

## **ARTICLE 2 APPLICATION PROCEDURES**

### **SECTION 2.110 PRE-APPLICATION STAFF CONSULTATION**

An Applicant may request an informal review of a proposal prior to application to determine the general feasibility of the proposal. There are no fees for an informal review. The Applicant should submit a brief description and a sketch drawing of the proposed development to the City for preliminary consultation. The City will inform the Applicant of the procedural requirements and any conditions and policies of public agencies that may be pertinent to the proposal. The Applicant may proceed with an application or the City may suggest a pre-application conference with City Staff and affected agencies to assist the Applicant in preparing the application.

### **SECTION 2.120 PRE-APPLICATION AGENCIES CONFERENCE**

Within 30 days after the pre-application consultation, the City Administrator may schedule a pre-application conference with the Applicant and representatives of the City and other affected public and private agencies to further clarify the conditions and requirements necessary in the preparation of the application.

### **SECTION 2.130 APPLICATION PROCEDURE**

Following preliminary consultation and the pre-application conference, when applicable, the Applicant shall prepare an application together with other supplementary data required to clearly describe the proposed development and the decision requested of the City. Applications shall be submitted to the City 30 days prior to the review or hearing meeting.

- (1) Applications, Petitions and Appeals provided for in this Code shall be made on forms prescribed by the City. Forms are available at the Adair Village City Hall/Community Building, 6030 NE Wm. R. Carr Avenue, Adair Village, Oregon 97330, Telephone - (541) 745-5507, Fax - (541) 230-5219.
- (2) Applications shall include the application form, narrative descriptions, plans and drawings, together with all documents, evidence and supporting information relied upon by the Applicant including the applicable City Code sections that may apply to the request.

Ten copies of the application materials shall be provided by the Applicant for Planning Commission or City Council decisions and twenty copies shall be provided by the Applicant for decisions requiring both a Planning Commission and City Council decision. A Review or Hearing will be scheduled to comply with the applicable legal time frame from the date the Application is deemed complete.

- (3) A consolidated procedure shall be utilized by the City for applications that require more than one approval procedure for a development project. The City will identify and address all of the procedures concurrently and will utilize the most comprehensive procedure and decision process of those required in the application.

- (4) The Applicant may be requested to provide the City with a list of property owners of record within 100 feet of the property that is the subject of the review or hearing.
- (5) All Applications shall be submitted to the City 30 days prior to the decision meeting that usually occurs on the meeting dates of the Planning Commission or City Council. Applications will be available to the public at that time. Notifications will be mailed by the City twenty (20) days prior to the review or hearing meeting.
- (6) An application and review fee shall accompany the application request in accordance with the provisions of **Section 1.190** and the City's Fee Resolution.
- (7) Staff reports used at the review or hearing shall be available at least seven (7) days prior to the review or hearing.
- (8) The City shall comply with **ORS 227.178** and take final action on an application, including resolution of all local appeals, within 120 days after the application is deemed complete. If an application is incomplete, the City shall notify the Applicant within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete if the Applicant supplies the missing information, or if the Applicant fails to submit the missing information, it shall be deemed complete on the 31st day after the application is received by the City.
- (9) If an application is complete when first submitted or if the Applicant submits the requested missing information within the 30 days, following notification from the City approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
- (10) The 120-day period specified in subsection (8) may be extended for a reasonable time at the request of the Applicant.
- (11) The 120-day period specified in subsection (8) does not apply to an amendment to this Code or to other legislative actions.
- (12) The Applicant bears the responsibility and burden of proof for the requested action. The greater the potential impact, the more justification must be shown.
- (13) The Application and the decision of the City shall be maintained by the City in a Record File of the Application. Notice of Decision shall be given the Applicant and other participants in the proceedings as specified in **Section 3.300**.
- (14) Expiration. Approved applications shall be void 2 years after the date of approval unless a building permit has been issued and substantial construction pursuant thereto has taken place, unless a specific time period was specified as a condition of approval. However, upon written request prior to the expiration date, the City may extend the time period. . Such extensions shall occur only upon findings that the request does not violate any current code and upon acceptance of reasons for the delay. After the expiration of the time period the application may be denied.

- (15) Limitation. No request for a land use application shall be considered by the City within one-year following denial of a request, except the City may consent to a new hearing; if in the opinion of the Deciding Body, new evidence or a change of circumstance warrant reconsideration.
- (16) The specific requirements and decision process for each application procedure are contained in the following Sections of this Article.

**SECTION 2.140 APPLICATION SITE PLAN**

Applications requiring a site plan shall include a Site Plan Drawing on an 11 by 17 inch or 8 1/2 by 11 inch sheet size for copying and distribution. . Larger drawings may be submitted for presentation and City review. The Plan shall be drawn to scale. The scale shall be selected to fit the sheet size, but in all cases the scale selected shall be in even multiples of one (1) inch equals ten (10) feet (For example - 1"=20', 1"=30', 1"=100', etc.). The Application and Site Plan shall indicate clearly and with full dimensioning the following applicable information for all existing and proposed development. It is understood that some of the following requested information may not apply to every application. (X) out the number of non-applicable information.

- (1) The names of the Owner(s) and Applicant if different.
- (2) The property address or geographic location and the Assessor Map number and Tax Lot number.
- (3) The date, scale and northpoint.
- (4) A vicinity map showing properties within the notification area and roads. An Assessor Map, with all adjacent properties, is adequate.
- (5) A Site Plan with property dimensions.
- (6) The location, size, height and uses for all existing and proposed buildings.
- (7) Walkways, surfaced areas, yards, open space and areas to be landscaped.
- (8) Walls and fences: location, height and proposed materials.
- (9) Off-street parking: location, number of spaces, dimensions of parking area and internal circulation patterns.
- (10) Access: pedestrian, bicycle, vehicular and service locations and ingress and egress locations.
- (11) Signs: location, size, height and means of illumination.
- (12) Loading: location, dimension, number of spaces and internal circulation.
- (13) Lighting: location, type (pole, building, ground, etc) and shielding devices.
- (14) Existing and proposed streets including surface materials dedications and improvements.
- (15) Topographic features including existing and proposed grades, significant trees over 6 inches in diameter, and other significant vegetation.
- (16) Water systems, drainage systems, sewage disposal systems and utilities.
- (17) Drainage ways, water courses, flood plains, wetlands and riparian areas.

- (18) The estimated number of people that will occupy the site including family members, employees and customers.
- (19) The estimated number of generated trips per day from each mode of travel by type: employees, customers, shipping, receiving, etc. A Traffic Assessment and possibly a Traffic Impact Study may be required if warranted by the traffic impact.
- (20) The proposed time of operation, where appropriate. Including hours of operation, days of the week and number of work shifts.
- (21) Identification of the type and extent of anticipated emissions, potential hazards or nuisance characteristics generated by the proposed use. Misrepresentation or omission of required data may be grounds for denial or termination of an Approval or Certificate of Occupancy.

Uses which possess nuisance characteristics or those potentially detrimental to the public health, safety and general welfare of the community including, but not limited to; noise, water quality, vibration, smoke, odor, fumes, dust, heat, glare or electromagnetic interference, may require additional safeguards or conditions of use applied by the City.

All uses shall meet all applicable standards and regulations of the Oregon State Board of Health, the Oregon Department of Environmental Quality, and any other public agency having appropriate regulatory jurisdiction. Prior to approval of a land use decision, evidence shall be submitted to the City indicating that the proposed activity has been approved by all applicable regulatory agencies.

- (22) A construction schedule and development phasing schedule.
- (23) Such other data as may be necessary to permit the Deciding Authority to make the required findings.

