

## Division VI. APPLICATION REQUIREMENTS AND REVIEW CRITERIA

### Chapter 17.144 SUMMARY OF APPLICATION TYPES

#### 17.144.010 Generally.

All development permits and land use actions are processed under the administrative procedures provided for in this chapter. There are four types of actions, each with its own procedures.

#### 17.144.020 Type I action.

**A Type I action is subject to A ministerial action reviewed by staff the City Manager, where development proposals are limited in scope and decisions are based on the ability to meet** clear and objective standards. ~~No conditions may be placed on the decision and notice of the decision is sent only to the applicant. Appeal is to the Planning Commission.~~ **Procedures for Type I action are described in Chapters 17.188 and 17.192.** The following actions are processed under the Type I procedure:

- ~~A. Minor variance;~~
- ~~B. A Lot line adjustment/~~**Lot consolidation;**
- ~~C. Fence permit;~~
- ~~D. B Sign permit;~~
- ~~E. Floodplain permit;~~
- ~~F. C Home occupation;~~
- ~~G. D Access permit;~~
- ~~H. Conditional use permit, minor;~~
- ~~I. E. Site development design review, minor;~~
- ~~J. F. Nonconforming use, Type I modification -~~ **for restoration or repair;**
- G. Grading permit;**
- H. Subdivision or partition final plat.**

#### 17.144.030 Type II action.

A Type II action is ~~a quasi-judicial review in which the Planning Commission applies a mix of~~ **subject to administrative review by the City Manager, where development proposals are limited in scope** objective and subjective standards ~~that allow considerable~~ **and where limited** discretion **is applied.** Public notice and a public hearing ~~is provided, see~~ **as described in Chapter 17.188 and** Chapter 17.192. ~~Appeal of a Type II decision is to the City Council.~~ The following actions are processed under a Type II procedure:

- A. ~~Major~~ **Minor** variance;
- B. Conditional use permit, ~~major;~~ **minor;**
- ~~C. Site design review, major;~~
- ~~D. Code interpretation;~~

~~E. Nonconforming uses, Type II modification;~~

~~F.C. Partitions **preliminary plat / Replat of 2-3 lots;**~~

~~G. Subdivision;~~

~~H. Planned unit development;~~

**D. Floodplain development permit.**

#### 17.144.040 Type III action.

A Type III action is a quasi-judicial process in which the ~~City Council~~ **Planning Commission** exercises ~~substantive~~ discretion and may apply subjective standards in land use decision making ~~and evaluates facts and evidence presented in response to applicable standards and criteria.~~ ~~The Planning Commission has an advisory role.~~ Public notice is provided and ~~a public hearings are is held at the Planning Commission and City Council, per Chapter 17.192 in accordance with procedures for Type III action described in Chapters 17.188 and 17.192. For zone change, annexation and street vacation applications, the Planning Commission acts in an advisory role to the City Council, which holds an additional public hearing per Chapter 17.192 before making a final decision.~~ ~~Appeal of the decision is to the land use board of appeals (LUBA).~~ The following actions are processed under a Type III procedure:

A. Zone change;

B. Annexation;

C. **Street** vacation;

~~D. Road dedication.~~

**D. Major variance;**

**E. Conditional use permit, major;**

**F. Site design review, major;**

**G. Subdivision preliminary plat;**

**H. Planned unit development;**

**I. Code interpretation / similar use determination;**

**J. Nonconforming use – for alteration and expansion;**

**K. Sign permit variance.**

#### 17.144.050 Type IV action.

A Type IV action is a legislative review in which the city considers and enacts or amends laws and policies. Type IV actions are initiated by the City of Carlton; other parties may request the City Council consider a proposal requiring Type IV review. Public notice and hearings are provided in a Type IV process. **Procedures for Type IV action are described in Chapters 17.188 and 17.192.** Appeal is to the land use board of appeals (LUBA).

A. Comprehensive plan amendment;

B. Land use district map changes;

C. Development code amendments.

## **Chapter 17.148 VARIANCE**

### **17.148.010 Purpose.**

The development standards in this title protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics the intent and purpose of the development standards may be maintained while allowing for a variance to quantifiable requirements.

### **17.148.020 Applicability.**

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

- A. The proposed variance would allow a use that is not permitted in the district;
- B. Another procedure and/or criteria is specified in this title for modifying or waiving the particular requirement or standard; or
- C. Modification of the requirement or standard is prohibited within the district.

### **17.148.030 Application and fee.**

An application for a variance shall be filed with the city and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application, including findings that address relevant review criteria of this chapter.

### **17.148.040 Criteria and procedure—Minor variance.**

- A. The City Manager may approve a minor variance from a requirement or standard of this title in accordance with the Type I review procedures provided that **the variance proposal does not expand or reduce a quantifiable standard by more than twenty (20) percent, and** the applicant provides evidence that the following circumstances substantially exist:
  - 1. The intent and purpose behind the specific provision sought to be varied is either clearly inapplicable under the circumstances of the particularly proposed development; or
  - 2. The particular development as proposed otherwise clearly satisfies the intent and purpose for the provision sought to be varied; and
  - 3. The variance does not result in a development, or any portion of a development, moving closer to an existing dwelling (i.e., reduced setback adjacent to a dwelling); and
  - ~~4. The minor variance does not expand or reduce a quantifiable standard by more than twenty (20) percent~~
  - 5.4.** The variance is the minimum necessary to achieve the purpose of the minor variance; and
  - 6.5.** There has not been a previous land use action approved on the basis that a minor variance would not be allowed.
- B. ~~When the approval criteria in subsection A, above, are not met, or it is unclear to the city manager whether the criteria can be met, the city manager shall advise the applicant in a timely manner that the request is likely to be denied unless it is modified to be consistent with the approval~~

criteria. The applicant may then modify the application, withdraw it, or ask that it be elevated to a Type II review. Where a request is made **by the applicant** to elevate the application to a Type ~~II~~ III review, the City Manager shall do so without unreasonable delay and the previously paid fee for the Type ~~II~~ III review shall be credited toward the Type ~~II~~ III review.

