) and/or accessory dwelling on one lot are reviewed using Development Review procedures.
4. Developments requiring 18 or fewer off-street vehicle parking spaces in conformance with Chapter 3.3 shall be reviewed as Type II applications, and those with more than 18 off-street vehicle parking spaces shall be reviewed as Type III applications, notwithstanding the provisions contained in subsections 1-3 (above) and 5-6 (below).
5. Developments involving the clearing and/or grading of two (2) acres or a larger area shall be reviewed as Type III applications, notwithstanding the provisions contained in subsections 1-5 (above) and subsection 6 (below).
6. All developments requiring building permits in designated historic overlay districts shall be reviewed as Type III applications.

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

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

- A. General Submission Requirements. The applicant shall submit an application containing all of the general information required by Section 4.1.4 (Type II application) or Section 4.1.5 (Type III application), as applicable. The type of application shall be determined in accordance with subsection A of Section 4.2.4.
- B. Site Design Review Information. An application for site design review shall include the following information, as deemed applicable by the zoning administrator.
  1. Site analysis map. At a minimum the site analysis map shall be drawn to-scale and contain the following information:
    - a. The applicant's entire property and the surrounding property to a distance sufficient to determine the location of the development in the City, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions and gross area shall be identified;
    - b. Topographic contour lines at intervals determined by the City;
    - c. Identification of slopes greater than 10% percent;
    - d. The location, condition (i.e., paved, gravel, unimproved, etc.) and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site;

- e. Potential natural hazard areas, including any areas identified as subject to a 100-year flood, areas subject to high water table, and areas mapped by the City, County, or State as having a potential for geologic hazards;
  - f. Resource areas, including mapped wetland and riparian areas, streams, wildlife habitat identified by the City or any natural resource regulatory agencies as requiring protection;
  - g. Site features, including existing structures, pavement, areas having unique views, and drainage ways, canals and ditches;
  - h. Locally or federally designated historic and cultural resources on the site and adjacent parcels or lots;
  - i. The location, size and species of trees and other vegetation having a caliper (diameter);
  - j. North arrow, scale, names and addresses of all persons listed as owners on the most recently recorded deed.
  - k. Name and address of applicant, project designer, engineer, architect, surveyor, and/or planner, if applicable.
  - l. Other information, as determined by the zoning administrator. The City may require studies or exhibits prepared by qualified professionals to address specific site features.
2. Proposed site plan. The site plan shall contain the following information, if applicable:
- a. The proposed development site, including boundaries, dimensions, and gross area;
  - b. Features identified on the existing site analysis map which are proposed to remain on the site;
  - c. Features identified on the existing site analysis map, if any, which are proposed to be removed or modified by the development, including modifications to existing drainage patterns;
  - d. The location and dimensions of all proposed public and private streets, drives, rights-of-way, and easements;
  - e. The location and dimensions of all existing and proposed structures, utilities, pavement and other improvements on the site. Setback dimensions for all existing and proposed buildings shall be provided on the site plan;

- f. The location and dimensions of entrances and exits to the site for vehicular, pedestrian, and bicycle access;
  - g. The location and dimensions of all parking and vehicle circulation areas (show striping for parking stalls and wheel stops, as applicable), and proposed paving materials;
  - h. Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails;
  - i. Loading and service areas for waste disposal, loading and delivery;
  - j. Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements, as applicable;
  - k. Location, type, and height of outdoor lighting;
  - l. Location of mail boxes, if known;
  - m. Name and address of project designer, if applicable.
  - n. Location of bus stops and other public or private transportation facilities.
  - o. Locations, sizes, and types of signs.
  - p. Other information, determined by the zoning administrator. The City may require studies or exhibits prepared by qualified professionals to address specific site features (e.g., traffic, noise, environmental features, site drainage, natural hazards, etc.), in conformance with this Code.
3. Architectural drawings. Architectural drawings shall be submitted showing:
- a. Building elevations (as determined by the zoning administrator) with building height and width dimensions;
  - b. Building materials, color and type.
  - c. The name of the architect or designer.
4. Preliminary grading plan. A preliminary grading plan prepared by a registered engineer shall be required for developments which would result in the grading (cut or fill) of 1,000 cubic yards or greater. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed. Surface water detention and treatment plans may also be required, in accordance with Section 3.4.4.
5. Landscape plan. A landscape plan is required and shall show the following:

- a. The location and height of existing and proposed fences and other buffering or screening materials;
  - b. The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;
  - c. The location, size, and species of the existing and proposed plant materials (at time of planting);
  - d. Existing and proposed building and pavement outlines;
  - e. Specifications for soil at time of planting, irrigation if plantings are not drought-tolerant (may be automatic or other approved method of irrigation) and anticipated planting schedule.
  - f. Other information as deemed appropriate by the zoning administrator. An arborist's report may be required for sites with mature trees that are protected under Chapter 3.2 and/or Section 3.10 of this Code.
- 6. Sign drawings shall be required in conformance with the City's Sign Code (Chapter 3.7).
  - 7. Copies of all existing and proposed restrictions or covenants.
  - 8. Letter or narrative report documenting compliance with the applicable approval criteria contained in Section 4.2.6.

#### 4.2.6 Site Design Review Approval Criteria

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

- A. The application is complete, as determined in accordance with Chapter 4.1 - Types of Applications and Section 4.2.5, above.
- B. The application complies with the all of the applicable provisions of the underlying Land Use District (Chapter 2), including: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other special standards as may be required for certain land uses;
- C. The applicant shall be required to upgrade any existing development that does not comply with the applicable land use district standards, in conformance with Chapter 5.2, Non-Conforming Uses and Development;
- D. The application complies with the Design Standards contained in Chapter 3. All of the following standards shall be met:
  - 1. Chapter 3.1 - Access and Circulation;

2. Chapter 3.2 - Landscaping, Significant Vegetation, Street Trees, Fences and Walls;
  3. Chapter 3.3 - Vehicle and Bicycle Parking;
  4. Chapter 3.4 - Clear Vision Areas;
  5. Chapter 3.5 - Public Facilities Standards;
  6. Chapter 3.6 - Surface Water Management;
  7. Chapter 3.7 – Signs
  8. Chapter 3.8 – Telecommunication Facilities
  9. Chapter 3.9 – Grading and Erosion and Sediment Control
  10. Chapter 3.10 – Wetland and Riparian Area Protection Standards
  11. Other applicable Sections of the Development Code.
- E. Conditions required as part of a Land Division (Chapter 4.3), Conditional Use Permit (Chapter 4.4), Master Planned Development (Chapter 4.6), Large-Scale Development (Chapter 3.19), or other approval shall be met.
- F. Exceptions to criteria D.1-11, above, may be granted only when approved as a Variance (Chapter 5.1).

#### 4.2.7 Bonding and Assurances

- A. Performance Bonds for Public Improvements. On all projects where public improvements are required, the City shall require a bond in an amount not greater than 100% or other adequate assurances as a condition of site development approval in order to guarantee the public improvements;
- B. Release of Performance Bonds. The bond or assurance shall be released when the city engineer finds the completed project conforms to the site development approval, including all conditions of approval.
- C. Completion of Landscape Installation. Landscaping shall be installed prior to final building inspections and issuance of occupancy permits, unless security equal to the cost of the landscaping as determined by the zoning administrator, city engineer, planning commission, or a qualified landscape architect is filed with the City Recorder assuring such installation within six months after occupancy. If the installation of the landscaping is not completed within the six-month period, the security may be used by the City to complete the installation.

- D. Business License Filing. The applicant shall ensure that all contractors and sub-contractors, and business occupants of the completed project, whether permanent or temporary, apply for and receive a City business license prior to initiating work on the site or conducting business from the site.

#### 4.2.8 Development in Accordance With Permit Approval

Development shall not commence until the applicant has received all of the appropriate land use and development approvals (i.e., site design review approval) and building permits.

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

- A. Modifications to Approved Plans and Developments. Minor modifications of an approved plan or existing development, as defined in Chapter 4.6, shall be processed as a Type I procedure and require only Development Review. Major modifications, as defined in Section 4.6, shall be processed as a Type II or Type III procedure and shall require Site Design Review. For information on Type I, Type II and Type III procedures, please refer to Chapter 4.1. For Modifications approval criteria, please refer to Chapter 4.6.
- B. Approval Period. Development Review and Site Design Review approvals shall be effective for a period of one year from the date of approval. The approval shall lapse if:
1. A grading permit or building permit has not been issued within a one-year period; or
  2. Construction on the site is in violation of the approved plan.
- C. Extension. The zoning administrator shall, upon written request by the applicant, grant an extension of the approval period not to exceed one year, provided that:
1. No changes are made on the original approved site design review plan;
  2. The applicant can show intent of initiating construction on the site within the one year extension period;
  3. There have been no changes to the applicable Code provisions on which the approval was based. If there have been changes to the applicable Code provisions and the expired plan does not comply with those changes, then the extension shall not be granted; in this case, a new site design review shall be required; and
  4. The applicant demonstrates that failure to obtain grading permits and/or building permits and substantially begin construction within one year of site design approval was beyond the applicant's control.