## **SECTION 2.150            RECORD FILE**

The City shall maintain an official Record File of each application containing all relevant data, drawings, dates, notices, hearings, postponements, continuances, decisions, appeals and minutes of all meetings pertaining to the application.

- (1) Minutes of all meetings, reviews and hearings shall record the substance of all issues before the review or hearing body including the criteria, factual evidence and the justification for the decision as specified in **Article 3**. Summary written minutes shall be maintained in the Record File. The minutes and records need not be a verbatim transcript of the meeting.
- (2) Proceedings may be recorded either stenographically or electronically although a verbatim record is not required. Minutes may be summarized from the transcript or tape.

- (3) Testimony may be transcribed at the expense of the requesting party, if required for judicial review or local appeal proceedings. The transcribing fee may include all actual costs as authorized by state law.
- (4) The Staff Report and recommendation shall be included in the Record File.
- (5) The review or hearing body shall, where practical, retain each item of physical or documentary evidence presented as part of the Record and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the Record File until after all appeal periods have expired, at which time the exhibits may be released.
- (6) The public shall have access to the Record File of the proceedings at reasonable times, places, and circumstances. A person shall be entitled to make copies of the Record at a cost determined by the City.

**SECTION 2.200 BUILDING PERMITS**

- (1) Building Permits are issued by the City and administered by the Benton County Building Department. The Benton County Building Department also provides all construction administration and inspection services.
- (2) Building Permits may be issued by the City for **Permitted Uses** not requiring a Review or Public Hearing by the City Administrator, City Planning Commission or City Council.
- (3) Application for Building Permits requiring a land use decision including: Site Plan Reviews, Conditional Uses, Variances, Nonconforming Uses, or Zone Change Amendments shall be approved by the City prior to submittal to Benton County. Any proposed change in the approved plan or use shall be resubmitted to the City as a new application. Building Permits for an approved land use decision shall not be issued until the appeal period, as specified under **Section 3.700**, has expired.
- (4) Each application for a building permit shall comply with the latest adopted edition of the International Building Code as amended by the State of Oregon or the Oregon Residential Specialty Code. Applications shall describe the work and proposed use and occupancy and include site and building plans, drawn to scale, construction details, specifications, computations and such other information as may be required by the Benton County Building Official.

**SECTION 2.300 LAND DIVISIONS****SECTION 2.310 PROPERTY LINE ADJUSTMENTS**

- (1) **Purpose.** A property line adjustment is a relocation of a common property line between abutting properties when both parties agree. A property line adjustment shall not create an additional lot or parcel, reduce a lot or parcel in size below the minimum size specified for the zone, or create a violation of development standards on either lot or parcel.
- (2) **Application.** A property line adjustment may be submitted for review by the City Administrator without preliminary consultation, a land division conference, or a hearing where the adjustment complies with Sections **2.311** and **2.312**.
- (3) **Information.** The Applicant shall submit to the City the proposed map of the property line adjustment together with other supplementary data required for recording or specified herein for review and action by the City Administrator.

**SECTION 2.311 PROPERTY LINE ADJUSTMENT REQUIREMENTS**

All property line adjustment maps shall contain the following information:

- (1) A map clearly and legibly drawn on a sheet size that is acceptable for recording by the County Surveyor, Clerk or Recorder. The scale shall be selected to fit the sheet size, but in all cases the scale selected shall be one inch equals ten (10) feet or a smaller scale that is even multiples of one (1) inch equals ten (10) feet ( 1"=20', 1"=30', etc.).
- (2) The title "Property Line Adjustment for \_\_\_\_\_," the date and northpoint.
- (3) Name and address of the record owner(s) of the property to be adjusted.
- (4) Assessor Map and Tax Lot numbers and approximate acreage or square feet of each property prior to and after adjustment.
- (5) The location and boundary dimensions and other information to accurately locate the adjusted property line.
- (6) Existing conditions for land within the properties to be adjusted:
  - (a) The locations, names and widths of existing streets.
  - (b) The location, width and purpose of existing easements.
  - (c) The approximate location of buildings, public and private utilities, drainage ways and other significant features that would affect development of the adjusted properties.

**SECTION 2.312 DECISION CRITERIA**

A Property Line Adjustment may be approved based upon compliance with the submittal requirements specified above and the following findings:

- (1) The adjustment will not create an additional unit of land.



- (2) The adjustment will not create a land-locked parcel.
- (3) The existing unit of land reduced in size by the adjustment complies with applicable City Ordinances and this Code and will not create a non-conforming lot or non-conforming development.
- (4) The adjustment shall comply with any previous Conditions of Approval attached to the properties to be adjusted.
- (5) The adjustment shall comply with all state and county recording requirements.

### **SECTION 2.313 DECISION PROCESS**

- (1) A Property Line Adjustment does not require a Limited Land Use Decision or Notification. The City Administrator may consider a Property Line Adjustment map at any time following submittal of the application.
- (2) If the proposed Property Line Adjustment is consistent with City land use standards, the City Administrator may approve the map as submitted, approve with conditions or deny the request for noncompliance.
- (3) If the application requires a Variance or requires interpretation or the exercise of policy or legal judgment, the Planning Commission shall hold a public hearing in conformance with the Quasi-judicial Public Hearings requirements of **Section 3.510**.
- (4) Upon approval or denial, a Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Property Line Adjustment as specified in **Section 3.600**. If the Application is denied or the required conditions of approval are not agreed to by the Applicant, the Applicant may request an Appeal to the Planning Commission within 15 days of the decision in conformance with **Section 3.700**.

### **SECTION 2.314 PROPERTY LINE ADJUSTMENT FILING**

- (1) The property to be adjusted shall be surveyed in accordance with **ORS 92.06 subsection (7)** and **ORS 209.250** and monumented in accordance with **ORS 92.060, subsection (3)** unless the adjusted property line is a distance of even width along the common boundary as described in **ORS 92.060, subsection (9)**.
- (2) Deeds or conveyances for all lots or parcels conforming to the approved property line adjustment shall be filed with the County Clerk in accordance with **ORS 92.190, subsections (3) and (4)**.
- (3) Upon approval, the original survey map and two copies shall be signed by the City Administrator. A signed copy shall be returned to the Applicant and a signed copy maintained on file with the City. The original survey shall be forwarded to the County Surveyor for recording by the Applicant. If required conditions of approval are not met, the survey map shall not be signed and it shall be returned to the Applicant with a letter stating the reasons for denial. The Applicant may modify the map for compliance with the required conditions or may request an

Appeal to the Planning Commission within 15 days of the City Administrator's decision in conformance with **Section 3.700**.

- (4) Copies of all recorded conveyances and filed surveys shall be provided to the City for inclusion in the Record File of the Application, in accordance with **Section 2.150**.

**SECTION 2.320 SUBDIVISION OR PARTITION TENTATIVE PLAN**

- (1) The City Administrator shall be decision authority for all Duplex Division Partitions, the Planning Commission shall be the decision authority for all other Land Partitions and the City Council shall be the final decision authority for all Subdivisions with recommendation by the Planning Commission under the provisions of this Code unless combined with another request or if appealed to a higher authority. In the event that a consolidated application requires more than one decision, the highest decision authority will make all decisions requested in the application.
- (2) The Planning Commission shall hold a Limited Land Use Review for Partition Tentative Plan requests and the City Council shall hold a Limited Land Use Review for Subdivision Tentative Plan requests in conformance with **Section 3.400** or the decision authority may choose to hold a Quasi-judicial Public Hearing in conformance with **Section 3.510** to receive additional public comment on significant proposals. A consolidated request including a Variance shall also require a Quasi-judicial Public Hearing in conformance with **Section 2.600**.