- C. When a minor variance application is submitted concurrently with an application requiring a Type ~~II~~ III review, such as a **partition**, subdivision, or planned unit development, the City Manager may refer the minor variance application to the Planning Commission for their review.

#### **17.148.050 Criteria and procedure—Major variance.**

**Major variances apply to proposals that expand or reduce the quantifiable standard by more than twenty (20) percent.** The Planning Commission may allow a major variance ~~(greater than 20 percent deviation from a numerical standard)~~ from a requirement or standard of this title after a public hearing conducted in accordance with the Type ~~II~~ III review procedures provided that the applicant provides evidence that the following circumstances substantially exist:

- A. Exceptional or extraordinary circumstances apply to the property that do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of the ordinance codified in this title, topography, or other circumstances over which the applicant has no control.
- B. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district.
- C. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or otherwise conflict with the objectives of any city plan or policy.
- D. That the special conditions and circumstances on which the application is based does not result from the negligent or knowing violation of this title by the applicant.
- E. The variance requested is the minimum variance that would alleviate the hardship.

#### **17.148.060 Expiration of approval.**

- A. Variance approval shall be effective for a period of eighteen (18) months from the date of approval. If the variance has not been implemented within the 18-month period, the approval shall expire.
- B. Variance approval shall be voided immediately if the use established on site does not substantially conform to the approval granted by the Planning Commission.
- C. The City Manager shall upon written request by the applicant and payment of the required fee, grant an extension of the approval for a period not to exceed six (6) months provided that:
  1. No changes are made to the approved variance;
  2. The applicant can show intent to implement the variance within the six-month extension period; and
  3. There have been no changes in existing conditions, facts, or applicable policies or ordinance provisions on which the original approval was based;

4. The request for extension shall be submitted, in writing, thirty (30) days prior to the expiration of the approval period.

## **Chapter 17.152 CONDITIONAL USE PERMITS**

### **17.152.010 Purpose.**

The conditional use permit process is intended to:

- A. Guide future growth and development in accordance with the comprehensive plan and other related ordinances;
- B. Provide an efficient process and framework to review development proposals;
- C. Ensure safe, functional, energy-efficient developments which are compatible with the natural and man-made environment; and
- D. Resolve potential conflicts that may arise between proposed developments and adjacent uses.

### **17.152.020 Process.**

This chapter provides for two types conditional use permit reviews: "major conditional use permit" applications shall be reviewed in accordance with the Type ~~II~~ **III** review procedures, and "minor conditional use permit" applications are reviewed in accordance with the Type ~~I~~ **II** review procedures. An application for a conditional use permit shall be filed with the city recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this chapter.

- A. Major Conditional Use Permit. Major conditional use permit review shall be applicable to all new conditional uses proposed where the subject site does not currently have a conditional use on it, and to changes to existing conditional uses that meet the threshold criteria for major site design review under Section 17.156.~~020~~ **040**.
- B. Minor Conditional Use Permit. Minor conditional use permit review shall be applicable to ~~all new developments, exterior alterations to existing developments, and~~ changes **or expansions in to existing conditional uses** that do not otherwise meet the threshold criteria for major conditional use permit review under [Section] 17.152.020 **that are less than twenty-five (25) percent of the existing floor area, and not exceeding a total floor area of 1,000 square feet**.
- C. All of the provisions and regulations of the underlying zone shall apply unless modified by other sections of this title.
- D. Where a proposal is subject to both site design review and conditional use permit review, the applications may be consolidated and processed by the city concurrently, though the Planning Commission shall make findings and reach a decision individually for each application.

### **17.152.030 Criteria for approval.**

Conditional use permits shall be approved if the applicant provides evidence substantiating that all the requirements of this title relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:

- A. The use is listed as a conditional use in the underlying district or the approval body finds that the use is similar to a conditional use listed in the underlying district.

- B. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations.
- C. All required public facilities, including water, sanitary sewer, and streets, have adequate capacity or are to be improved to serve the proposal, consistent with City standards.
- D. The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district.
- E. The negative impacts of the proposed use, if any, on adjacent properties and on the public can be mitigated through application of other Code standards, or other reasonable conditions of approval.

**17.152.035 Criteria for approval of medical marijuana dispensary or commercial retail marijuana facility.**

- A. The lot on which the business is proposed shall only be located on property zoned and classified as Commercial Business, Commercial Industrial, or General Industrial;
- B. The business shall be located in a permanent building and may not locate in a trailer, cargo container or motor vehicle;
- C. The lot is not within one thousand (1,000) feet of any lot upon which there is located an educational institution primarily attended by minors, including kindergarten, elementary and secondary schools;
- D. If the use is a medical marijuana dispensary the lot is not within one thousand (1,000) feet of any lot upon which there is located another marijuana dispensary business;
- E. The lot is not within one thousand (1,000) feet of the exterior boundaries of a city park.
- F. The exterior appearance of the structure shall be consistent with the appearance of existing commercial structures on abutting lots or within the immediate neighborhood, so as not to cause blight, deterioration, or avoidable depreciation in property values within the general vicinity;
- G. No marijuana dispensary business or commercial retail marijuana facility shall have operating hours earlier than 8:00 a.m. or later than 8:00 p.m. of the same day;
- H. Cultivation, retail cultivation or infusion of marijuana at the site of the dispensary or commercial retail facility is prohibited;
- I. The business shall provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed within the facility's exterior refuse containers;
- J. Drive-through services are prohibited.