D. Phased Development. Phasing of development may be approved with the Site Design Review application, subject to the following standards and procedures:

1. A phasing plan shall be submitted with the Site Design Review application.
2. The Planning Commission shall approve a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than two (2) years without reapplying for site design review.
3. Approval of a phased site design review proposal requires satisfaction of all of the following criteria:
  - a. The public facilities required to serve each phase are constructed in conjunction with or prior to each phase;
  - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require City Commission approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required public improvements, in accordance with Section 4.2.4. A temporary public facility is any facility not constructed to the applicable City or district standard, subject to review by the City Engineer;
  - c. The phased development shall not result in requiring the City or other property owners to construct public facilities that were required as part of the approved development proposal; and
  - d. An application for phasing may be approved after Site Design Review approval as a modification to the approved plan, in accordance with the procedures for minor modifications (Chapter 4.6).



## Chapter 4.3 — Land Divisions and Lot Line Adjustments

### Sections:

4.3.100 Purpose

4.3.110 General Requirements

4.3.120 Approvals Process

4.3.130 Preliminary Plat Submission Requirements

4.3.140 Approval Criteria: Preliminary Plat

4.3.150 Variances Authorized

4.3.160 Final Plat Submission Requirements and Approval Criteria

4.3.170 Public Improvements

4.3.180 Performance Guarantees

4.3.190 Filing and Recording

4.3.200 Replatting and Vacation of Plats

4.3.210 Lot Line Adjustments

### 4.3.100 Purpose

The purpose of this chapter is to:

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

### 4.3.110 General Requirements

- A. Subdivision and Partition Approval Through Two-step Process. Applications for subdivision or partition approval shall be processed through a two-step process: the preliminary plat and the final plat.
1. The preliminary plat shall be approved before the final plat can be submitted for approval consideration; and
  2. The final plat shall include all conditions of approval of the preliminary plat.
- B. Compliance With ORS Chapter 92. All subdivision and partition proposals shall be in conformance to state regulations set forth in Oregon Revised Statute (ORS) Chapter 92, Subdivisions and Partitions.
- C. Future Re-division Plan. When subdividing or partitioning tracts into large lots (i.e., greater than two times or 200 percent the minimum lot size allowed by the underlying land use district), the City shall require that the lots be of such size, shape, and orientation as to facilitate future re-division in accordance with the requirements of the land use district and this Code. A re-division plan shall be submitted which identifies:
1. Potential future lot division(s) in conformance with the housing and density standards of Chapter 2;
  2. Potential street right-of-way alignments to serve future development of the property and connect to adjacent properties, including existing or planned rights-of-way.
  3. A disclaimer that the plan is a conceptual plan intended to show potential future development. It shall not be binding on the City or property owners, except as may be required through conditions of land division approval. For example, dedication and improvement of rights-of-way within the future plan area may be required to provide needed secondary access and circulation.
- D. Lot Size Averaging. Single family residential lot size may be averaged to allow lots less than the minimum lot size in the Residential district, as long as the average area for all lots is not less than allowed by the district. No lot created under this provision shall be less than 80% of the minimum lot size allowed in the underlying district. For example, if the minimum lot size is 5,000 square feet, the following three lots could be created: 4,000 square feet, 5,000 square feet, and 6,000 square feet.
- E. Temporary Sales Office. A temporary sales office in conjunction with a subdivision may be approved as set forth in Chapter 4.9.1, Temporary Uses.
- F. Minimize flood damage. All subdivisions and partitions shall be designed based on the need to minimize the risk of flood damage. No new building lots shall be created entirely within a floodway. All new lots shall be buildable without requiring development within the floodway. Development in a 100-year flood plain shall comply with the standards of Chapter 2.17, Flood Hazard Overlay District, and Federal Emergency Management Agency requirements, including filling to elevate structures

above the base flood elevation. The applicant shall be responsible for obtaining such approvals from the appropriate agency before City approval of the final plat.

- G. Determination of Base Flood Elevation. Where a development site consists of 50 or more lots or five (5) acres whichever is lesser, or is located in or near areas prone to inundation, and the base flood elevation has not been provided or is not available from another authoritative source, it shall be prepared by a qualified professional, as determined by the zoning administrator.
- H. Need for Adequate Utilities. All lots created through land division shall have adequate public utilities and facilities such as sewer, water, and electrical systems located and constructed to prevent or minimize flood damage to the extent practicable.
- I. Need for Adequate Drainage. All subdivision and partition proposals shall have adequate surface water drainage provided to reduce exposure to flood damage. A balanced cut and fill methodology where no net increase of soil occurs on the site is encouraged. Water quality or quantity control improvements may be required; and
- J. Floodplain, Park, and Open Space Dedications. Where land filling and/or development is allowed within or adjacent to the 100-year flood plain outside the zero-foot rise flood plain, and the Comprehensive Plan designates the subject flood plain for park, open space, or trail use, the City may require the dedication of sufficient open land area for a greenway adjoining or within the flood plain. When practicable, this area shall include portions at a suitable elevation for the construction of a pedestrian/bicycle pathway within the flood plain in accordance with the City's adopted trails plan or pedestrian and bikeway plans, as applicable. The City shall evaluate individual development proposals and determine whether the dedication of land is justified based on the development's impact to the park and/or trail system (including the Warrenton Waterfront Trail system), consistent with Chapter 3.5, and Section 3.5.0.D in particular.

#### 4.3.120 Approvals Process

- A. Review of Preliminary Plat. Review of a preliminary plat for a subdivision or partition with three or fewer lots shall be processed by means of a Type II procedure, as governed by Chapter 4.1.4. Preliminary plats with greater than three lots shall be processed with a Type III procedure under 4.1.5. All preliminary plats shall be reviewed using approval criteria contained in Section 4.3.140. An application for subdivision or partition may be reviewed concurrently with an application for a Master Planned Development under Chapter 4.5 or concurrent with variance, conditional use, or other required land use applications.
- B. Review of Final Plat. Review of a final plat for a subdivision or partition shall be processed by means of a Type I procedure under Chapter 4.1.3, using the approval criteria in Section 4.3.160.
- C. Preliminary Plat Approval Period. Preliminary plat approval shall be effective for a period of two years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted within a two-year period.

D. Modifications and Extensions. The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Chapter 4.6 - Modifications. The zoning administrator shall, upon written request by the applicant and payment of the required fee, grant one extension of the approval period not to exceed one year; provided that:

1. Any changes to the preliminary plat follow the procedures in Chapter 4.6;
2. An extension of time will not prevent the lawful development of abutting properties;
3. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required; and
4. The extension request is made before expiration of the original approved plan.

E. Phased Development.

1. The City may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period (i.e., for required public improvements, utilities, streets) for any partition or subdivision phase be greater than two years without reapplying for a preliminary plat;
2. The criteria for approving a phased land division proposal are:
  - a. Public facilities shall be constructed in conjunction with or prior to each phase;
  - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require City Commission approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required permanent public improvements, in accordance with Section 4.3.180. A temporary public facility is any facility not constructed to the applicable City or district standard;
  - c. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that were required as part of the approved development proposal; and
  - d. The application for phased development approval shall be reviewed concurrently with the preliminary plat application and the decision may be appealed in the same manner as the preliminary plat.

#### **4.3.130 Preliminary Plat Submission Requirements.**

A. General Submission Requirements. For Type II subdivisions (3 lots or fewer) and land partitions, the applicant shall submit an application containing all of the information

required for a Type II procedure under Section 4.1.4. For Type III subdivisions (greater than 3 lots), the application shall contain all of the information required for a Type III procedure under Section 4.1.5.

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

1. General information:
  - a. Name of subdivision (not required for partitions). This name must not duplicate the name of another subdivision in the county in which it is located (please check with County surveyor);
  - b. Date, north arrow, and scale of drawing;
  - c. Location of the development sufficient to define its location in the city, boundaries, and a legal description of the site;
  - d. Names, addresses and telephone numbers of the owners, designer, and engineer or surveyor if any, and the date of the survey; and
  - e. Identification of the drawing as a "preliminary plat".
2. Site analysis:
  - a. Streets: Location, name, present condition (i.e., paved, gravel, unimproved, etc.), and width of all streets, alleys and rights-of-way on and abutting the site;
  - b. Easements: Width, location and purpose of all existing easements of record on and abutting the site;
  - c. Utilities: Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest ones;
  - d. Ground elevations shown by contour lines at 5-foot vertical intervals for ground slopes exceeding 10 percent and at 2-foot intervals for ground slopes of less than 10 percent. Such ground elevations shall be related to some established bench mark or other datum approved by the County Surveyor. This requirement may be waived for partitions when grades, on average, are less than 2 percent;
  - e. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);

- f. Potential natural hazard areas, including any flood plains, areas subject to high water table, landslide areas, and areas having a high erosion potential;
  - g. Sensitive lands, including wetland areas, streams, wildlife habitat, and other areas identified by the City or natural resource regulatory agencies as requiring protection. (See also, Chapter 3.10 and relevant portions of the Comprehensive Plan.);
  - h. Site features, including existing structures, pavement, drainage ways, canals and ditches;
  - i. Designated historic and cultural resources on the site and adjacent parcels or lots;
  - j. North arrow, scale, name and address of owner;
  - k. Name and address of project designer, if applicable; and
  - l. Other information, as deemed appropriate by the zoning administrator. The City may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.
3. Proposed improvements:
- a. Public and private streets, tracts, driveways, open space and park land; location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts which are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;
  - b. Easements: location, width and purpose of all easements;
  - c. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all lots and tracts;
  - d. Proposed uses of the property, including all areas proposed to be dedicated to the public or reserved as open space for the purpose of surface water management, recreation, or other use;
  - e. Proposed improvements, as required by Chapter 3 (Design Standards), and timing of improvements (e.g., in the case of streets, sidewalks, street trees, utilities, etc.);
  - f. The proposed source of domestic water;
  - g. The proposed method of sewage disposal and method of surface water drainage. Water quality treatment areas, if required;

- h. The approximate location and identity of other utilities, including the locations of street lighting fixtures;
- i. Proposed railroad crossing or modifications to an existing crossing, if any, and evidence of contact with Oregon Department of Transportation related to proposed railroad crossing(s);
- j. Changes to navigable streams, shorelines or other water courses. Provision or closure of public access to these areas shall be shown on the preliminary plat, as applicable;
- k. Identification of the base flood elevation. Evidence of contact with the Federal Emergency Management Agency to initiate a flood plain map amendment shall be required when development is proposed to modify a designated 100-year flood plain;
- l. Evidence of contact with Oregon Department of Transportation (ODOT) for any development requiring access to a highway under the State's jurisdiction; and
- m. Evidence of contact with the applicable natural resource regulatory agency(ies) for any development within or adjacent to jurisdictional wetlands and other sensitive lands, as identified in Chapter 3.10.