**SECTION 2.321 SUBMISSION REQUIREMENTS**

A land divider shall prepare a Tentative Plan together with improvement plans and other supplementary material as may be required to indicate the general idea and objectives of the project. The Applicant shall submit 10 copies of the Tentative Plan and supplementary data to the City Administrator 30 days prior to the decision authority meeting at which consideration of the Tentative Plan is desired or following preliminary consultation if requested as specified in **Sections 2.110 and 2.120**.

**SECTION 2.322 FORM AND SCALE**

The Tentative Plan shall be clearly and legibly presented on an 11 by 17 inch or 8 1/2 by 11 inch sheet size for review by the City unless a larger size is needed to present the required information. The final Plat size shall be as required by the County Surveyor, usually 18 by 24 inches in size. The Plan shall be drawn to a scale of 1 inch equals some multiple of 10 feet. (10 feet, 20 feet, 30 feet, 100 feet, 200 feet, etc.) The scale may be increased or decreased as necessary to fit the sheet size, but in all cases the scale to be used shall be in multiples of 1 inch equals 10 feet.

**SECTION 2.323 GENERAL INFORMATION**

The following information shall be provided on all Tentative Plans:

- (1) All information required by **ORS 92** for a Tentative Plan including, but not limited to, the following.
- (2) No Tentative Plan shall be approved which bears a name using a word which is the same as, similar to or pronounced the same as a word in the name of any other land division in the same county, except for the words "town," "city," "place," "court," "addition," or similar words, unless the land Platted is contiguous to and Platted by the same party that Platted the land division bearing that name or unless the party files and records the consent of the party that Platted the land division bearing that name. All Plats must continue the lot and block numbers of the Plat of the same name last filed.

Land divisions submitted for final approval shall not use block numbers or letters unless such land division is a continued phase of a previously recorded land division, bearing the same name, that has previously used block numbers or letters.

- (3) Date, northpoint, scale of drawing.
- (4) Appropriate identification clearly stating the map is a subdivision or partition Tentative Plan.
- (5) Location of the land division by section, township and range sufficient to define the location and boundaries of the proposed land division.
- (6) Names and addresses of the owner, applicant and surveyor.
- (7) The approximate acreage of the tract being subdivided or partitioned, and the size of proposed lots or parcels.

**SECTION 2.324 EXISTING CONDITIONS INFORMATION**

- (1) A vicinity map with the names and addresses of all owners of property within 100 feet of the proposed land division.
- (2) The location, widths and names of both opened and unopened streets within or adjacent to the land division, together with easements, other rights-of-ways and other important locational information such as section lines, corners, city boundary lines and monuments.
- (3) The location of all existing sewers, septic tanks and drainfields, water lines, storm drains, culverts, ditches and utilities, together with elevational data, on the site and on adjoining property or streets.
- (4) The elevations of all points used to determine contours; said points given to true elevation above mean sea level as determined by the City. The base data used shall be clearly indicated and shall be compatible to City datum if bench marks are not adjacent. The following intervals are required:

Contour Intervals	Ground Slope
One Foot	Up to 5%
Two Feet	Over 5% through 10%
Five Feet	Over 10%

**Exception:** The Planning Commission may approve slope indications for partitions by means of arrows or other suitable symbols together with not less than four spot elevations per acre evenly distributed for slopes of less than five percent (5%).

- (5) The location of at least one bench mark control point within the tract boundaries.
- (6) The location and direction of all on-site and off-site drainage, drainage channels, water courses and the location of all areas subject to flooding.
- (7) Natural features such as rock outcroppings, wetlands, wooded areas and isolated preservable trees. Lands that are wholly or partially within areas identified as wetlands on the State-wide Wetlands Inventory shall be clearly delineated for review and permit by the Division of State Lands.
- (8) Existing uses on and adjacent to the property, including the location of all existing structures to remain on the property after the land division.
- (9) Zoning on and adjacent to the property to be divided.

**SECTION 2.325 PROPOSED PLAN INFORMATION**

- (1) A vicinity map clearly showing the relationship and connections of the proposed land division to surrounding developments, streets, storm drainage, sewer, septic tank and drainfield, water and utility services.

- (2) The location, width, name and approximate grade and curve radii of proposed streets. The relationship of proposed streets to existing streets and any projected future streets shown on the City's Comprehensive Plan or Official Street Map. Streets proposed for public dedication and streets held for private use shall be clearly indicated and all reservations or restrictions relating to such private streets shall be included in the statements specified in **Section 2.326**.
- (3) The location, width, and purpose of existing and proposed easements.
- (4) The total acreage and the proposed land use for the land division including sites for special purposes or those allocated for public use.
- (5) The location and approximate dimensions of lots or parcels and the proposed lot or parcel numbers. Where large property divisions are proposed that may be redivided in the future to smaller residential lots or parcels, the Applicant shall provide a sketch plan showing the redivision configuration.
- (6) An outline of the areas proposed for partial recording of a final Plat and a time schedule for additional Platting if staged recording is proposed.
- (7) A general layout of all public utilities and facilities to be installed including provisions for connections and extensions beyond the proposed land division.
- (8) The proposed method of connection to all drainage channels located outside of the proposed land division and the proposed method of flood control (detention ponds, swales, etc.) and contamination protection (settling basins, separators, etc.).
- (9) Identification of all proposed public dedications including streets, pedestrian or bike ways, parks or open space areas.
- (10) Identification and layout of all special improvements. Special improvements may include, but are not limited to, signs, lighting, benches, mail boxes, bus stops, greenways, bike or pedestrian paths.

#### **SECTION 2.326            ACCOMPANYING STATEMENTS**

The Tentative Plan shall be accompanied by written statements from the Applicant giving essential information regarding the following matters:

- (1) Identify the adequacy and source of water supply including:
  - (a) Certification that water will be available to the lot line of each and every lot depicted on the Tentative Plan for a land division, or
  - (b) A bond, contract or other assurance by the Applicant that a public water supply system will be installed by or on behalf of the Applicant to each and every lot or parcel depicted on the Tentative Plan. The amount of such bond, contract or other assurance shall be determined by the City Administrator with the concurrence of the City Council.

- (2) Identify the proposed method of sewage disposal including:
  - (a) Certification that a sewage disposal system will be available to the lot line of each and every lot or parcel depicted on the Tentative Plan for a land division, or
  - (b) A bond, contract or other assurance by the Applicant that a sewage disposal system will be installed by or on behalf of the Applicant to each and every lot depicted on the Tentative Plan. The amount of such bond, contract or other assurance shall be determined by the City Administrator with the concurrence of the City Council.
- (3) Protective covenants, conditions and deed restrictions (CC&R'S) to be recorded, if any.
- (4) Identify all proposed public dedications including streets, pedestrian or bike ways, parks or open space areas.
- (5) Identify all public improvements proposed to be installed, the approximate time installation is anticipated and the proposed method of financing. Identify required improvements that are proposed to not be provided and the reason why they are not considered necessary for the proposed land division.
- (6) A statement that the declarations required by **ORS 92.075** on the final Plat can be achieved by the fee owner, vendor and/or the mortgage or trust deed holder of the property.
- (7) Proposed staged subdivisions or serial partitions shall be clearly identified on the application. A time schedule for future Platting shall also be submitted. The decision authority may require a specific time schedule for approval. All future Plats shall conform to the adopted ordinance requirements applicable at the time of Platting.

#### **SECTION 2.327 SUPPLEMENTAL INFORMATION**

Any of the following may be required by the City to supplement the Tentative Plan.