**17.152.040 Conditions of approval.**

The approval body may impose conditions that it finds necessary to ensure that the use is compatible with other uses in the vicinity, and that the negative impact of the proposed use, if any, on the surrounding uses and public facilities is minimized. These conditions include, but are not limited to, one or more of the following:

- A. Limiting the hours, days, place and/or manner of operation;
- B. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;
- C. Requiring larger setback areas, lot area, and/or lot depth or width;
- D. Limiting the building or structure height, size, lot coverage, and/or location on the site;
- E. Designating the size, number, location and/or design of vehicle access points or parking and loading areas;
- F. Requiring street right-of-way to be dedicated and street improvements made, or the installation of pathways or sidewalks, as applicable;
- G. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;
- H. Limiting the number, size, location, height and/or lighting of signs;
- I. Limiting or setting standards for the location, type, design, and/or intensity of outdoor lighting;
- J. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
- K. Requiring and designating the size, height, location and/or materials for fences;
- L. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands;
- M. Requiring improvements to water, sanitary sewer, or storm drainage systems, in conformance with City standards; and
- N. Establish a timetable for periodic review and renewal, or expiration, of the conditional use permit to ensure compliance with conditions of approval; such periodic review may occur through Type I or Type II review process, as specified by the approval.

**17.152.050 Expiration of approval.**

- A. Conditional use permit approval shall be effective for a period of eighteen (18) months from the date of approval. If the approved use has not been established or substantial construction of buildings associated with the approved use has not begun within the 18-month period, the approval shall expire.
- B. Conditional use permit approval shall be voided immediately if the use established on site does not substantially conform to the approval granted by the Planning Commission.
- C. The City Manager shall upon written request by the applicant and payment of the required fee, grant an extension of the approval for a period not to exceed six (6) months provided that:
  - 1. No changes are made to the approved conditional use;
  - 2. The applicant can show intent to establish the use within the six-month extension period;
  - 3. There have been no changes in existing conditions, facts, or applicable policies or ordinance provisions on which the original approval was based; and



4. The request for extension is submitted, in writing, thirty (30) days prior to the expiration of the approval period.

## **Chapter 17.156 SITE DESIGN REVIEW**

### **17.156.010 Purpose.**

The site design review process is intended to:

- A. Guide future growth and development in accordance with the comprehensive plan and other related ordinances;
- B. Provide an efficient process and framework to review development proposals;
- C. Ensure safe, functional, energy-efficient developments which are compatible with the natural and man-made environment; and
- D. Resolve potential conflicts that may arise between proposed developments and adjacent uses.
- E. The site design review provisions are not intended to preclude uses that are permitted in the underlying zones.
- F. Implement design standards contained in this title, which are intended to allow new development that is visually compatible with the historic context of commercial development within Carlton.

### **17.156.020 Process.**

This chapter provides for two types of site design review. "Major site design review" applications shall be reviewed in accordance with the Type III review procedures, and "minor site design review" applications are reviewed in accordance with the Type I review procedures. An application for site design review shall be filed with the city recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this chapter.

### **17.156.030 Application and fee.**

An application for site design review shall be filed with the city recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this chapter.

### **17.156.040 Applicability of provisions.**

- A. Major Site Design Review. Major site design review shall be applicable to all new **non-residential** developments and major expansion or remodel (twenty-five (25) percent or more increase in total square footage) of existing **non-residential** developments ~~except single-family detached dwellings and individual duplex dwellings (not part of a subdivision proposal) do not require site design review.~~ **For residential development, major site design review shall apply when the development plan is shown not to meet one or more applicable residential design standards as contained in Chapter 17.106.** Major site design review also applies to a development or change in use that requires a new access permit for access onto a state highway, requires the development of additional off-street parking, or increases AM or PM peak hour automobile trips to/from the site by more than ten (10) percent or ten (10) vehicles, whichever is greater. For purposes of this criterion, the current use as of the time of site design review application submittal shall provide the basis for calculating vehicle trips. Where the subject development is not currently in use, the most intensive

use of the site during the past twelve (12) months shall serve as the basis for calculating proposed changes in parking and traffic.

- B. Minor Site Design Review. Minor site design review shall be applicable to all new developments, exterior alterations to existing developments, **minor expansion or remodel (less than twenty-five (25) percent increase in total square footage) of existing non-residential developments**, and changes in use that do not otherwise meet the threshold criteria for major site design review under 17.156.040(A), except for **exterior alterations actions** listed as exempt under subsection 17.156.040(C). **Minor site design review shall be applicable to all new and expanded residential developments, unless exempt, where shown to comply with all applicable design standards in Chapter 17.106.**
- C. Exemptions.
- 1.** Changes in use that do not involve development and do not increase AM or PM peak hour automobile trips are exempt from site design review.
  - 2.** Routine building maintenance and repair work (e.g., painting, weatherization, window replacement, and similar maintenance and repair) that do not expand the building envelope and are not otherwise subject to site design review under Chapter 17.30 Downtown (D) District, are exempt; provided all building code requirements shall be met. Projects within the Downtown (D) District shall additionally conform to the standards for building materials and colors contained in Chapter 17.30.
  - 3. Any new or remodeled single-family detached dwelling, duplex dwelling, or two attached townhouse dwellings.**
- D. Notwithstanding the exceptions under subsection 17.156.040(C), all of the provisions and regulations of the underlying zone and other provisions of this title, as applicable, shall apply.