**4.3.140 Approval Criteria: Preliminary Plat.**

- A. General Approval Criteria. The City may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:
  - 1. The proposed preliminary plat complies with all of the applicable Development Code sections and other applicable city ordinances and regulations. At a minimum, the provisions of this Chapter, and the applicable sections of Chapter 2.0 (Land Use Districts) and Chapter 3.0 (Design Standards) shall apply. Where a variance is necessary to receive preliminary plat approval, the application shall also comply with the relevant sections of Chapter 5.1, Variances;
  - 2. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;
  - 3. The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities meet city design standards and are laid out so as to conform or transition to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects. A statement that all proposed public improvements will be built to city construction standards and proposed dedications are identified on the preliminary plat; and

4. All proposed private common areas and improvements (e.g., home owner association property) are identified on the preliminary plat.
- B. Housing Density. The subdivision meets the City's housing density standards of the applicable zoning district (Chapter 2).
- C. Block and Lot Standards. All proposed blocks (i.e., one or more lots bound by public streets), lots and parcels conform to the specific requirements below:
1. All lots shall comply with the lot area, setback, and dimensional requirements of the applicable land use district (Chapter 2), and the standards of Section 3.1.2.J, Street Connectivity and Formation of Blocks.
  2. Setbacks shall be as required by the applicable land use district (Chapter 2).
  3. Each lot shall conform to the standards of Chapter 3.1, Access and Circulation.
  4. Landscape or other screening may be required to maintain privacy for abutting uses. See also, Chapter 2 - Land Use Districts, and Chapter 3.2 - Landscaping.
  5. In conformance with the Uniform Fire Code, a minimum 20-foot width fire apparatus access drive shall be provided to serve all portions of a building that are located more than 150 feet from a public right-of-way or approved access drive. See Section 3.1.2.L, Fire Access and Circulation.
  6. Where a common drive is to be provided to serve more than one lot, a reciprocal easement which will ensure access and maintenance rights shall be recorded with the approved subdivision or partition plat.
- D. Conditions of Approval. The City may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations, and may require reserve strips be granted to the City for the purpose of controlling access to adjoining undeveloped properties. See also, Chapter 3.5 (Public Facilities Standards).

#### **4.3.150 Variances Authorized.**

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

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

- A. Submission Requirements. Final plats shall be reviewed and approved by the Warrenton Zoning Administrator prior to recording with Clatsop County. The applicant shall submit the final plat within two years of the approval of the preliminary plat as provided by Section 4.3.120. Specific information about the format and size of the plat, number of copies and other detailed information can be obtained from the Warrenton Planning Department.



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

1. The final plat complies with the approved preliminary plat, and all conditions of approval have been satisfied;
2. All public improvements required by the preliminary plat have been installed and approved by the city engineer. Alternatively, the developer has provided a performance guarantee in accordance with Section 4.3.180.
3. The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;
4. The streets and roads held for private use have been approved by the City as conforming to the preliminary plat;
5. The plat contains a dedication to the public of all public improvements, including but not limited to streets, public pathways and trails, access reserve strips, parks, sewage disposal storm drainage and water supply systems;
6. The applicant has provided copies of all recorded homeowners association Codes, Covenants, and Restrictions (CC&R's); deed restrictions; private easements and agreements (e.g., for access, common areas, parking, etc.); and other recorded documents pertaining to common improvements recorded and referenced on the plat;
7. The plat complies with the applicable Sections of this Code (i.e., there have been no changes in land use or development resulting in a code violation since preliminary plat approval);
8. Certification by the City or service district, as applicable, that water and sanitary sewer service is available to each and every lot depicted on the plat; or bond, contract or other assurance has been provided by the subdivider to the City that such services will be installed in accordance with Chapter 3.5, Public Facilities, and the bond requirements of Section 4.3.180. The amount of the bond, contract or other assurance by the subdivider shall be determined by a registered professional engineer, subject to review and approval by the City;
9. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Geological Survey or giving two or more permanent objects for identifying its location.

#### **4.3.170 Public Improvements.**

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

- A. Public Improvements Required. Before City approval is certified on the final plat, all required public improvements shall be installed, inspected, and approved. Alternatively, the subdivider shall provide a performance guarantee, in accordance with Section 4.3.180.

**4.3.180 Performance Guarantee.**

- A. Performance Guarantee Required. When a performance guarantee is required under Section 4.3.170, the subdivider shall file an assurance of performance with the City supported by one of the following:
1. An irrevocable letter of credit executed by a financial institution authorized to transact business in the state of Oregon;
  2. A surety bond executed by a surety company authorized to transact business in the state of Oregon which remains in force until the surety company is notified by the City in writing that it may be terminated; or
  3. Cash.
- B. Determination of Sum. The assurance of performance shall be for a sum determined by the City as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.
- C. Itemized Improvement Estimate. The developer shall furnish to the City an itemized improvement estimate, certified by a registered civil engineer, to assist the City in calculating the amount of the performance assurance.
- D. Agreement. An agreement between the City and developer shall be recorded with the final plat that stipulates all of the following:
1. Specifies the period within which all required improvements and repairs shall be completed;
  2. A provision that if work is not completed within the period specified, the City may complete the work and recover the full cost and expenses from the applicant;
  3. Stipulates the improvement fees and deposits that are required.
  4. (Optional) Provides for the construction of the improvements in stages and for the extension of time under specific conditions therein stated in the contract.

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

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

#### **4.3.190 Filing and Recording.**

- A. Filing plat with County. Within 60 days of the City approval of the final plat, the applicant shall submit the final plat to Clatsop County for signatures of County officials as required by ORS Chapter 92.
- B. Proof of recording. Upon final recording with the County, the applicant shall submit to the City a mylar copy and four (4) paper copies of all sheets of the recorded final plat. This shall occur prior to the issuance of building permits for the newly-created lots.
- C. Prerequisites to recording the plat.
  - 1. No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS Chapter 92;
  - 2. No plat shall be recorded until it is approved by the County surveyor in the manner provided by ORS Chapter 92.

#### **4.3.200 Replatting and Vacation of Plats**

- A. Replatting and Vacations. Any plat or portion thereof may be replatted or vacated upon receiving an application signed by all of the owners as appearing on the deed.
- B. Procedure. All applications for a replat or vacation shall be processed in accordance with the procedures and standards for a subdivision or partition (i.e., the same process used to create the plat shall be used to replat or vacate the plat). The same appeal rights provided through the subdivision and partition process shall be afforded to the plat vacation process. (See Chapter 4.1 - Types of Applications and Review Procedures.)
- C. Basis for denial. A replat or vacation application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable criteria.
- D. Recording of vacations. All approved plat vacations shall be recorded in accordance with 4.3.190 and the following procedures:
  - 1. Once recorded, a replat or vacation shall operate to eliminate the force and effect of the plat prior to vacation; and

2. Vacations shall also divest all public rights in the streets, alleys and public grounds, and all dedications laid out or described on the plat.
- E. After sale of lots. When lots have been sold, the plat may be vacated only in the manner herein, and provided that all of the owners of lots within the platted area consent in writing to the plat vacation.
  - F. Vacation of streets. All street vacations shall comply with the procedures and standards set forth in ORS Chapter 271.
  - G. Vacation of easements or right-of-ways. The City may require accessways, paths or trails as a condition of the vacation of any public easement or right-of-way, in order to establish or maintain a safe, convenient, and direct pedestrian and bicycle circulation system.

#### 4.3.210 Lot Line Adjustments.

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

- A. Submission Requirements. All applications for Lot Line Adjustment shall be made on forms provided by the City and shall include information required for a Type I application, as governed by Chapter 4.1.3. The application shall include a preliminary lot line map identifying all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; location of mapped wetland or riparian areas (Chapter 3.10); existing fences and walls; and any other information deemed necessary by the zoning administrator for ensuring compliance with city codes.
- B. Approval Process.
  1. Decision-making process. Lot line adjustments shall be reviewed by means of a Type I procedure, as governed by Chapter 4.1.3, using approval criteria contained in subsection C, below.
  2. Time limit on approval. The lot line adjustment approval shall be effective for a period of one year from the date of approval, during which time it must be recorded.
  3. Lapsing of approval. The lot line adjustment approval shall lapse if:
    - a. The lot line adjustment is not recorded within the time limit in subsection 2;
    - b. The lot line adjustment has been improperly recorded with Clatsop County without the satisfactory completion of all conditions attached to the approval; or

c. The final recording is a departure from the approved plan.