- (1) Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed land division showing the finished grade of streets and the nature and extent of street construction.
- (2) A detailed plan of the domestic water supply lines and related water service facilities.
- (3) A detailed plan of the sewage disposal, storm water drainage and flood control, including profiles of proposed drainage ways.
- (4) If lot areas are to be graded, a plan showing the nature of cuts and fill and information on the character of the soil.
- (5) Specifications and details of all proposed improvements.

- (6) Wetland delineation if identified as an existing condition in **Section 2.324, Subsection (7)**.

#### **SECTION 2.328 DECISION CRITERIA**

A Tentative Plan may be approved by the decision authority. Approval shall be based upon compliance with the submittal requirements specified above and the following findings:

- (1) Any undeveloped portion of the proposed land division can be developed in accordance with City ordinances.
- (2) The proposed development and all adjoining land can be developed in accordance with this Code and City Ordinances.
- (3) The proposed street plan is in conformance with City standards and provides the most economic, safe and efficient circulation of traffic in relation to the existing City street system.
- (4) The proposed utility connections are available, adequate and provide the most efficient and convenient connections to the existing utility systems and the proposed utilities can be extended in the future to accommodate future growth beyond the proposed land division.
- (5) Special site features have been considered and utilized.
- (6) Drainageways are protected and required drainage facilities are provided in conformance with State erosion control regulations.
- (7) The extent of possible emission or nuisance characteristics are compatible with the land use zoning district, adjacent properties and the applicable standards of all regulatory agencies having jurisdiction.
- (8) Potential adverse impacts have been mitigated to the maximum extent possible.

#### **SECTION 2.329 DECISION PROCESS**

- (1) Upon receipt of an Application and Tentative Plan, the City shall furnish one copy of the Tentative Plan and supplementary material to the Fire District, County Road Department, the County Health Department and the County Surveyor and other agencies known to be affected. Agencies notified shall be given 14 days to review the plan and submit written comments. Notification to the Division of State Lands for identified wetlands shall require 30 days for review in accordance with **ORS 227.350, Subsection (4)**.
- (2) A Land Division requires a "Limited Land Use Review" in conformance with **Section 3.400**. The "Limited Land Use Review" shall be conducted by the decision authority. A Limited Land Use Decision requires notification to owners of property within 100 Feet of the subject property with an opportunity to submit written comments at any time prior to the "Limited Land Use Review" decision.



- (3) The decision authority shall consider the Tentative Plan proposal and any written comments at the first regular meeting following the 14-day review period.
- (4) If the Application includes a Variance request, the Tentative Plan and Variance will be considered together as provided in **Section 2.130 (3)** and the Decision Criteria for the Variance shall apply as specified in **Section 2.600 (2)**.
- (5) The decision authority shall hold a public hearing on a Tentative Plan and Variance request in conformance with the Quasi-judicial Public Hearing requirements of **Section 3.510**. A public hearing may also be held on a Tentative Plan if requested or if the decision authority determines that conditions may present possible adverse impacts on adjacent properties or within the land use-zoning district.
- (6) The decision authority may continue the review or hearing for good cause.
- (7) If the proposed Land Division is consistent with the Comprehensive Plan and City land use standards, the decision authority may approve the Tentative Plan as submitted or as modified to achieve compliance.
- (8) If the proposed land division is consistent with the Comprehensive Plan but requires modification to certain features in order to comply with City land use standards, the decision authority may approve the Tentative Plan with specified conditions of approval to achieve compliance with the intent of City land use standards.
- (9) If the proposed land division does not comply with the Comprehensive Plan or cannot comply with City land use standards even with conditions of approval, the decision authority shall deny the request.
- (10) Approval of the Tentative Plan shall indicate approval of the final Plat if there is no change in the plan of the land division and if the Applicant complies with the requirements of this Code and any conditions of approval specified by the decision authority.
- (11) The action of the decision authority shall be noted on two copies of the Tentative Plan and any attached documents describing conditions. One copy shall be returned to the Applicant and the other shall be retained by the City.
- (12) A written record of the findings and action of the City shall be maintained by the City in a Record File of the Application as specified in **Section 2.150**. Notice of Decision shall be given the Applicant and other parties to the proceedings together with any conditions of approval for the proposed land division as specified in **Section 3.600, Decision**.

**SECTION 2.330 SUBDIVISION OR PARTITION PLAT****SECTION 2.331 SUBMISSION REQUIREMENTS**

The land divider shall cause the land division or any part thereof to be surveyed, monumented and a Plat prepared in conformance with the approved Tentative Plan. Any changes in the Tentative Plan shall be approved prior to preparation of the Plat. The land divider shall submit the exact duplicate transparency and five prints of the completed Plat to the City for review and approval by the City Administrator. The City may withhold approval of the final Plat until the Conditions of Approval have been complied with and construction requirements have been approved by the City.

**SECTION 2.332 FORM AND SCALE**

The final Plat shall be submitted in the form prescribed by **ORS 92** and the county recording standards. The scale of the final Plat shall be specified by the County Surveyor. The scale used shall be in multiples of one (1) inch equals ten (10) feet and may be increased or decreased as needed to fit the required sheet size of 18 by 24 inches.

**SECTION 2.333 INFORMATION REQUIRED**

In addition to that otherwise specified by law, the following information shall be shown on the final Plat.

- (1) The name of the owner(s), land divider, surveyor and land division. The date, scale, northpoint, legend and existing features such as creeks, drainage courses, highways and railroads.
- (2) Reference to Federal Geodetic Control Committee guidelines for third order class II, points of existing surveys identified, related to the Plat by distances and bearings, and referenced to a field book or map as follows:
  - (a) Stakes, monuments or other evidence found on the ground and used to determine the boundaries of the land division.
  - (b) Adjoining corners of adjoining land divisions.
  - (c) Other monuments found or established in making the survey or required to be installed by provisions of this Code.
- (3) The exact location and width of streets, rights-of-ways and easements intercepting the boundary of the tract.
- (4) Tract and lot or parcel boundary lines and street rights-of-ways and center lines, with dimensions, bearings or deflection angles, radii, arcs, points of curvature and tangent bearings. Tract boundaries and street bearings shall be shown to the nearest 30 seconds with basis of bearings. Distances shall be shown to the nearest 0.01 feet. No ditto marks shall be used.
- (5) The name and width of the portion of streets being dedicated, the width of any existing right-of-way and the width on each side of the center line. For streets on

curvature, curve data shall be based on the street center line. In addition to the center-line dimensions, the radius and center angle shall be indicated.

- (6) Easements denoted by fine dashed lines clearly identified and, if already of record, their recorded reference. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the land division, must be shown. If the easement is being dedicated by the Plat or map, it shall be properly referenced in the owner's certificates of dedication.
- (7) Locations and widths of drainage channels including one hundred year flood plain or normal high water lines for any creek or other body of water, railroad rights-of-way, reserve strips at the end of stub streets or along the edge of partial width streets on the boundary of the land division.
- (8) Numbering of residential lots or parcels shall begin with the number "1" and be numbered consecutively. Number sequence to generally follow the same system as sections are numbered in a township.
- (9) Lots or parcels in residential land divisions that are intended for a purpose other than residential shall be identified with acreage and alphabetic symbols. .
- (10) Notations indicating any limitations on rights of access to or from streets and lots or other parcels of land as established by the City.
- (11) Special building setback lines and solar easements, if any, that are to be made part of the Deed Covenants Conditions and Restrictions (CC&R's) of the land division.

#### **SECTION 2.334 SUPPLEMENTAL INFORMATION WITH PLAT**

Filing of separate legal documents to achieve any of the requirements of the final Plat may be permitted by the City when it can be shown that placing such information on the final Plat is not required to achieve the purposes of this Code. The following data shall accompany the Plat.