### **17.156.050 Submittal requirements.**

The following information shall be submitted as part of a complete application for site design review:

- A. Site Analysis:
1. Existing site topography;
  2. Identification of areas exceeding ten (10) percent slopes;
  3. Site drainage, areas of potential flooding;
  4. Areas with significant natural vegetation;
  5. Classification of soil types;
  6. Existing structures, roadway access, utilities, and easements on the subject site;
  7. Fire flow information;
  8. Existing and proposed streets, bikeways, and pedestrian facilities within three hundred (300) feet.
- B. Site Plan:
1. Proposed grading and topographical changes;

2. All proposed structures including finished floor elevations, setbacks, exterior elevations, and exterior finishing;
3. Vehicular and pedestrian circulation patterns, parking, loading and service areas;
4. Proposed access to public roads and highways, railroads or transportation systems;
5. Site drainage plan including methods of storm drainage, sanitary sewer system, water supply system and electrical services. Invert elevations may be required for all underground transmission lines;
6. Proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses;
7. Proposed on-premise signs, fencing or other fabricated barriers, together with their heights and setbacks;
8. Proof of ownership and signed authorization for the proposed development if applicant is not the owner of the site; and
9. A schedule of expected development;
10. A traffic impact analysis if **requested by the City Manager** **required by subsection 17.100.070(B)**;

**11. A grading plan and/or geotechnical engineering report if required by Section 17.78.070;**

- ~~11~~ **12.** Other appropriate studies and information that may be required by the City Manager to adequately evaluate the project, **including Traffic Impact Analyses**, as applicable.

**17.156.060 Evaluation of site plan Approval criteria.**

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

- ~~A.~~ **Conformance** **All applications for site design review shall comply with the standards of this chapter, the standards in the base zone**, General Development Standards, **Division III** (Chapters 17.60 through 17.106) of this title, **and any applicable Special Use Standards in Division IV.**
- ~~B.~~ Application of the standards of this title relative to the characteristics of adjoining and surrounding uses;
- ~~C.~~ Drainage and erosion control requirements relative to applicable city and DEQ standards, and engineering best practices;
- ~~D.~~ Public health factors relative to applicable building codes, sanitation requirements, and city standards;
- ~~E.~~ Parking, traffic safety, and connectivity of internal circulation to existing and proposed streets, bikeways and pedestrian facilities;
- ~~F.~~ Provision for adequate noise and/or visual buffering from non-compatible uses or activities;
- ~~G.~~ Balancing retention of natural features with individual property rights and growth management policies; and
- ~~H.~~ Avoidance of natural hazards.

**17.156.070 ~~Public improvements~~ Reserved.**

~~As part of a design review approval, the decision body may impose the following conditions on a new or expanding development to ensure compliance with the city's public facility standards:~~

- ~~A. Limit or prohibit access to streets, including requiring consolidation or reconfiguration of existing accesses;~~
- ~~B. Require transportation improvements, including but not limited to new or widened streets, sidewalks, bicycle lanes, on-street parking, roadway markings, traffic controls, bus transit waiting areas, or other improvements consistent with the city's transportation system plan or as recommended in a traffic impact analysis pursuant to Chapter 17.100;~~
- ~~C. Require the dedication of additional right of way and/or street improvements where necessary to meet city street standards.~~
- ~~D. Require the replacement, extension, and/or upgrade of other essential infrastructure, public or private, including but not limited to water, sewer and storm drainage facilities, provided the required improvements must be necessary to serve the proposed development in conformance with city standards, and the cost borne by the developer/applicant must be roughly proportional to the impact the development is expected to have on those facilities.~~

**17.156.080 Expiration of approval.**

- A. Site design review approval shall be effective for a period of eighteen (18) months from the date of approval. If substantial construction of the approved plan has not begun within the 18-month period, the approval shall expire.
- B. Site design review approval shall be voided immediately if construction on the site is a departure from the approved plan.
- C. The City Manager shall upon written request by the applicant and payment of the required fee, grant an extension of the approval for a period not to exceed six (6) months provided that:
  - 1. No changes are made to the approved site design plan;
  - 2. The applicant can show intent to initiate construction on the site within the six-month extension period;
  - 3. There have been no changes in existing conditions, facts, or applicable policies or ordinance provisions on which the original approval was based; and
  - 4. The request for extension is submitted, in writing, thirty (30) days prior to the expiration of the approval period.

**17.156.090 Performance guarantees.**

All public improvements required as a condition of approval site design review approval shall be completed prior to the issuance of any building permits for any structures within the subject development, unless there exists a performance guarantee acceptable to the city attorney, as provided for in Chapter 17.216. In addition to requiring a performance guarantee for public improvements, the city may require a performance guarantee to ensure completion landscaping, screening, fences, walls, and/or other improvements required to ensure compliance with the requirements of this title.

### 17.156.100 Design standards in the commercial business and commercial industrial zones.

As part of the site design review process, all developments subject to site design review, pursuant to Section 17.156.040, in the commercial business district or commercial industrial district shall be subject to compliance with **the** all of following design standards. (Note: Section 17.156.100 does not apply to development in the downtown (D) district. Development in the D district shall conform with the design standards of Chapter 17.30).