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

1. No additional parcel or lot is not created by the lot line adjustment, however the number of lots or parcels may be reduced;
2. Lot standards. All lots and parcels comply with the applicable lot standards of the land use district (Chapter 2) including lot area and dimensions;
3. Zoning. All lots and parcels affected by the lot line adjustment are in the same zoning district except that lots already located within one or more zoning district designations (i.e., “split-zone lots”) may receive adjusted lot lines so long as the adjusted line remains in the zone in which it was originally located;
4. Access. All lots and parcels comply with the standards or requirements of Chapter 3.1 – Access and Circulation;
5. Setbacks. The resulting lots, parcels, tracts, and building locations comply with the standards of the land use district (Chapter 2); and,
6. Exemptions from Dedications and Improvements. A lot line adjustment is not considered a development action for purposes of determining whether right-of-way dedication or improvement is required.

D. Recording Lot Line Adjustments.

1. Recording. Upon the City’s approval of the proposed lot line adjustment, the applicant shall record the lot line adjustment with Clatsop County within 60 days of approval (or the decision expires), and submit a copy of the recorded survey map to the City, to be filed with the approved application.
2. Time limit. The applicant shall submit the copy of the recorded lot line adjustment survey map to the City within 15 days of recording and prior to the issuance of any building permits on the re-configured lots.

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

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

4. The extension request is made before expiration of the original approved plan.

## Chapter 4.4 — Conditional Use Permits

### Sections:

- 4.4.1 Purpose
- 4.4.2 Authorization to Grant or Deny Conditional Uses
- 4.4.3 Basic Conditional Use Review Criteria
- 4.4.4 Application for a Conditional Use
- 4.4.5 Conditional Use Procedures
- 4.4.6 Compliance With Conditions of Approval
- 4.4.7 Time Limit on a Permit for a Conditional Use
- 4.4.8 Limitations for Refiling an Application
- 4.4.9 Auto Wrecking Yards or Junk Yards

#### 4.4.1 Purpose.

The purpose of the conditional use process is to allow, when desirable, uses that would not be appropriate throughout a zoning district or without restrictions in that district, but would be beneficial to the City if their number, area, location, design, and relation to the surrounding property are controlled.

#### 4.4.2 Authorization to Grant or Deny Conditional Uses

- (1) A new, enlarged or otherwise altered development listed in this Code as a conditional use shall be approved or denied by the Planning Commission under the procedure in this Chapter. The Planning Commission shall base its decision on whether the use complies with:
  - a. Applicable policies of the comprehensive plan.
  - b. Applicable Columbia River Estuary Aquatic and Shoreland Development Standards, Chapter 3.11.
  - c. For certain uses in Columbia River Estuary aquatic areas, whether the use or activity meets the resource capability and purpose of the zone in which it is proposed when such a determination is required in accordance with Chapter 3.12.
  - d. For certain activities in Columbia River Estuary aquatic areas, the findings of an Impact Assessment where required by Chapter 3.12.
  - e. Development standards of the applicable zone.
  - f. Basic conditional use standards of Section 4.4.3.
  - g. Appropriate conditional use standards of Section 4.4.9.
- (2) In permitting a conditional use or the modification of an existing conditional use that involves a housing type (e.g. multi-family structure, manufactured dwelling park), the

Planning Commission may impose in addition to those standards and requirements expressly specified in the ordinance, conditions which it considers necessary to protect the best interest of the surrounding property or the City as a whole. These additional conditions may include, but are not limited to:

- a. Controlling the location and number of vehicle access points;
- b. Increasing the required street width;
- c. Limiting the number, size, location and lighting of signs;
- d. Requiring diking, fencing, screening, landscaping, berms, or other items to protect adjacent areas;
- e. Designating sites for open space;
- f. Specifying the types of materials to be used.

In permitting a conditional use or the modification of a conditional use for a use other than a housing type, the Planning Commission may impose in addition to those standards and requirements expressly specified for that use other conditions which are necessary to protect the adjacent property, an identified resource, or the city as a whole. These conditions may include a through f above. For conditional uses other than a housing type, additional conditions may include, but are not limited to:

- g. Increasing the required lot size or yard dimensions
  - h. Reducing the required height and size of buildings
  - i. Specifying the time of year the activity may occur
  - j. Completion of a monitoring program.
- (3) In the case of a use existing prior to its present classification as a conditional use, any change in use or in lot area or any alteration of a structure will conform with the requirements dealing with conditional uses.
- (4) The Planning Commission may require that the applicant for a conditional use furnish to the City a performance bond up to, and not to exceed, the value of the cost of the required improvements in order to assure that the conditions imposed are completed in accordance with the plans and specifications as approved by the Planning Commission and that the standards established in granting the conditional use are observed.

#### 4.4.3 Basic Conditional Use Review Criteria

- (1) Before a conditional use is approved findings will be made that the use will comply with the following standards:
- a. The proposed use is in conformance with the Comprehensive Plan.



- b. The location, size, design and operating characteristics of the proposed use are such that the development will be compatible with, and have a minimal impact on, surrounding properties.
- c. The use will not generate excessive traffic, when compared to traffic generated by uses permitted outright, and adjacent streets have the capacity to accommodate the traffic generated.
- d. Public facilities and services are adequate to accommodate the proposed use.
- e. The site's physical characteristics, in terms of topography, soils and other pertinent considerations, are appropriate for the use.
- f. The site has an adequate area to accommodate the proposed use. The site layout has been designed to provide for appropriate access points, on-site drives, public areas, loading areas, storage facilities, setbacks and buffers, utilities or other facilities which are required by City ordinances or desired by the applicant.

(2) Transportation System Facilities and Improvements.

- a. Construction, reconstruction, or widening of highways, roads, bridges or other transportation facilities that are (1) not designated in the City's adopted Transportation System Plan ("TSP"), or (2) not designed and constructed as part of an approved subdivision or partition, are allowed in most Districts (see Section 2.0.4 for a list of Districts that allow transportation facilities and improvements) subject to a Conditional Use Permit and satisfaction of all of the following criteria:
  - 1. The project and its design are consistent with the City's adopted TSP, or, if the City has not adopted a TSP, consistent with the State Transportation Planning Rule, OAR 660-012 ("the TPR").
  - 2. The project design is compatible with abutting land uses in regard to noise generation and public safety and is consistent with the applicable zoning and development standards and criteria for the abutting properties.
  - 3. The project design minimizes environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities, and a site with fewer environmental impacts is not reasonably available. The applicant shall document all efforts to obtain a site with fewer environmental impacts, and the reasons alternative sites were not chosen.
  - 4. The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.
  - 5. The project includes provisions for bicycle and pedestrian access and circulation consistent with the comprehensive plan, the requirements of this ordinance, and the TSP or TPR.

- b. State transportation system facility or improvement projects. The State Department of Transportation ("ODOT") shall provide a narrative statement with

the application demonstrating compliance with all of the criteria and standards in Section 4.4.3.(2).a (2-5). Where applicable, an Environmental Impact Statement or Environmental Assessment may be used to address one or more of these criteria.

- c. Proposal inconsistent with TSP/TPR. If the City determines that the proposed use or activity or its design is inconsistent with the TSP or TPR, then the applicant shall apply for and obtain a plan and/or zoning amendment prior to or in conjunction with conditional use permit approval. The applicant shall choose one of the following options:
  - 1. If the City's determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall withdraw the conditional use permit application; or
  - 2. If the City's determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall withdraw the conditional permit application, apply for a plan/zone amendment, and re-apply for a conditional use permit if and when the amendment is approved; or
  - 3. If the City's determination of inconsistency is made prior to a final decision on the conditional use permit application, the applicant shall submit a plan/zoning amendment application for joint review and decision with the conditional use permit application, along with a written waiver of the ORS 227.178 120-day period within which to complete all local reviews and appeals once the application is deemed complete; or
  - 4. If the City's determination of inconsistency is part of a final decision on the conditional use permit application, the applicant shall submit a new conditional use permit application, along with a plan/zoning amendment application for joint review and decision.
- d. Expiration. A Conditional Use Permit for Transportation System Facilities and Improvements shall be void after two years.

#### **4.4.4 Application for a Conditional Use**

A property owner or his designated representative may initiate a request for a conditional use by filing an application with the Zoning Administrator according to the requirements of Section 4.1.5B. In addition, the applicant shall provide any related plans, drawings, and/or information needed to provide background for the request.

#### **4.4.5 Conditional Use Procedures**

- (1) The Planning Commission will consider a conditional use request after holding a public hearing in accordance with the provisions of Section 4.1.5D. Where proposed development involves uses or activities in aquatic areas, public notice as required in Section 4.1.5C shall be sent to state and federal agencies with statutory planning and permit authority in aquatic areas, including Oregon Division of State Lands, Oregon

Department of Fish and Wildlife, U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, U.S Army Corps of Engineers and the National Marine Fisheries Service.