- (1) A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the land to be divided.
- (2) Legal descriptions of the land division boundaries if available at the time of Plat approval.
- (3) Data sheets and drawings showing the following:
  - (a) Traverse data including the coordinates of the boundary of the land division and ties to section corners and donation land claim corners, and showing the error of closure, if any.
  - (b) The computation of distances, angles and courses shown on the Plat.

- (c) Ties to existing monuments, proposed monuments, adjacent subdivision, street corners and state highway stationing.
- (4) A copy of any proposed deed CC&R's (Covenants, Conditions and Restrictions) applicable to the land division or a statement in writing signed by the land divider that no such restrictions will be established.
- (5) A copy of any dedication requiring separate documents.
- (6) Proof that all taxes and assessments on the tract have been paid.
- (7) A certificate by the City that the land divider has complied with one of the following alternatives:
  - (a) All improvements have been installed in accordance with the requirements of these regulations and with the action of the decision authority granting conditional approval of the Tentative Plan.
  - (b) An agreement and security has been executed as provided in **Sections 8.510 and 8.520** to assure completion of required improvements.

#### **SECTION 2.335 SURVEY REQUIREMENTS**

- (1) A complete and accurate survey of the land to be divided shall be made by a registered surveyor licensed to practice in the State of Oregon in accordance with standard practices and principles of land surveying and as provided in this Code and State law including **Oregon Revised Statutes, Chapter 92 and Chapter 209**.
- (2) Monuments
  - (a) All monuments shall be set according to the provisions of State law.
  - (b) In making the survey for the land division, the survey shall set sufficient permanent monuments prior to the recording of the final Plat so that the survey or any part thereof may be retraced according to standards required by the County Surveyor.
  - (c) Interior "post monumentation" may be permitted by approval of the decision authority at the time of approval of the Tentative Plan or upon special request prior to filing the final Plat subject to the following:
    - 1. The Subdivider has shown that it is necessary and practical to delay the interior monumentation.
    - 2. The Subdivider of the Plat agrees to furnish a bond, cash deposit, irrevocable letter of credit issued by a commercial bank as defined in **ORS 706.005**, or other security approved by the City in an amount equal to not more than 120 per cent of the estimated cost of performing the work for the interior monuments.

3. The Subdivider shall sign an agreement with his surveyor and the City as to the amount of the security to be furnished at the time of submitting the final Plat and include a statement how the surveyor is to be paid for the work of establishing the interior monuments. The rules for post monumentation shall be followed. Provide the City with an estimated date when monumentation will be completed, and set out other particulars that may be necessary to insure the completion of the monumentation at a later date.
- (3) Utility markers shall be provided for all underground water, sewer, septic tanks and drainfields and utility stubs within the prepared land division as approved by the City.

#### **SECTION 2.336 DEDICATION REQUIREMENTS**

- (1) All lots or parcels of land shown on the final Plat intended for public use shall be offered for dedication to the City at the time the Plat is filed. Exception: Those lots or parcels, or common linear open spaces which are intended for the exclusive use of the owners, their licensees, visitors, tenants or employees; and also excepted are those parcels of land reserved for public acquisition under the provisions of **Section 6.400** of this Code.
- (2) All streets, pedestrian ways, drainage channels, open spaces, easements and other rights-of-way shown on the final Plat intended for public use shall be offered for dedication for public use at the time the final Plat is filed.
- (3) All rights of access to and from streets, lots and parcels of land shown on the final Plat intended to be surrendered shall be offered for dedication at the time the final Plat is filed.
- (4) The land divider shall provide and designate one-foot reserve strips across the ends of stubbed streets adjoining undivided land or along half streets adjoining undivided land. The reserve strip shall be included in the dedication granting to the City the right to control access over the reserve strip to assure the continuation or completion of the street. This reserve strip shall overlay the dedicated street right-of-way.

#### **SECTION 2.337 CERTIFICATES ON FINAL PLAT**

- (1) Certificates on the Final Subdivision or Partition Plat: The following certificates, declarations, acknowledgments and other requirements established by State law shall appear on the final Plat of a land division.
  - (a) A declaration in conformance with **ORS 92.075** on the final Plat by the declarant - the fee owner, vendor and/or the mortgage or trust deed holder of the property who has caused or consented to the following:
    1. Preparation and recording of the final Plat.
    2. Offering for dedication all parcels of land, streets, alleys, pedestrian ways, drainage channels, easements and other rights-of-way intended for public use.

3. Protective covenants, conditions or restrictions on the use of lots or parcels, rights-of-way and easements.
  - (b) A certificate of the registered licensed surveyor who prepared the survey and the final Plat.
  - (c) A certificate for execution by the City Administrator.
  - (d) A certificate for execution by the County Surveyor.
  - (e) A certificate for execution by the County Assessor.
  - (f) A certificate for execution by the County Clerk.
  - (g) Other certifications now or hereafter required by law.
  - (h) A statement of water rights together with the water rights certificate number if applicable.
- (2) All signatures on the Plat shall be in permanent black India type ink in conformance with **ORS 92.080**.
  - (3) All copies required for filing purposes shall be certified as an exact copy by the surveyor who prepared the Plat in accordance with **ORS 92.120, Subsection (3)**.

#### **SECTION 2.338 DECISION CRITERIA**

A final Plat of a subdivision or partition may be approved based upon compliance with the submittal requirements specified above and the following findings:

- (1) The final Plat is in substantial conformance with the Tentative Plan.
- (2) The Conditions of Approval attached to the Tentative Plan have been satisfied.

#### **SECTION 2.339 DECISION PROCESS**

- (1) Upon receipt by the City, the Plat and other data shall be reviewed by the City Administrator or designee to determine that the land division as shown is substantially the same as it appeared on the approved Tentative Plan and that there has been compliance with provisions of law and of this Code.
- (2) The City may make such checks in the field as are desirable to verify that the Plat is sufficiently correct on the ground and City representatives may enter the property for this purpose. Certifications of the County Surveyor shall be used to determine that the Plat survey is technically correct.
- (3) If the City Administrator determines that the Plat conforms to the approved Tentative Plan, including all supplemental documents, provisions for required improvements and all conditions specified by the decision authority; approval shall be indicated by the signature of the City Administrator. The approval of the Plat does not constitute or effect an acceptance by the City of the dedication of

any street or other easements offered on the Plat until officially accepted by the City.

- (4) If the City Administrator finds errors or finds that the Plat does not substantially conform to the approved Tentative Plan, the City shall notify the decision authority and shall advise the land divider of the changes or additions that must be made and shall afford the land divider an opportunity to make corrections. The corrected Plat shall be resubmitted to the decision authority for verification of compliance with the approved Tentative Plan.

#### **SECTION 2.340 FILING OF PLAT**

- (1) The land divider shall, without delay, submit the Plat for signatures of public officials required by this Code or State law. Approval of the Plat shall be null and void if it is not recorded within 120 days after approval by the City Administrator.
- (2) The land divider shall deliver to the City a signed and certified copy of the Plat and all recorded documents required and approved by the City. The City shall maintain the documents in the Record File of the Application in accordance with **Section 2.150**.
- (3) The land divider offering a Plat for filing to which a water right is apparent shall also submit a copy of the Plat to the State Water Resources Department as required by **ORS 92.120**.

#### **SECTION 2.350 REPLATTING**

- (1) Replatting shall allow the reconfiguration of lots or parcels and public easements within a recorded Plat in accordance with **ORS 92.180 to 92.190**. A replat shall conform to all of the requirements of the City for a subdivision or partition of land including approval of a Tentative Plan unless approved as a Property Line Adjustment as described in **Section 2.310** of this Code. Upon approval by the City, the Replat will act to vacate the Platted lots or parcels and easements within the Replat area.
- (2) Notice consistent with that required for approval of a Tentative Plan shall be provided by the City. All affected utility companies or public agencies shall also be notified. Utility companies desiring to maintain easements proposed for vacation shall notify the City within 14 days of the mailing of the notice.