- A. Building Orientation. The primary entrance to a business shall be oriented toward the major street frontage. Businesses on corner lots may be oriented toward the street corner **with an entry within 10 feet of right-of-way in lieu of orientation towards the major street frontage.**
- B. Building Height.
  - 1. Building heights shall vary from adjacent buildings, using either "stepped" parapets or **slightly dissimilar overall building** height **that varies a minimum of two feet** to maintain the traditional "staggered" streetscape appearance;
  - 2. Multi-story development is the standard without a variance and shall be required on corner lots.
- C. Setbacks. All buildings shall extend to the side lot line, except to accommodate areas specifically designed and maintained as plaza spaces, courtyards, or rear access for pedestrian walkways.
- D. Building Openings.
  - 1. The primary ground level street access shall be recessed from the public right-of-way to create a sense of entry **through design or use of materials;**
  - 2. Ground level entry doors shall be **primarily a minimum of 60%** transparent;
  - 3. Ground level elevation shall maintain a consistent proportion of transparency **(i.e. windows)** with **the pattern found in the commercial business area a minimum requirement of windows for 60 percent of the ground floor façade along public street frontages;**
  - 4. ~~Scale, proportion and materials used in alteration or additions to existing structures, such as the size and relationship of new windows, doors, entrances and other building features shall be visually compatible with the original architecture of the building~~ **Each building facade adjacent to a street shall be articulated through recessing, projecting, banding, articulation of exterior materials, or change of materials, by incorporating patterns that are offset by a minimum depth (projecting or recessing) of at least 16 inches from one exterior wall surface to the other and the offset shall extend the length and height of its module. Articulation patterns shall repeat a minimum of every 20 feet for the entire length of the facade. This standard shall only apply to facades that exceed 40 feet in length;**
  - 5. Upper floor windows shall be vertically orientated, their height greater than their width;
  - 6. Except for transom windows, windows shall not break the front plane of the building;
  - 7. ~~Blank walls adjacent to a public sidewalk shall be prohibited in new structures.~~
- E. Rear and Alley Entrances.

1. ~~Where applicable, alley~~ **Alley** entrances shall be designed to encourage pedestrian access;
2. ~~Signs shall be of modest scale to fit the visual characters of an alley or rear entrance;~~
23. Security lighting shall be provided and focused on rear entries;
34. Refuse containers and service facilities shall be screened from view.

F. Rhythms.

1. ~~Prominent horizontal lines at similar levels along the street front shall be maintained~~ **Where a wall of a proposed building is 10 feet or more taller than an adjacent building, the taller building must follow the horizontal lines of the shorter building along the ground floor. This requirement is met by incorporating corncing or a similar architectural feature that projects a minimum of 2 inches from the façade between the full length of all upper story floors;**
2. ~~A clear visual division shall be maintained between the ground level floor and upper floors;~~ **Multi-story buildings must have designs that establish prominent horizontal lines and avoid blank walls by incorporating one or more of the following:**
  - (A) A series of storefront windows;**
  - (B) Awning or canopy along the ground floor;**
  - (C) Belt course between building stories; and/or**
  - (D) Cornice or parapet line.**
3. ~~Buildings shall provide a foundation or base from ground level to the bottom of the lower windowsills, with changes in volume or material;~~
34. ~~Buildings shall reflect a vertical orientation, through either actual volume or the use of surface detail to divide large walls.~~ **For buildings three stories or more, elevations must incorporate changes in material that define a building's base, middle, and top and create visual interest and relief.**

G. Roof Forms.

1. Sloped or residential style roof forms are prohibited unless visually screened from the right-of-way by either parapet or false fronts incorporating a ~~well-defined~~ cornice line **made of different material and color than the predominate siding of the building, except that brick siding may include matching brick cornices;**
2. Roof mounted equipment shall not be seen from street level and shall not extend above the parapet of a building.

H. Building Materials and Color.

1. Exterior building materials shall consist of traditional building materials originally found on buildings in the commercial business area or new materials that closely approximate traditional building materials;
2. Glass, metal panels, smooth stucco, metal shingles or highly polished surfaces **may not be used as a majority of the on more than 40 percent of a** building's exterior surface ~~is prohibited;~~

- ~~3. Traditional materials shall not be used in non-traditional applications;~~
  - 34.** Masonry facades shall not be painted;
  - 45.** Subdued colors are encouraged and bright "neon" paint colors or intense white shall be avoided.
- I. ~~Awnings and Marquees. Awnings, marquees or similar pedestrian shelter over sidewalk areas shall be provided and placed giving due consideration to the building architectures such as using the prominent horizontal lines of the building. The use of illuminated, barrel shaped or plastic awnings shall be prohibited.~~ **Pedestrian shelters.**
- 1. Pedestrian shelters such as a canopy or overhang shall be provided over all adjacent public sidewalks so that 50 percent of the length of the building frontage and adjacent sidewalk has weather protection.**
  - 2. Pedestrian shelters must be at least the same width of storefronts or window openings and meet any and all additional building code requirements.**
  - 3. The minimum horizontal projection (depth) is 3 feet.**
  - 4. All portions of any pedestrian shelter shall be at least 8 but not more than 12 feet above any public walkway.**
- J. Remodeling, restoration, rehabilitation or remodeling projects shall incorporate, whenever possible, original design elements that were previously removed, changed or covered over.