- (2) The Planning Commission will determine whether the evidence supports a finding that requirements of the comprehensive plan, development code, and other City ordinances have been met. It will approve, approve with conditions, or deny the application according to requirements of Section 4.1.5E. Conditional use decisions by the Planning Commission will become final after an elapsed period of 14 days from the date of the decision unless appealed to the City Commission within that 14 day period.
- (3) Notice of the Planning Commission decision will be provided in accordance with Section 4.1.5F.
- (4) A decision of the Planning Commission on a conditional use request may be appealed to the City Commission in accordance with Section 4.1.5G and 4.1.4G.
- (5) A request for a conditional use which is not acted upon by the Planning Commission within 75 days from the receipt of the application may be deemed denied and may be appealed to the City Commission.
- (6) The Zoning Administrator shall forward a copy of the final decision, including findings and required conditions, within seven days, to the appropriate state and/or federal agencies where a use or activity involves a state or federal permit which requires a determination of consistency with the local comprehensive plan. The response shall contain a statement of whether or not approval of the permit would be consistent with the comprehensive plan, the reasons the development is or is not so considered, and standards and conditions, which should apply if a state or federal permit is granted.

#### **4.4.6 Compliance With Conditions of Approval**

Compliance with conditions established for a conditional use and adherence to the submitted plans as approved is required. Any departure from these conditions of approval and approved plans constitutes a violation of this ordinance.

#### **4.4.7 Time Limit on a Permit for a Conditional Use**

Except as otherwise noted in this Chapter (Chapter 4.4), authorization of a conditional use shall be void after one year or such lesser time as the authorization may specify unless substantial construction has taken place. However, the Planning Commission may extend authorization for an additional period not to exceed one year on request.

#### **4.4.8 Limitations for Refiling an Application**

Applications for which a substantially similar application has been denied will be heard by the Planning Commission only after a period of one year has elapsed from date of the earlier decision.

#### **4.4.9 Auto Wrecking Yards or Junk Yards**

In addition to such other requirements as the City Planning Commission may stipulate in authorizing auto wrecking yards or junk yards, the following density provisions shall be imposed:

- (1) Minimum lot area: One acre
- (2) Minimum lot width: 100 feet
- (3) Minimum lot depth: 125 feet
- (4) Minimum fence setbacks: Front yard, 25 feet; rear yard, 5 feet; and side yard, 5 feet.
- (5) Fences:
  - a. A sight-obscuring fence shall be constructed to completely enclose the wrecking or junk yard. The fence shall be painted one color and kept in good repair. It shall be the responsibility of the occupant to maintain the fence.
  - b. Front yard fence height: Minimum height of six feet; however, when such front yard is fronting any State primary or secondary highway, such fence height shall be a minimum of eight feet.
- (6) Storage of vehicles:
  - a. All storage shall be within a fenced area.
  - b. At no time shall any items be piled higher than the fence.
- (7) Notwithstanding the above regulations, all auto wrecking yards and junk yards must comply with all State regulations pertaining to this type of use.

## Chapter 4.5 — Planned Unit Developments

### Sections:

- 4.5.1 **Planned Unit Developments (PUD)**
- 4.5.2 **Purpose**
- 4.5.3 **Permitted Building and Uses**
- 4.5.4 **Development Standards**
- 4.5.5 **Procedure - Preliminary Development Plan**
- 4.5.6 **Procedure - Final Approval**
- 4.5.7 **Mapping**
- 4.5.8 **Adherence to Approved Plan and Modification Thereof**

### 4.5.1 **Planned Unit Developments (PUD)**

This district is intended to provide for developments incorporating a single type or variety of housing types and related uses, which are planned and developed as a unit. Such developments may consist of individual lots or of common buildings sites. Commonly-owned land which is an essential and major element of the plan should be related to and preserve the long-term value of the homes and other developments.

### 4.5.2 **Purpose**

The purpose of this district is to provide a more desirable environment through the application of flexible and diversified land development standards following an overall comprehensive site development plan.

### 4.5.3 **Permitted Building and Uses**

The following buildings and uses may be permitted as hereinafter provided. Buildings and uses may be permitted either singly or in combination provided the overall density of the planned development does not exceed the density of the parent zone as provided by Section 4.5.4(3).

- (1) Single-family dwellings.
- (2) Duplexes, Triplexes, and multi-family dwellings.
- (3) Accessory buildings and uses.
- (4) Commercial uses only when supported mainly by the planned development and only when economic feasibility can be shown.
- (5) Buildings or uses listed as permitted outright or conditionally in the parent zone on which the planned development is located.
- (6) Recreational Vehicle (RV) Parks when the applicant provides findings of fact that demonstrate consistency with applicable provisions of the comprehensive plan and this Code and the location has been approved by the Planning Commission. Where PUD

standards differ from standards found elsewhere in this Code, the more stringent requirement shall apply.

- (7) Campgrounds when the applicant provides findings of fact that demonstrate consistency with applicable provision of the comprehensive plan and this Code and the location has been approved by the Planning Commission.

#### 4.5.4 Development Standards

- (1) **Minimum Site Size:** Planned Unit Developments shall be established only on parcels of land which are suitable for the proposed development and are no smaller than the minimum lot size established in the parent zone. The minimum lot size for RV Parks and campgrounds shall be five acres.
- (2) **Open Space:** In all PUDs, at least 40 percent of the total area shall be devoted to open space. Up to 25 per cent of this open space may be utilized privately by individual owners or users of the planned development; however, at least 75 percent of this area shall be common or shared open space.
- (3) **Density:** The density of the planned development shall not exceed the density of the zone in which it is located. Minimum space size for RV Parks is 1350 square feet (see Chapter 3.15 for additional standards; where PUD standards differ from standards found elsewhere in this Code, the more stringent requirement shall apply). The Planning Commission shall review density allowances for campgrounds on a case-by-case basis using the criteria of Section 4.4.3 as a minimum standard for approval.
- (4) **Subdivision Lot Sizes:** Minimum area, width, depth and frontage requirements for subdivision lots in a Planned Unit Development may be less than the minimums set forth elsewhere in this Code, provided that the overall density is in conformance with Section 4.5.4(3) and the lots conform to the approved preliminary development plan.
- (5) **Off-street Parking:** Parking areas shall conform to all provisions of Chapter 3.3.
- (6) **Signs:** All signs of any type within a Planned Unit Development are subject to design review and approval of the Planning Commission. The Commission shall consider each sign on its merits based on its aesthetic impact on the area, potential traffic hazards, potential violation of property and privacy rights of adjoining property owners, and need for said sign.
- (7) **Setbacks and Yard Requirements:** No structure shall be located closer than twenty feet from any public street within a Planned Unit Development unless otherwise approved by the Planning Commission. Other setbacks are to be determined by the Planning Commission where they are considered essential to the public health, safety or welfare. These setbacks required by the Planning Commission shall be recorded as part of the protective covenants as required by Section 4.5.6 (2).
- (8) **Height Limits:** Height limits in a Planned Unit Development are the same as in the parent zone, except that the Planning Commission may further limit heights when necessary for the maintenance of the public health, safety or welfare.

- (9) Streets, Sidewalks and Roads: Necessary streets, sidewalks, and roads within the Planned Unit Development shall be constructed to City standards and dedicated to the public. See Chapter 3 for applicable standards. A private roadway, or a private road network, may be permitted if adequate provisions for access and circulation have been provided in accordance with Chapter 3.1 and facilities have been approved and installed in accordance with Chapter 3.5.
- (10) Dedication and Maintenance of Facilities: The Planning Commission or, on appeal, the City Commission, may as a condition of approval for a Planned Unit Development require that portions of the tract or tracts under consideration be set aside, improved, conveyed or dedicated for the following uses:
- a. Recreation facilities: The Planning Commission or City Commission, as the case may be, may require that suitable area for parks or playgrounds be set aside, improved or permanently reserved for the owners, residents, employees or patrons of the development.
  - b. Common areas: Whenever a common area is provided, the Planning or City Commission may require that an association of owners or tenants be created into a non-profit corporation under the laws of the State of Oregon, which shall adopt such Articles of Incorporation and By-Laws and impose such Declaration of Covenants and Restrictions on such common areas that are acceptable to the Planning Commission. Said association shall be formed and continued for the purpose of maintaining such common area. Such an association, if required, may undertake other functions. It shall be created in such a manner that owners of property shall automatically be members and shall be subject to assessment levied to maintain said common area for the purposes intended. The period of existence of such association shall be not less than 20 years and it shall continue thereafter and until a majority vote of the members shall terminate it.
  - c. Easements: Easements necessary to the orderly extension of public utilities may be required as a condition of approval.
- (11) Approvals: Prior to Planning Commission (or City Commission approval upon appeal), written consent for the development shall be received from the City Engineer, Fire Chief, and any other department or agency (i.e., County Sanitarian, DEQ, ODOT, Division of Health, ODF&W, DSL, DLCD, etc.) that can demonstrate that they have legal authority or jurisdiction over the proposal (or part(s) of the proposal).
- (12) Other Requirements: The Planning Commission may establish additional requirements which it deems necessary to assure that any development conforms to the purpose and intent of this section.