#### **SECTION 2.360 EXPEDITED LAND DIVISIONS**

When an expedited land division for residential use only is requested by an Applicant the City shall use the procedures for expedited land divisions specified under **ORS 197.365** in lieu of the procedures described in **Sections 2.320 through 2.329** if the application complies with the conditions and standards of **ORS 197.360 through 197.380**.

**SECTION 2.400 SITE PLAN REVIEW**

The purpose of the Site Plan Review procedures is to correlate the general code requirements with the specific site conditions and proposed uses through a comprehensive review process to assure that developments are in conformance with the City's applicable land use regulations.

The City Administrator shall be the Site Plan Review decision authority for structures less than 4,000 square feet and the Planning Commission shall be the Site Plan Review decision authority for structures greater than 4,000 square feet.

- (1) **Site Plan Review Application.** An application for a use requiring a Site Plan Review shall be filed with the City together with a site plan and other supplementary data described in the Application, **Section 2.130** and **Section 2.140**. The City Administrator may also request a Site Plan Review for any development proposal, in addition to those specifically required by this Code, if the site or proposed use possess any one of the following characteristics:
  - (a) Site is traversed by a natural drainage-way or has demonstrated drainage limitations.
  - (b) Site includes, or is adjacent to, Open Space and/or Greenway Areas designated in the Comprehensive Plan.
  - (c) Site is located in a hazard area.
  - (d) Site contains unusual topographic features including hillside slopes exceeding 15% slopes.
  - (e) Site or proposed buildings have unusual or special features requiring a decision by the City.
- (2) **Decision Criteria.** After an examination of the Site and prior to approval, the decision authority must make the following findings:
  - (a) That the proposed development complies with the intent of City's Comprehensive Plan.
  - (b) That there is compliance with City codes and ordinances.
  - (c) That traffic congestion is avoided, pedestrian and vehicular safety are protected, and future street right-of-ways are protected.
  - (d) That proposed signs or lighting will not, by size, location or color, interfere with traffic, limit visibility or impact on adjacent properties.
  - (e) That adequate water, sewage disposal system and utilities for the proposed use are available.
  - (f) That drainage-ways are protected and drainage facilities provided.



- (g) That the extent of emissions and potential nuisance characteristics are compatible with the land use zone, adjacent land uses, and the standards of all applicable regulatory agencies having jurisdiction.
  - (h) That the characteristics of the proposed development are compatible with the land use zone, the surrounding area and potential impacts have been mitigated to the maximum extent possible.
- (3) **Decision Process.** The procedure for taking action on an application for a Site Plan Review shall be as follows:
  - (a) A Site Plan Review requires a "Limited Land Use Review" by the City Administrator or Planning Commission in conformance with **Section 3.400**. A Limited Land Use Decision requires notification to owners of property within 100 Feet of the subject property with an opportunity to submit written comments prior to the review and decision by the decision authority.
  - (b) The decision authority may approve, disapprove, or modify and approve the Site Plan and attach any reasonable conditions to approval of a site development plan.
  - (c) The decision authority may also call for a public hearing to receive testimony if it determines that the proposed development may present possible adverse impacts on surrounding properties, the neighborhood or the City.
  - (d) Once approved, the site plan submitted shall become the Official Plan. Building permits shall be issued only for plans that conform to the Official Plan and all construction shall conform to the Official Plan or a Certificate of Occupancy may be withheld until compliance.
  - (e) All required elements of the approved site plan shall be installed and maintained indefinitely by the owner, unless approval has been received for a revision or amendment.
  - (f) Revisions or amendments to an approved site plan shall follow the same procedure as for adoption of a site development plan.
  - (g) A written record of the findings and action of the decision authority shall be maintained by the City in a Record File of the Application as specified in **Section 2.150**. Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Site Plan as specified in **Section 3.600**.

**SECTION 2.500            CONDITIONAL USES**

A conditional use is a use of land or a structure that is normally appropriate in the district where it is permitted, but due to the specifics of that use could cause a potential nuisance, health or safety problem. It is the intent of this section to provide standards and procedures so that uses which are classified as conditional can fit into a particular zone in a manner that safeguards surrounding property, the neighborhood, and the City.

The City Administrator or the Planning Commission may also request a Conditional Use for any development proposal, in addition to those specifically required by this Code if the property, proposed development or use has unusual or special features that will not permit the development to fully comply with the standards of this Code or where the proposed development or use pose potential adverse impacts that may require mitigation or require a decision by the City.

- (1) **Conditional Use Application.** An application for a use requiring a Conditional Use must be filed with the City together with a site plan and other supplementary data using forms prescribed in **Section 2.130** and **Section 2.140**.  
Uses existing prior to the effective date of this Code that are classified as a Conditional Use in this Code shall conform with the requirements for a conditional use if a change in use, lot area or an alteration is proposed.
- (2) **Decision Criteria.** Conditional uses listed in this Code may be permitted, altered, or enlarged upon authorization of the Planning Commission in accordance with the following findings:
  - (a) That the applicable provisions of city codes and ordinances are complied with.
  - (b) That traffic congestion is avoided, pedestrian and vehicular safety are protected, and future street right-of-way are protected.
  - (c) That proposed signs or lighting will not, by size, location or color, interfere with traffic, limit visibility or impact on adjacent properties.
  - (d) That adequate water, sewage disposal system and utilities for the proposed use are available.
  - (e) That drainage-ways are protected and drainage facilities provided.
  - (g) That the extent of emissions and potential nuisance characteristics are compatible with the land use zone, adjacent land uses, and the standards of all applicable regulatory agencies having jurisdiction.
  - (h) That the characteristics of the proposed development is compatible with the land use zone, the surrounding area and potential impacts have been mitigated to the maximum extent possible.
- (3) **Decision Conditions.** In approving a Conditional Use application, the Planning Commission may require additional standards and conditions that the Planning Commission considers necessary to comply with the intent and purpose of the

Comprehensive Plan and implementing codes or ordinances. These conditions may include, but are not limited to, the following:

- (a) Regulating the required lot size, lot width, or yard dimensions.
  - (b) Regulating the height of buildings.
  - (c) Controlling the location and number of vehicle access points.
  - (d) Requiring dedication of additional street right-of-way or increasing the street width.
  - (e) Increasing the number of required off-street parking or off-street loading spaces.
  - (f) Requiring fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
  - (g) Limiting the number, size, location and lighting of signs.
  - (h) Requiring ongoing maintenance of buildings and grounds.
  - (i) Regulating emissions, potential hazards or nuisance characteristics caused by the proposed use which could have a negative impact on the surrounding area or the City as a whole.
  - (j) Providing internal property improvements such as utilities, drainage facilities, streets, curbs, gutters, walkways, parking areas, landscaping, fencing, screening, or recreation areas in order to enhance the area and to protect adjacent or nearby property.
  - (k) Regulating time periods for the conduct of certain activities.
  - (l) Setting a time limit for Conditional Use standards or conditions.
  - (m) Providing a performance bond or other security for the cost of improvements to guarantee compliance with the standards and conditions of approval.
  - (n) Providing a contractual agreement with the City to assure that the Applicant will pay a fair share of the development costs for future public improvements.
- (4) **Decision Process.** The procedure for taking action on an application for a Conditional Use shall be as follows:
- (a) A Conditional Use requires a "Quasi-judicial Public Hearing" by the Planning Commission in conformance with **Section 3.510**. A Quasi-judicial Decision requires notification to property owners within 100 Feet of the subject property with an opportunity to submit written or oral comments at a public

hearing prior to the close of the record and decision by the Planning Commission.