**17.156.110 Exception to design standards in the commercial business and commercial industrial zones.**

- A.** The **applicant may request and the** Planning Commission may grant an exception to the design standards in the commercial business and commercial industrial zones ~~if all of the following circumstances exist:~~ **as part of the site design review for an alternative design that accomplishes the purpose of Section 17.156.100 in a manner that is equal or superior to a project designed pursuant these standards or historical precedent.**
- B. The applicant may apply for a variance for specific relief from the requirements of Section 17.156.100.**
- ~~A. There is demonstrable difficulty in meeting the specific requirements of Section 17.156.100 due to a unique or unusual aspect of the site, an existing structure or proposed use.~~
- ~~B. There is demonstrable evidence that an alternative design accomplishes the purpose of Section 17.156.100 in a manner that is equal or superior to a project designed pursuant these standards or historical precedent.~~
- ~~C. The exception requested is the minimum necessary to alleviate the difficulty of meeting the standards of Section 17.156.100.~~



## **Chapter 17.160 ~~CODE INTERPRETATION~~ SIMILAR USE DETERMINATION**

### **17.160.010 Purpose.**

The purpose of this chapter is to provide ~~for a code interpretation for~~ **a process for determining** those uses not specifically listed in a particular zoning district but which are similar in character, scale and performance to the permitted uses specified therein.

### **17.160.020 Process.**

Similar use requests shall be reviewed in accordance with the Type ~~II~~ **III** review procedures.

### **17.160.030 Application and fee.**

Any application for a similar use shall be filed with the City Manager and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this chapter.

### **17.160.040 Review criteria.**

A similar use may be authorized provided that the applicant demonstrates that the proposed use satisfies the following criteria:

- A. The use is consistent with the purpose of the underlying zoning district and is similar in character, scale and performance to uses specified in the underlying district.
- B. The use conforms to the applicable standards and limitations of the underlying zoning district.

### **17.160.050 Determination.**

- A. In approving an application for a similar use, the Planning Commission may:
  1. Determine whether the use is prohibited, permitted or conditionally permitted in the specified zone;
  2. Determine whether the use is permitted or conditionally permitted in a different zone;
  - ~~3. Consistent with the development requirements of the identified zone, determine whether additional land use actions, such as conditional use approval or a site plan review, are required.~~
- B. The determination by the Planning Commission that a proposed similar use cannot be accommodated in a given zone does not preclude an ~~application, by the appropriate party, for an amendment to the text of the comprehensive plan and/or development code.~~ **appeal of the determination further to the City Council through the process described in Chapter 17.204. As explained in Chapter 17.04.070, the Planning Commission may issue an interpretation of the question if they have first determined that such interpretation is within their power and is not a legislative act.**

## **Chapter 17.164 NONCONFORMING USES**

### **17.164.010 Purpose.**

Within the zoning districts established by this title and amendments thereto, uses and structures may exist which were lawful before the date of adoption or amendment of this title but which would be prohibited or restricted under the terms of this title. The general purpose of this chapter is to encourage the conversion of such nonconforming uses to conforming uses. However, this chapter allows nonconforming uses and structures to be continued, altered, restored or replaced subject to satisfaction of the review criteria specified. This chapter is also intended to facilitate changes over time that would bring properties into closer conformity with this title. Nothing contained in this title shall require any change in the plans, construction, or designated use of any structure for which a building permit was issued and actual construction commenced prior to the date of adoption of this title or any amendment thereto. No alteration of a nonconforming use shall be permitted except in compliance with the provisions of this chapter.

### **17.164.020 Process.**

Proposals to alter a nonconforming situation shall be reviewed in accordance with the Type ~~II~~ **III** review procedures, except that proposals that would bring a property into closer conformity with this Title are reviewed in accordance with the Type I review procedures.

### **17.164.030 Application and fee.**

An application for an alteration or expansion of a nonconforming use shall be filed with the City Manager and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this chapter.

### **17.164.040 Discontinuation of use.**

If a nonconforming use is discontinued for a period of more than twelve (12) consecutive months, the use shall not be resumed unless the new or resumed use conforms to the requirements of this title. A nonconforming single-family dwelling may be continued, altered, or restored for residential purposes without review. A single-family dwelling does not lose its nonconforming status due to vacancy. For purposes of calculating the twelve (12) month period, a use is discontinued or abandoned upon the occurrence of the first of any of the following events:

1. On the date when the use of land is physically vacated;
2. On the date the use ceases to be actively involved in the sale of merchandise or the provision of services;
3. On the date of termination of any lease or contract under which the nonconforming use has occupied the land; or
4. On the date a request for final reading of water and power meters is made to the applicable utility districts.

### **17.164.050 Alterations required by law.**

The alteration of any nonconforming use when necessary to comply with any lawful requirement for alteration of the use or structure, or to bring the use or structure into closer compliance with this title shall be permitted, subject to all other laws, ordinance and regulations.

### **17.164.060 Maintenance.**

Normal maintenance of a nonconforming use is permitted provided there are not major structural alterations as determined by the building official.