#### 4.5.5 Procedure - Preliminary Development Plan

- (1) The applicant shall submit four copies of a preliminary development plan to the Planning Commission prior to formal application for approval. This plan and any written statements shall contain at least the following information:

- a. Proposed land uses and densities.
  - b. Location, dimensions and heights of structures.
  - c. Plan of open or common spaces.
  - d. Map showing existing features of site and topography.
  - e. Proposed method of utilities service and drainage.
  - f. Road and circulation plan, including off-street parking areas.
  - g. Relation of the proposed development to the surrounding area and the comprehensive plan.
  - h. Lot layout.
  - i. A schedule, if it is proposed that the final development plan will be executed in stages.
  - j. Information deemed necessary by the zoning administrator.
  - k. Required application fee.
- (2) Applications for Planned Unit Development preliminary approval shall be reviewed by the Planning Commission using a Type III procedure as specified in Section 4.1.5. The Planning Commission shall determine whether the proposal conforms to Section 4.5.4. In addition, in considering the plan, the Planning Commission shall seek to determine that:
- a. There are special physical conditions or objectives of development which the proposal will satisfy to warrant a departure (if any) from the standard Code requirements.
  - b. Resulting development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area.
  - c. The proposed development will be in substantial harmony with the surrounding area.
  - d. The plan can be completed within a reasonable period of time.
  - e. Any proposed commercial development can be justified economically.
  - f. The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.



- g. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.
- (3) The Planning Commission shall notify the applicant whether the foregoing provisions have been satisfied and, if not, whether they can be satisfied with further plan revision(s).
- (4) Following preliminary approval by the Planning Commission, the applicant may proceed with the request for approval of the planned unit development by filing an application for a zoning map amendment in accordance with Chapter 4.7. Final PUD approval is contingent on an approved zoning map amendment.

#### **4.5.6 Procedure - Final Development Plan Approval**

- (1) Within one year after preliminary approval or modified approval of a preliminary development plan, the applicant shall, at the next regularly scheduled meeting, file with the Planning Commission a final plan for the entire development or, when submission in stages has been authorized, for the first unit of the development. The final plan shall conform in all major respects with the approved preliminary development plan. The final plan shall include all information included in the preliminary plan, plus the following:
- a. Contour map of the site showing at least two foot contour intervals.
  - b. Grading plan for the site showing future contours if existing grade is to be changed more than two feet.
  - c. Existing and proposed utility lines (storm and sanitary sewer, gas, etc.).
  - d. Preliminary subdivision plat meeting the requirements of Section 4.3.130 if property is to be subdivided.
  - e. Location and dimensions of pedestrian ways, roads, malls, common open spaces, recreation areas and parks.
  - f. Location, dimensions and arrangement of automobile off-street parking spaces including width of aisles, spaces and other design criteria.
  - g. Preliminary architectural plans and elevations of typical structures.
  - h. Preliminary planting and landscaping plan for the site.
  - i. Proof of an approved zoning map amendment in accordance with Section 4.5.5(4).
  - j. The applicant shall also submit drafts of appropriate deed restrictions or protective covenants to provide for the maintenance of common areas and to assure that the objectives of the Planned Unit Development shall be followed.

- (2) Upon receipt of the final development plan, the Planning Commission shall examine such plan and determine whether it conforms to all applicable criteria and standards, and whether it conforms in all substantial respects to the previously-approved preliminary development plan; or the Commission shall require such changes in the proposed development or impose such conditions of approval as are in its judgment necessary to insure conformity to the applicable criteria and standards. In so doing, the Planning Commission may permit the applicant to revise the plan and resubmit it as a final development plan within 60 days.
- (3) After final development plan approval by the Planning Commission, the planned development application will be sent to the City Commission for consideration and final approval. A Type III review procedure shall be used. If the PUD is a residential subdivision with no commercial, RV, or campground amenities, review by the City Commission is not required; however, final subdivision plat approval in accordance with Section 4.3.160 is required.

#### **4.5.7 Mapping**

An approved planned unit development shall be identified on the zoning map with the letters "PUD" in addition to the abbreviated designation of the parent zone.

#### **4.5.8 Adherence to Approved Plan and Modification Thereof**

- (1) Grading permits and building permits in a planned unit development shall be issued only on the basis of the approved final development plan. Any changes in the approved plan shall be submitted to the Planning Commission for processing in accordance with Chapter 4.6.
- (2) A performance bond may be required, in an amount to be determined by the Planning Commission, to insure that a development proposal is completed as approved and within the agreed-upon time limits.

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

### Sections:

- 4.6.1 Purpose
- 4.6.2 Applicability
- 4.6.3 Major Modifications
- 4.6.4 Minor Modifications

#### 4.6.1 Purpose

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

#### 4.6.2 Applicability

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

#### 4.6.3 Major Modifications

- A. Major Modification Defined. The zoning administrator shall determine that a major modification(s) is required if one or more of the changes listed below are proposed:
  - 1. A change in land use;
  - 2. An increase in the number of dwelling units;
  - 3. A change in the type and/or location of access ways, drives or parking areas that affect off-site traffic;
  - 4. An increase in the floor area proposed for non-residential use by more than 10 percent where previously specified;

5. A reduction of more than 5 percent of the area reserved for common open space and/or usable open space;
  6. A reduction to specified setback requirements by more than 20 percent, or to a degree that the minimum setback standards of the land use district cannot be met; or
  7. Changes similar to those listed in 1-6, which are likely to have an adverse impact on adjoining properties.
- B. Major Modification Request. An applicant may request a major modification as follows:
1. Upon the zoning administrator determining that the proposed modification is a major modification, the applicant shall submit an application for the major modification.
  2. The modification request shall be subject to the same review procedure (Type I, II, or III) and approval criteria used for the initial project approval, however, the review shall be limited in scope to the modification request. For example, a request to modify a parking lot shall require site design review only for the proposed parking lot and any changes to associated pathways, lighting and landscaping. Notice shall be provided in accordance with the applicable review procedure.

#### 4.6.4 Minor Modifications

- A. Minor modification defined. Any modification to a land use decision or approved development plan which is not within the description of a major modification as provided in Section 4.6.3, above, shall be considered a minor modification.
- B. Minor Modification Request. An application for approval of a minor modification is reviewed using Type II procedure in Section 4.14. A minor modification shall be approved, approved with conditions, or denied by the zoning administrator based on written findings on the following criteria:
1. The proposed development is in compliance with all applicable requirements of the Development Code; and
  2. The modification is not a major modification as defined in Section 4.6.3, above.

# Chapter 4.7 — Land Use District Map and Text Amendments

## Sections:

- 4.7.1 Purpose
- 4.7.2 Legislative Amendments
- 4.7.3 Quasi-Judicial Amendments
- 4.7.4 Conditions of Approval
- 4.7.5 Record of Amendments
- 4.7.6 Transportation Planning Rule Compliance

### 4.7.1 Purpose

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this Code and the land use district map, also referred to as the official “Warrenton Zoning Map”. These will be referred to as “map and text amendments.”

Amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law.

### 4.7.2 Legislative Amendments

Legislative amendments are policy decisions made by the City Commission. They are reviewed using the Type IV procedure in Section 4.1.6 and shall conform to Section 4.7.6, as applicable.

### 4.7.3 Quasi-Judicial Amendments

A. Quasi-Judicial Amendments. Quasi-judicial amendments are those that involve the application of adopted policy to a specific development application or Code revision. Quasi-judicial map amendments shall follow the Type IV procedure, as governed by Section 4.1.6, using standards of approval in Subsection “B” below. The approval authority shall be as follows:

1. The Planning Commission shall make a recommendation to the City Commission on an application for a land use district map changes which does not involve a comprehensive plan map amendment. The City Commission shall decide such application; and
2. The Planning Commission shall make a recommendation to the City Commission on an application for a comprehensive plan map amendment. The City Commission shall decide such application; and
3. The Planning Commission shall make a recommendation to the City Commission on a land use district map change application, which also involves a comprehensive plan map amendment. The City Commission shall decide both applications.

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

1. Demonstration of compliance with all applicable comprehensive plan policies and map designations. Where this criterion cannot be met, a comprehensive plan amendment shall be a prerequisite to approval;
2. Demonstration of compliance with all applicable standards and criteria of this Code, and other applicable implementing ordinances;
3. Evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or land use district map regarding the property which is the subject of the application; and the provisions of Section 4.7.6, as applicable.

#### **4.7.4 Conditions of Approval**

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

#### **4.7.5 Record of Amendments**

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

#### **4.7.6 Transportation Planning Rule Compliance.**

A. When a development application includes a proposed comprehensive plan amendment or land use district change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060. See also Chapter 4.13, Traffic Impact Study. Significant means the proposal would:

1. Change the functional classification of an existing or planned transportation facility. This would occur, for example, when a proposal causes future traffic to exceed the capacity of "collector" street classification, requiring a change in the classification to an "arterial" street, as identified by the Transportation System Plan, or
2. Change the standards implementing a functional classification system; or
3. Allow types or levels of land use that would result in levels of travel or access what are inconsistent with the functional classification of a transportation facility; or
4. Reduce the level of service of the facility below the minimum acceptable level identified in the Transportation System Plan.

- B. Amendments to the comprehensive plan and land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:
1. Limiting allowed land uses to be consistent with the planned function of the transportation facility; or
  2. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,
  3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation.