- (b) The Planning Commission may approve, deny, or approve conditionally the Conditional Use and attach any reasonable standards of development to attain compliance with the zone and city codes and ordinances.
- (c) If an application is denied, the action must be based on reasons related to non-compliance with the City Comprehensive Plan, Development Code or Ordinance requirements.
- (d) Once approved, the Conditional Use shall become the Official Plan. Building permits shall be issued only for plans which conform to the Official Plan and all construction shall conform to the official plan or a Certificate of Occupancy may be withheld until compliance.
- (e) All required elements of the approved Conditional Use shall be installed and maintained indefinitely by the owner unless approval has been received for a revision or amendment.
- (f) Revisions or amendments to an approved Conditional Use shall follow the same procedure as that utilized for approval.
- (g) A written record of the findings and action of the Planning Commission shall be maintained by the City in a Record File of the Application as specified in **Section 2.150**. Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Conditional Use as specified in **Section 3.600**.

**SECTION 2.600 VARIANCES**

Because of the impossibility of foreseeing and providing for all circumstances and conditions which may effect individual properties or uses, the variance provision is created to allow modification of the provisions of this Code for special and unusual circumstances without defeating the purpose and intent of the Code.

- (1) **Variance Application.** An application for a Variance shall be filed with the City together with a site plan and other supplementary data using forms prescribed in **Section 2.130** and **Section 2.140**. The Applicant shall submit evidence that the circumstance for granting a Variance as outlined in Item (2) herein apply to the Variance request. The Planning Commission may authorize variances from the requirements of this Code where it can be shown that, owing to special and unusual circumstances related to a specific property or use, strict application of the Code would cause an undue or unnecessary hardship. A Variance shall not be granted to allow a use permitted in another district or zone or to allow a use not authorized within the intended district or zone. In granting a Variance, the Planning Commission may attach conditions that it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purposes of this Code.

- (2) **Decision Criteria.** A Variance may be granted if the Planning Commission can make the following findings:

- (a) That there are special circumstances or conditions affecting the property or use.
- (b) That the Variance is necessary for the proper design and/or function of the proposed development or land division.

The Variance must comply with the following conditions:

- (c) That the granting of the Variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated.
- (d) That the granting of the Variance will not conflict with the purpose and intent of the district or zone, the Comprehensive Plan or other related ordinances of the City.

- (3) **Decision Process.** The procedure for taking action on an application for a Variance shall be as follows:

- (a) A Variance requires a "Quasi-judicial Public Hearing" by the Planning Commission in conformance with **Section 3.510**. A Quasi-judicial Decision requires notification to property owners within 100 Feet of the subject property with an opportunity to submit written or oral comments at a public hearing prior to the close of the record and a decision by the Planning Commission.
- (b) The Planning Commission may approve, deny, or approve conditionally the Variance request and attach any reasonable standards of development to

attain compliance with the zoning district and this Code as provided in **Section 3.600**.

- (c) If an application is denied, the action must be based on reasons related to non-compliance with the Comprehensive Plan and Code requirements.
- (d) If the application is approved, the Planning Commission may prescribe the terms and conditions upon which a Variance may be granted and may set a time limit for the duration of such Variance and may require guarantees in an approved form to insure that the conditions and standards for the approved Variance will be fulfilled.
- (e) Once approved, the Variance shall become official standard. Building permits or land divisions shall only be approved for plans that conform to the conditions and standards of the approved Variance and all construction shall conform to the approved Variance or a Certificate of Occupancy may be withheld until compliance.
- (f) All required elements of the approved Variance shall be installed and maintained indefinitely by the owner unless approval has been received for a revision or amendment.
- (g) Revisions or amendments to an approved Variance shall follow the same procedure as that utilized for approval.
- (h) A written record of the findings and action of the Planning Commission shall be maintained by the City in a Record File of the Application as specified in **Section 2.150**. Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Variance as specified in **Section 3.600**.

**SECTION 2.700 AMENDMENTS**

It is recognized that this Code or the Comprehensive Plan, may require amendments to adjust to changing circumstances. An amendment shall require a Legislative Decision as defined in **Section 3.200 (2)** if it applies to the Code or Plan in general, or a Quasi-judicial Decision as defined in **Section 3.200 (3)** if it applies to a specific property or use.

- (1) **Amendment Application.** An Amendment may be initiated by the City Administrator, the City Council, the City Planning Commission or by an Applicant. A request by an Applicant for an amendment shall be accomplished by filing an application with the City using forms prescribed in **Section 2.130**.
- (2) **Decision Criteria.** All requests for an amendment to the text or to the Zoning/ Comprehensive Plan Map of this Code may be permitted upon authorization by the City Council in accordance with the following findings:
  - (a) The proposed amendment is consistent with the intent of the Comprehensive Plan.
  - (b) There is a need for the proposed amendment to comply with changing conditions or new laws.
  - (c) The amendment will not have an undue adverse impact on adjacent areas or the land use plan of the City.
  - (d) The amendment will not have an undue adverse environmental impact.
  - (e) The amendment will not have an undue adverse impact on public facilities.
  - (f) The amendment will not have an undue adverse impact on transportation.
  - (g) The amendment will not have an undue adverse impact on the economy of the area.
  - (h) The amendment is consistent with the intent of the applicable Statewide Planning Goals.
- (3) **Decision Process.**
  - (a) Text amendments or map amendments that affect a group or class of properties within the City requires a "Legislative Decision" by the City Council with recommendation by the Planning Commission in conformance with the Legislative Public Hearing procedures of **Section 3.520**.
  - (b) Map amendments initiated by an Applicant for a specific property within the City requires a "Quasi-judicial Decision" by the City Council with recommendation by the Planning Commission in conformance with the Quasi-judicial Public Hearing procedures of **Section 3.510**.

- (c) The City Council upon recommendation of the Planning Commission may approve, deny or approve with conditions to attain compliance with the intent of this Code or with the applicable standards of the zoning district.
  - (d) The City is not required to justify denial of a proposed legislative change.
  - (e) A written record of the findings and action of the Planning Commission and City Council shall be maintained by the City in a Record File of the Application as specified in **Section 2.150**. Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Amendment as specified in **Section 3.600**.
- (4) No application of a property owner for an amendment to the text of this Code shall be considered by the City within a one-year period following previous denial of a similar request, except the City Council may permit a new application, if in the opinion of the Council, new evidence or a change of circumstance warrant it.



**SECTION 2.800 ANNEXATIONS**

The annexation of land to the City of Adair Village shall promote orderly growth of the City and the efficient provision of public facilities and services. The Adair Village Urban Growth Boundary Agreement with Benton County specifies that annexations and urban services shall only occur within the Adair Village Urban Growth Boundary (UGB). The procedures and standards for annexations are specified in **ORS 222.111 to 222.180**. A change in the UGB requires an Amendment to the Adair Village Comprehensive Plan in conformance with Statewide Planning Goal 14 and an Amendment to the Urban Growth Boundary and Policy Agreement between the City of Adair Village and Benton County.