### **17.164.070 Alteration, restoration, or replacement.**

- A. The City Manager shall authorize restoration or replacement of any nonresidential nonconforming use when restoration or replacement is made necessary by fire, casualty, or natural disaster and does not exceed forty (40) percent of the value of the original structure, provided the physical restoration or replacement is lawfully commenced within six months of the damage or destruction.
- B. The City Manager shall authorize restoration or repair of any residential nonconforming use when restoration or replacement is made necessary by fire, casualty, or natural disaster provided the physical restoration or replacement is lawfully commenced within six months of the damage or destruction.
- C. If the use is discontinued or abandoned for any reason for a period of more than 12 months, any subsequent use of land shall conform to the applicable standards and criteria specified by this Code for the land use district in which such land is located.
- D. The Planning Commission, subject to the Type ~~II~~ **III** review procedure, may extend the restoration or replacement period for an additional six months. In no case shall the total restoration or replacement period exceed one year. Requests for extension of restoration or replacement period shall be submitted in writing thirty (30) days prior to the expiration date of the restoration or replacement period.
- E. The alteration of a nonconforming use may be authorized by the Planning Commission, subject to the Type ~~II~~ **III** review procedure, provided that the applicant demonstrates that the proposal satisfies the following criteria:
  - 1. That the alteration of the structure or development would not expand a nonconformity by more than twenty (20) percent of floor area or site area, as applicable, and would have no greater adverse impact on the neighborhood; an alteration that brings a nonconforming situation into closer conformity with this title may be approved through the Type I review procedure; **or**
  - 2. **That the** ~~A change in use to another nonconforming use may be permitted subject to the Type II review procedure if it is~~ **would be** of the same or less intensity of use.
- G.** ~~3.~~ **3.**—The alteration of a nonconforming single-family residence that does not involve a change in use is authorized without Planning Commission approval.
- H.** ~~4.~~ **4.**—Should a nonconforming structure be moved on- or off-site for any reason, and by any distance, it shall thereafter conform to the regulations of this title.

### **17.164.080 Conditions of approval.**

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

## ***Chapter 17.168 LOT LINE ADJUSTMENTS***

### **17.168.010 Applicability.**

The procedures and requirements in this chapter apply to the relocation of a common property line between two abutting properties.

### **17.168.020 Standards.**

- A. The number of lots or parcels as large as the minimum lot size in the affected zone is at least the same after the adjustment as before the adjustment.
- B. The number of lots or parcels resulting from the adjustment is the same or less than the number of lots or parcels existing prior to the adjustment.
- C. Following the lot line adjustment, all lots must comply with lot size and dimensional standards of the applicable land use district. For nonconforming lots, the adjustment shall not increase the degree of non-conformance of the subject property or surrounding properties.
- D. All lots or parcels having access to a public or private street before the adjustment must retain access after the adjustment.
- E. The lot line adjustment shall not reduce any required development feature or standard, such as parking, landscaping, or building setbacks, to a size or dimension that does not meet the minimum standards of this title.

### **17.168.030 Submittal requirements.**

The applicant must submit the following information and materials:

- A. Applications for lot line adjustments shall be submitted on forms provided by the city to the city recorder and accompanied by the appropriate fee. A lot line adjustment application shall be signed by the property owner, contract purchaser or an authorized agent of the owner or contract purchaser of all lots impacted by the lot line adjustment.
- B. Each application shall be accompanied by a preliminary map drawn to scale of not less than one inch equals fifty (50) feet, and containing at a minimum, the following:
  - 1. A written statement that explains the applicants reasons for adjusting the boundaries and demonstrating that the adjustment conforms to city land use policies and regulations of the applicable zone;
  - 2. North point, scale and date;
  - 3. Name and addresses of landowners, applicants, engineer, surveyor, planner, architect or other individuals responsible for the plan;
  - 4. Map number and tax lot or tax account number of subject property;
  - 5. Dimensions and size in square feet or acres of each parcel before the proposed adjustment and of each parcel after the proposed adjustment;
  - 6. The approximate location and identification of existing streets, easements or rights-of-way adjacent to, or within, the subject property, and, existing improvements on the property.

**17.168.040 Process.**

- A. A lot line adjustment is subject to a Type I review. After a lot line adjustment is approved, the new boundary becomes effective only if within one year of the written approval the following steps are completed:
  - 1. A metes and bounds legal description of the adjusted lots is recorded with the Yamhill County clerk.
  - 2. If required by ORS Chapter 92, a final plat and boundary survey are prepared and all new boundaries are monumented as required by ORS Chapters 92 and 209.
- B. The applicant shall submit a copy of the recorded lot line adjustment survey map to the city prior to issuance of any building permits on the re-configured lots.

## **Chapter 17.172 PARTITIONS**

### **17.172.010 Applicability.**

A partition is required for any land division that creates two or three parcels in a calendar year. **The parcels shall meet the Development Standards for Land Division of Chapter 17.88, other applicable development standards and the following additional requirements:**

**A. — Each parcel shall satisfy the dimensional standards of the applicable zoning district, unless a variance from these standards is approved.**

**B. — Adequate public facilities shall be available to serve the existing and newly created parcels.**

### **17.172.020 General provisions.**

**A. The partition shall meet the Development Standards for Land Division of Chapter 17.88.**

**B. Each parcel shall satisfy the dimensional standards of the applicable zoning district, unless a variance from these standards is approved.**

**A.C.** Partition approval is valid in perpetuity, upon recording of the final surveyed plat.

**B.D.** No parcel within an approved partition may be redivided within the same calendar year in which it was recorded, except through the subdivision process.