## Chapter 4.8 — Code Interpretations

### Sections:

4.8.1 Purpose

4.8.2 Code Interpretation Procedure

4.8.1 Purpose

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

### 4.8.2 Code Interpretation Procedure

- A. Requests. A request for a code interpretation (“interpretation”) shall be made in writing to the zoning administrator. The City shall use the Type II administrative procedure for processing code interpretation requests.
- B. Decision to Issue Interpretation. The zoning administrator shall have the authority to review a request for an interpretation. The zoning administrator shall advise the requester in writing within 14 days after the request is made, on whether or not the City will issue the requested interpretation.
- C. Declining Requests for Interpretations. The zoning administrator is authorized to issue or decline to issue a requested interpretation. Basis for declining may include, but is not limited to, a finding that the subject Code section affords only one reasonable interpretation and the interpretation does not support the request. The zoning administrator’s decision to issue or decline to issue an interpretation is final when the decision is mailed to the party requesting the interpretation and the decision is not subject to any further local appeal.
- D. Written Interpretation. If the zoning administrator decides to issue an interpretation, it shall be issued in writing and shall be mailed or delivered to the person requesting the interpretation and any other person who specifically requested a copy of the interpretation. The written interpretation shall be issued within 5 working days after the end of the required 20-day notice period. The decision shall become effective 14 days later, unless an appeal is filed in accordance with E-G below.
- E. Appeals. The applicant and any party who received such notice or who participated in the proceedings through the submission of written or verbal evidence of an interpretation may appeal the interpretation to the Planning Commission within 14 days after the interpretation was mailed or delivered to the applicant. The appeal may be initiated by filing a notice of appeal with the zoning administrator pursuant to Chapter 4.1.4.G.
- F. Appeal Procedure. The Planning Commission shall hear all appeals of a zoning administrator interpretation as a Type III action pursuant to Chapter 4.1.5, except that written notice of the hearing shall be provided to the applicant, any other party who has filed a notice of appeal, and any other person who requested notice.



- G. Final Decision/Effective Date. The decision of the Planning Commission on an appeal of an interpretation shall be final and effective when it is mailed to the applicant. If an appeal of the Planning Commission's decision is filed, the City Commission shall hear the appeal as a Type III action pursuant to Chapter 4.1.5. The decision remains effective unless or until it is modified by the Land Use Board of Appeals or a court of competent jurisdiction.
  
- H. Interpretations On File. The zoning administrator shall keep on file a record of all code interpretations.

## Chapter 4.9 — Miscellaneous Permits

### Sections:

- 4.9.1 Temporary Use Permits
- 4.9.2 Home Occupation Permits
- 4.9.3 Home Office Permit

### 4.9.1 Temporary Use Permits

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

- A. Seasonal and Special Events. These types of uses occur only once in a calendar year and for no longer a period than 30 days. Using a Type II procedure under Chapter 4.1.4, the City shall approve, approve with conditions, or deny a temporary use permit based on findings that all of the following criteria are satisfied:
  - 1. The use is permitted in the underlying land use district and does not violate any conditions of approval for the property (e.g., prior development permit approval);
  - 2. The applicant has proof of the property-owner's permission to place the use on his/her property;
  - 3. No parking will be utilized by customers and employees of the temporary use which is needed by the property owner to meet their minimum parking requirement under Chapter 3.3 - Vehicle and Bicycle Parking;
  - 4. The use provides adequate vision clearance, as required by Chapter 3.1.2, and shall not obstruct pedestrian access on public streets;
  - 5. Ingress and egress are safe and adequate when combined with the other uses of the property; as required by Chapter 3.1.2 - Vehicular Access and Circulation;
  - 6. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use; and
  - 7. The use is adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits.)
  
- B. Temporary Sales Office or Model Home. Using a Type II procedure under Section 4.1.4, the City may approve, approve with conditions or deny an application for the use of any real property within the City as a temporary sales office, offices for the purpose of

facilitating the sale of real property, or model home in any subdivision or tract of land within the City, but for no other purpose, based on the following criteria:

1. Temporary sales office:
  - a. The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold; and
  - b. The property to be used for a temporary sales office shall not be permanently improved for that purpose.
2. Model house:
  - a. The model house shall be located within the boundaries of the subdivision or tract of land where the real property to be sold is situated; and
  - b. The model house shall be designed as a permanent structure that meets all relevant requirements of this Code.

C. Temporary Building. Using a Type II procedure, as governed by Section 4.1.4, the City may approve, approve with conditions or deny an application for a temporary trailer or prefabricated building for use on any real commercial or industrial property within the City as a temporary commercial or industrial office or space associated with the primary use on the property, but for no other purpose, based on following criteria:

1. The temporary trailer or building shall be located within the boundaries of the parcel of land on which it is located;
2. The primary use on the property to be used for a temporary trailer is already developed;
3. Ingress and egress are safe and adequate when combined with the other uses of the property; as required by Chapter 3.1.2 - Vehicular Access and Circulation
4. There is adequate parking for the customers or users of the temporary use as required by Chapter 3.3 - Bicycle and Vehicle Parking.
5. The use will not result in vehicular congestion on streets;
6. The use will pose no hazard to pedestrians in the area of the use;
7. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use; and
8. The building complies with applicable building codes;

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

#### 4.9.2 Home Occupation Permits

The purpose of this Section is to encourage those who are engaged in small commercial ventures which could not necessarily be sustained if it were necessary to lease commercial quarters or which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence. Home occupations are encouraged for their contribution in reducing the number of vehicle trips often generated by conventional businesses. They are permitted conditionally in all residential units (dwellings) located in residential zones, subject to Section 4.4, Conditional Use Permits, and the following standards:

##### A. Appearance of Residence:

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

##### B. Storage:

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

##### C. Employees:

1. There shall be no outside paid employees.

2. Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work or pick up/deliver at the home.
  3. The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.
- D. Advertising and Signs: Signs shall comply with Chapter 3.6.5. In no case shall a sign exceed the Residential District standard of 4 square feet.
- E. Vehicles, Parking and Traffic:
1. One commercially-licensed vehicle associated with the home occupation is allowed at the home occupation site. It shall be of a size that would not overhang into the public right-of-way when parked in the driveway or other location on the home occupation site.
  2. There shall be no more than three commercial vehicle deliveries to or from the home occupation site daily. There shall be no commercial vehicle deliveries during the hours of 9 p.m. to 7 a.m.
  3. There shall be no more than one client's or customer's vehicle at any one time and no more than eight per day at the home occupation site.
- F. Business Hours. There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from 7 a.m. to 9 p.m. only, subject Sections A and E, above.
- G. Prohibited Home Occupation Uses:
1. Any activity that produces radio or TV interference, noise, glare, vibration, smoke or odor beyond allowable levels as determined by local, state or federal standards, or that can be detected beyond the property line is prohibited.
  2. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from arts or crafts instructors, computer software from computer consultants, and similar incidental items for sale by home business are allowed subject to A-F, above.
  4. Any uses described in this section or uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke or vibration, such as:
    - a. Ambulance service;
    - b. Animal hospital, veterinary services, kennels or animal boarding;

- c. Auto and other vehicle repair, including auto painting;
- d. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes or large equipment on-site;

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

### 4.9.3 Home Office Permits

The purpose of this section is encourage those who use a portion of their homes (not accessory structure or dwelling) for client meetings, bookkeeping, internet-only businesses, telecommuting, or other similar activity that is accessory, incidental, and secondary to the primary business use that is conducted off-site or in cyberspace.

Home offices are differentiated from home occupations by having no measurable affect on the traffic, noise, and appearance of the residence and surrounding area. Home offices are permitted uses in all residential zones when a City of Warrenton business license has been attained. Compliance with the following minimum standards is required:

A. Appearance of Residence:

1. The home office shall be restricted to siting within a lawfully-built primary residences (not accessory structure) and shall be conducted in such a manner as to give no outward appearance of an office setting.
2. The home office shall not result in any structural alterations or additions to a structure that will change its primary use or building code occupancy classification.
3. The home occupation shall not violate any conditions of development approval (i.e., prior development permit approval).
4. The production of any materials (besides paperwork incidental to the office) is prohibited within a home office.
5. Equipment other than standard office equipment shall be prohibited within a home office.

B. Storage:

1. Outside storage, visible from the public right-of-way or adjacent properties, is prohibited.
2. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond those normally incidental to residential use is prohibited.

3. Storage of inventory or products incidental to the home office shall be allowed in any licensed home office.

C. Employees:

1. Other than family members residing within the dwelling that contains a licensed home office, there shall be no outside employees, including sub-contractors, at the home office at any time.
2. The home office shall never be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.

D. Advertising and Signs: No signs are permitted in conjunction with home offices.

E. Vehicles, Parking and Traffic:

1. There shall be no commercial vehicle deliveries to or from the home office at any time. Deliveries, if necessary, shall be coordinated off-site in a suitable location.
2. There shall be no more than one client's vehicle at the home office at any one time and no more than two vehicles per day at the home office site.

F. Business Hours. Home offices do not include allowances for business hours. All business relating to the home office shall be conducted in a manner consistent with Subsections A-F above.

G. Prohibited Home Office Uses:

1. Any activity or use that meets the definition of a home occupation.
2. Any activity or use that does not meet the standards of this Section.