**(1) Annexation Application**

A proposal for annexation may be initiated by the City Council or by a petition to the City Council by owners of real property located in the territory to be annexed. A request by a property owner for an annexation shall be accomplished by filing an application with the City using forms prescribed in **Section 2.130**. Each application for annexation shall include the following material:

- (a) Written consent to the annexation signed by the requisite number of affected property owners, electors, or both as provided by state law.
- (b) A legal description of the property to be annexed and a boundary survey certified by a registered engineer or surveyor.
- (c) A map of the area to be annexed including adjacent City territory.
- (d) A statement of the expected demand on public facilities and the availability of public facilities and services to serve the proposed annexation.
- (e) A statement of the overall development intent and a conceptual land use plan indicating the types and intensities of proposed development, transportation corridors, watercourses, significant natural features, and adjoining development.
- (f) Upon acceptance of a complete application, the City shall request a Staff Review together with other public or private agencies which may be affected by the proposed annexation. Upon receipt of the application, plans and accompanying narrative, Staff shall make an evaluation and recommendation. Comments and recommendations shall be available to the public and the Applicant. The Applicant shall be advised of any recommended changes or conditions for approval. The City shall incorporate all Staff comments into a report to the Planning Commission and City Council. The report shall include an analysis of the impacts of the proposed annexation, a review of applicable City and State policies and standards, and a recommendation as to the appropriateness of the proposed development and the annexation itself.

**(2) Decision Criteria.** All requests for annexation to the City may be permitted upon authorization by the City Council in accordance with following findings:

- (a) The annexation will not have an undue adverse environmental impact.

- (b) The annexation will not have an undue adverse impact on public facilities.
  - (c) The annexation will not have an undue adverse impact on transportation.
- (3) **Decision Process.** The procedure for taking action on an annexation request may be one of the following:
- (a) Upon the filing of a complete application for annexation, the City Council shall review the application and refer the request to the Planning Commission to evaluate the proposed annexation and may determine the appropriate zoning district to be applied upon annexation and make a recommendation to the City Council.
    - 1. The Planning Commission may hold a public hearing in accordance with the provisions of **Section 3.510** for the purposes of reviewing the proposed annexation and development district(s). Following the close of the public hearing the Commission may recommend the appropriate zoning district to be applied and forward its recommendation to the City Council or,
    - 2. The Planning Commission and City Council may choose to combine their hearings into a single joint public hearing in conformance with **Section 3.510 (3)**.
  - (b) The City Council may submit the proposal for annexation to the electors of the territory to be annexed except as provided in **ORS 222.120**.
  - (c) The City Council may submit the proposal for annexation to the electors of the City except as provided in **ORS 222.120**.
  - (d) The proposal for annexation may be voted upon by the electors of the territory and the City simultaneously or at different times not more than 12 months apart.
  - (e) As provided in **ORS 222.120**, the City Council is not required to submit a proposal for annexation to the electors of the City if the City Council holds a public hearing on the proposed annexation.
    - 1. Notice of the public hearing shall be published in a newspaper of general circulation and posted in four public places once a week for two successive weeks prior to the hearing.
    - 2. Following the hearing the City Council may, by ordinance containing a legal description of the territory to be annexed, declare the territory annexed upon the condition that the majority votes cast in the territory is in favor of the annexation or where the electors or landowners in the territory to be annexed consent in writing to the annexation prior to the public hearing.

- (f) The City Council need not hold an election in the city or the contiguous territory to be annexed, but shall hold a public hearing, when all of the owners of land and not less than 50% of the electors, if any, residing in the territory consent in writing to the annexation and file the statement with the City Council.
  - 1. Upon receiving the consent to annexation and following a public hearing, the City Council may, by ordinance, set the boundaries of the area to be annexed by a legal description and proclaim the annexation.
- (4) A written record of the findings and action of the City shall be maintained in a Record File of the Application as specified in **Section 2.150**. Notice of Decision shall be given the Applicant and all parties to the proceedings as specified in **Section 3.600, Decision**.
- (5) Approval of the annexation shall require a Notice of Decision be given the proper state and county authorities including the Oregon Secretary of State, the Oregon Department of Revenue, the Oregon Inventory and Mapping Unit, and the County Clerk and Assessor of Benton County. Notice shall include a legal description of the annexed property, a map of the proposed property showing the location of the annexed property relative to the Adair Village City Limits.

**SECTION 2.900 VACATIONS**

This section states the procedures and criteria to permit the vacation of public lands not needed for the specified municipal purpose, where it is consistent with the community Public Facilities and Services policies and goals. Ownership of vacated territory may revert to the original property or proportionally to the adjoining properties and become a part thereof, unless specified otherwise by the City Council. The City may also acquire and utilize the vacated public lands for other public purposes or sell the vacated property with preference given to adjoining property owners.

- (1) **Vacation Initiation.** A Vacation may be initiated by the City Council or by Application of adjoining or area landowners in accordance with **ORS 271**.
- (2) **Vacation by the City Council.** A Vacation initiated by the City Council shall comply with the Criteria specified in **Item (6)** herein.
- (3) **Application by a Property Owner.** An Application by a property owner for a Vacation shall be accomplished by filing an application with the City using forms prescribed in **Section 2.130**. Applicants shall set forth a description of the area proposed to be vacated and shall submit a map showing the same area and shall state the purpose and justification for the proposed vacation. The Applicant shall comply with the Criteria specified in **Item (6)** herein.
- (4) **Consent of Affected Property Owners.** At the time the Application is submitted, the Applicant shall submit a letter or letters of consent from affected property owners. For purposes of this Code and in compliance with **ORS 271.080**, affected property owners shall be defined as:
  - (a) All abutting property owners, and
  - (b) Owners of not less than two-thirds in area of the real property affected thereby.

Consent of the owners of the required amount of property shall be submitted in writing and duly acknowledged by the City prior to the scheduling of a public hearing for the requested Vacation.

- (5) **Application Decision Process.** The procedure for taking action on a Vacation Application shall comply with the following:
  - (a) Upon the filing of a complete Application for a Vacation, the City Council shall review the application and refer the request to the Planning Commission to evaluate the proposed Vacation and to determine the appropriate zoning district to be applied upon the vacation and make a recommendation to the City Council.
  - (b) Zoning of Vacated Right-of-Way. Except as otherwise provided within the vacation ordinance or where the official City zoning map is not clear as to the zoning of the vacated right-of-way, the zoning of each parcel of vacated territory shall be the same as the adjoining property to which the ownership of the vacated unit of land reverts.

- (c) Vacations initiated by an Applicant for a specific property within the City requires a "Quasi-judicial Decision" by the City Council with a recommendation by the Planning Commission, in conformance with the Quasi-judicial Public Hearing procedures of **Section 3.510** as supplemented by the provisions of **ORS Chapter 271**. State law defines the affected area and mandates notice requirements that may be more stringent than the City's requirements.
  - (d) The City Council, upon recommendation of the Planning Commission, may approve, deny or approve with standards or conditions to attain compliance with this Code and State Statutes.
  - (e) Conditions of Approval. The City may attach conditions to the approval of a Vacation request to ensure that the proposal will conform to the decision criteria and may require purchase of the vacated property by the acquiring party.
- (6) **Decision Criteria.** A Vacation of public land may be approved if the reviewing body finds that all of the following review criteria are met:
- (a) The proposed Vacation is consistent with the relevant Comprehensive Plan policies and with any official street plan, transportation plan or public facility plan.
  - (b) The proposed Vacation will not adversely impact adjacent areas or the land use plan of the City.
  - (c) The proposed Vacation will not have a negative effect on access between public rights-of-way, existing or future properties, public facilities or utilities.
  - (d) The proposed Vacation will not have a negative effect on traffic circulation or emergency service protection.
  - (e) The portion of the right-of-way that is to be vacated will be brought into compliance with Code requirements, such as landscaping, driveway access, and reconstruction of access for fire safety.
  - (f) The proposed Vacation will not have an adverse impact on the economy of the area.
  - (g) The public interest, present and future, will be best served by approval of the proposed Vacation.
- (7) A written record of the findings and action of the City shall be maintained by the City in a Record File as specified in **Section 2.150**. Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Variance as specified in **Section 3.600, Decision**.