H. Enforcement: The zoning administrator or designee may visit and inspect the site of home office in accordance with this chapter periodically to insure compliance with all applicable regulations, during normal business hours, and with reasonable notice. Code violations shall be processed in accordance with Chapter 1.4 - Enforcement.

## Chapter 4.10 — Coastal Zone Consistency Review

### Sections:

#### 4.10.1 Coastal Zone Consistency Review

#### 4.10.1 Coastal Zone Consistency Review

(1) Applicability. This section applies to the following activities that directly affect the coastal zone:

- a. actions requiring federal permits or licenses
- b. federal activities and development projects
- c. outer continental shelf activities
- d. federal grants or financial assistance.

(2) Consistency Review Procedure for Activities Requiring Federal Permits or Licenses.

Applicants for activities in Warrenton's coastal zone which require a federal permit or license shall submit to the Zoning Administrator a copy of the completed permit application, other supporting material provided to the permit granting agency, and a set of findings which demonstrate that the development would be consistent with the applicable elements of the Comprehensive Plan and this Ordinance.

If the activity requires a local permit, the applicant shall apply for the local permit under the established permit program. Approval of the permit shall constitute a ruling that the action is consistent with the applicable elements of the Comprehensive Plan and Ordinance. If the action does not require a local permit, the Zoning Administrator may make an investigation to provide information on the project's conformance with the Plan and Ordinance standards and provisions. The investigation can be done administratively or through public hearings.

The Zoning Administrator shall respond to state or federal permit granting agency within seven working days of the local actions. The response shall contain a statement of whether the permit is consistent with the applicable elements of the Comprehensive Plan, the reasons development is or is not consistent, standards and conditions which apply if the permit is granted, and the need for local permits for developments associated with the activity.

(3) Consistency Review Procedure for Federal Activities and Development Projects.

Federal activities in the Coastal Zone are not subject to the established local permit procedures. Federal activities which directly affect the coastal zone of the city must be consistent, to the maximum extent practicable, with the coastal zone management program. The coastal zone management program includes the Comprehensive Plan and Zoning Ordinance. The federal consistency determination is reviewed by the Oregon Department of Land Conservation and Development.



Consistency determinations for federal activities shall be reviewed for conformance with the mandatory enforceable policies of the Comprehensive Plan and Ordinance. The review may be done administratively or through public hearings. The federal agency has the option of applying for a local permit to demonstrate consistency with the Plan and Ordinance. The Zoning Administrator shall communicate concurrence or disagreement with the consistency determination, and recommendations on conditions of project approval, to the Oregon Department of Land Conservation Department within 21 days of receiving the notice for reviewing the federal consistency determination.

- (4) Outer Continental Shelf Activities. Federally licensed or permitted activities described in Outer Continental Shelf plans and which affect Warrenton's coastal Zone shall be conducted in a manner consistent with the coastal zone management program. The applicant's consistency certification is reviewed by the Department of Land Conservation and Development. The Zoning Administrator may review these activities for consistency with the Plan and Zoning Ordinance. The review may be done administratively or through public hearings. The Zoning Administrator may communicate concurrence or disagreement with the consistency certification to the Oregon Department of Land Conservation and Development within the time specified on the Oregon Department of Land Conservation and Development notice for the activities.
- (5) Federal Grants and Financial Assistance. Federal financial assistance or grants to state agencies, cities, counties, special purpose districts, or regional bodies, for activities which affect the coastal zone shall be granted only when the activities are consistent with the coastal zone management program. The Zoning Administrator may review the grants and financial assistance for consistency with the Plan and Ordinance. The review may be done administratively or through public hearings. The Zoning Administrator may communicate its review findings to the Intergovernmental Relations Division Clearinghouse within the time specified on the Clearinghouse notice.

## Chapter 4.11 — Protection of Historic Buildings

### Sections:

#### 4.11.1 Protection of Historic Buildings

#### 4.11.1 Protection of Historic Buildings

The following regulations apply to historic structures identified in the Comprehensive Plan (Warren House, Munson House, Peace House, the historic area of Fort Stevens, the Coast Guard Lifesaving Station, and the Hammond Town Hall).

- (1) The Zoning Administrator shall submit any building permit which proposes a major alteration which could impact the historical significance of the structure or site to the Planning Commission for review.
- (2) The Planning Commission shall hold a public hearing on the permit after providing Type III public notice pursuant to Section 4.1.5C and notification to the State Historic Preservation Office. The Planning Commission will approve or deny the request, or recommend changes in the proposal which would enable it to be approved. In making its decision, the Planning Commission will consider, but not be limited to, the following criteria:
  - a. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
  - b. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.
  - c. Deteriorated architectural features shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of architectural features.
  - d. The relative cost of proposed repairs and alterations should be considered. A property owner should not be forced to undertake alterations or repairs to protect a structure's historic value if such work would be unreasonably expensive.
- (3) The Zoning Administrator will place a 30 day holding period on issuance of a demolition permit. A public notice of the proposed demolition shall be provided pursuant to Section 4.1.5C and shall also be mailed to the State Historic Preservation Office. The intent of this holding period is to allow interested persons to determine if public or private acquisition and restoration is feasible, or if other alternatives are possible which

would prevent demolition. If during the 30 day review period, restoration is found to be feasible, the City may extend the review period for another 30 days. If no significant activities are undertaken during the review period toward the acquisition and/or restoration of the structure, the suspension shall expire at the end of that period and a demolition permit may be issued by the Building Official, subject to other City ordinances.

## Chapter 4.12 — Protection of Archaeological Sites

### Sections:

#### 4.12.1 Protection of Archaeological Sites

#### 4.12.1 Protection of Archaeological Sites

- (1) The Zoning Administrator shall review building permits, and the Zoning Administrator shall review other proposed land use actions that may affect known archaeological sites. If it is determined that a proposed building permit or land use action may affect a known archaeological site, the City shall notify the State Historic Preservation Office. Such notification shall request assistance in determining whether the proposed action will in fact affect the identified archaeological site. If the State Historic Preservation Office determines that a site would be affected, it shall be requested to also develop appropriate measures to protect the site and its contents (appropriate measures are defined in Section 4.12.3). No permit shall be issued unless one of the following has occurred:
  - a. The State Historic Preservation Office determines that the proposed action will not affect the archaeological site; or
  - b. The State Historic Preservation Office has developed a program for the preservation or excavation of the site and the implementation of that program is made a condition of approval for either the building permit or land use action, e.g., conditional use permit; or
  - c. The City has received no comment from the State Historic Preservation Office within twenty days of the date of written notification.
- (2) Indian cairns, graves and other significant archaeological resources, uncovered during construction or excavation shall be preserved until a plan for their excavation or reburial has been developed by the State Historic Preservation Office. In development of the plan, the State Historic Preservation Office shall consider the appropriate measures listed in Section 4.12.3.
- (3) In development of a program to protect an archaeological site, the State Historic Preservation Office shall give consideration to the following appropriate measures:
  - a. Paving over the site without disturbance of any human remains or cultural objects.
  - b. Redesigning the proposed construction or excavation so as to avoid disturbing the site.
  - c. Setting the site aside for non-impacting portions of the proposed development such as storage.
  - d. If permitted pursuant to the substantive and procedural requirements of ORS 97.750, contracting with a qualified archaeologist to excavate the site and remove

any cultural objects and human remains, re-interring the human remains at the developer's expense.

## Chapter 4.13 — Traffic Impact Study

### Sections:

- 4.13.1 Purpose
- 4.13.2 Typical Average Daily Trips
- 4.13.3 When Required
- 4.13.4 Traffic Impact Study Requirements

- A. **Purpose.** The purpose of this section of the Warrenton Development Code is to implement Section 660-012-0045(2)(e) of the State Transportation Planning Rule that requires the City to adopt a process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities. This Chapter establishes the standards for when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Study must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; what must be in a Traffic Impact Study; and who is qualified to prepare the Study.
- B. **Typical Average Daily Trips.** Standards by which to gauge average daily vehicle trips include: 10 trips per day per single family household, 5 trips per day per apartment; and 30 trips per day per 1,000 square feet of gross floor area such a new supermarket or other retail development.
- C. **When Required.** A Traffic Impact Study may be required to be submitted to the City with a land use application, when the following conditions apply:
1. The development application involves a change in zoning or a plan amendment designation; or,
  2. The development shall cause one or more of the following effects, which can be determined by field counts, site observation, traffic impact analysis or study, field measurements, crash history, Institute of Transportation Engineers Trip Generation manual; and information and studies provided by the local reviewing jurisdiction and/or ODOT:
    - a. An increase in site traffic volume generation by 300 Average Daily Trips (ADT) or more; or
    - b. An increase in ADT hour volume of a particular movement to and from the State highway by 20 percent or more; or
    - c. An increase in use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 10 vehicles or more per day; or
    - d. The location of the access driveway does not meet minimum site distance requirements, or is located where vehicles entering or leaving the property

are restricted, or such vehicles queue or hesitate on the State highway, creating a safety hazard; or

- e. A change in internal traffic patterns that may cause safety problems, such as back up onto the highway or traffic crashes in the approach area.

**D. Traffic Impact Study Requirements.**

- 1. Preparation. A Traffic Impact Study shall be prepared by a professional engineer in accordance with OAR 734-051-180.
- 2. Transportation Planning Rule Compliance, Section 4.7.6.