**C.E.** A master plan for development is required for any application that **leaves a portion of the subject property capable of replatting creates an oversized lot which is greater than twice the required minimum lot size allowed by the subject zone.**

### **17.172.030 Process.**

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

### **17.172.040 Application and fee.**

- A. Applications for partitions shall be submitted on forms provided by the city to the city recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this chapter.
- B. The applicant shall submit ten (10) clear and legible copies of the preliminary plan on sheets not less than eleven (11) inches by seventeen (17) inches and no more than twenty-four (24) inches by thirty-six (36) inches in size. Preliminary plans shall be drawn to a scale of one-inch equals fifty (50) feet or larger.
  1. General Information. The following general information shall be shown on the tentative plan:
    - a. Vicinity map extending eight hundred (800) feet in each direction showing all streets, property lines, streams, and other pertinent data to locate the proposal;
    - b. North arrow, scale of drawing and date of preparation;
    - c. Tax map and tax lot number or tax account of the subject property;
    - d. Dimensions and size in square feet or acres of the subject property;

- e. The names and addresses of the property owner, partitioner and engineer, surveyor, or other individual responsible for laying out the partition.
2. Existing Conditions.
  - a. Location of all existing easements within the property;
  - b. Location of city utilities (water, sanitary sewer, storm drainage) within or adjacent to the property proposed for use to serve the development;
  - c. The location and direction of watercourses or drainage swales. The location and disposition of any wells, wetlands identified on the State Wetland Inventory, septic tanks, and drain fields in the partition;
  - d. Existing uses of the property, including location of existing structures on the property. It should be noted whether the existing structures are to be removed or to remain on the property.
3. Proposed Plan. A detailed plan of the propose partition clearly showing the following:
  - a. Locations, approximate dimensions and area in square feet of all proposed parcels. All parcels shall be numbered consecutively;
  - b. Location, width and purpose of any proposed easements.
4. Supplemental Information. Proposed deed restrictions, if any, in outline form.

#### **17.172.050 Final plat approval.**

- A. Within ~~eighteen (18) months~~ **two (2) years** of the final decision approving a preliminary plat, a final survey of the approved plat shall be recorded **submitted to the city**. If the final survey is not submitted within ~~eighteen (18) months~~ **two (2) years**, the preliminary approval shall lapse. Final plats requirements for partitions are the same as for subdivisions. Both are reviewed in accordance with Section 17.176.050.
- B. The City Manager shall upon written request by the applicant and payment of the required fee, grant an extension of the approval for a period not to exceed six (6) months provided that:
  1. No changes are made to the approved preliminary plat; and
  2. There have been no changes in existing conditions, facts, or applicable policies or ordinance provisions on which the original approval was based.

#### ~~**17.172.060 Expedited land division.**~~

~~A. Definition. An expedited land division:~~

~~1. Is an action of the city that:~~

- ~~a. Includes land that is zoned for residential uses and is within an urban growth boundary;~~
- ~~b. Is solely for the purposes of residential use, including recreational or open space uses accessory to residential use;~~
- ~~c. Does not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations~~



for full or partial protection of natural features under the statewide planning goals that protect open spaces, scenic historic areas, natural resources, and estuarine resources;

d. — Satisfies minimum street or other right of way connectivity standards established by acknowledged land use regulations or, if such standards are not contained in the applicable regulations, as required by statewide planning goals or rules;

e. — Creates enough lots or parcels to allow building residential units at eighty (80) percent or more of the maximum net density permitted by the zoning designation of the site.

2. — Is a land division that:

a. — Will create three or fewer parcels; and

b. — Meets the criteria set forth for an action under Section 17.172.060(A)(1)(a) through (e).

**B. — Exclusion.**

1. — Property and process exclusions include properties specifically mapped and designated in the comprehensive plan or development ordinance for full or partial protection of natural features under the statewide planning goals that protect open space, scenic and historic areas and natural features and not eligible for the construction of dwelling units or accessory buildings;

2. — The expedited land division process is not a land use or limited land use decision and is not subject to the permit requirements of city enabling legislation. Decisions are not subject to the comprehensive plan and not eligible for appeal to the land use board of appeals (LUBA).

**C. — Complete Application.** The city shall review an application and makes a decision on its completeness within twenty one (21) days of submittal. Upon determination of an incomplete application, the applicant has one hundred eighty (180) days to submit the missing information.

**D. — Public Notice.** Upon submittal of a complete application, the city shall send written notice to affected governmental agencies and property owners within two hundred (200) feet of the site proposed for the land division. The notice shall include the following:

1. — A fourteen (14) day deadline for submission of written comments;

2. — The time and place where all copies of evidence submitted by the applicant will be available for review;

3. — The name, address, and telephone number of the city's staff person available to comment on the application;

4. — Summary of the local decision making process for such a decision;

5. — Applicable decision criteria;

6. — Notification that participants must raise all issues during the written comment period.

**E. — Initial Decision.** The Planning Commission shall allow at least fourteen (14) days for written comments and shall render a decision within sixty three (63) days of a complete application. No public hearing may be held during the initial decision making phase.

**F. — Notice of Final Decision.** A notice of decision must be given to the applicant and other participants of the decision. The notice of decision shall state the appeal process.

**G. — Time Extension.**

1. Applicant. If a decision is not made within sixty three (63) days, the applicant may seek review by writ of mandamus;

2. City. The city may extend the sixty three (63) day period up to one hundred twenty (120) days based on the determination that an unexpected or extraordinary increase in applications makes the sixty three (63) day period impracticable. Following a seven day notice to the applicant, consideration of an extension is considered at a regularly scheduled City Council meeting. That determination is specifically declared not to be a land use decision or limited land use decision.

H. Decision Criteria. Criteria for approving the partition shall be as follows:

1. The criteria established in Section 17.172.010;

2. Density. The application must be able to establish at least eighty (80) percent of the allowable density of the applicable residential zone;

3. Street Standards. The application must comply with the most recent transportation plan or provide evidence of meeting the city's minimum street connectivity standards.

I. Appeal of Initial Decision. A decision may be appealed to a local hearings officer within fourteen (14) days of filing the notice of decision by the applicant or any person or organization that filed comments on the initial decision.

J. Appeal Fee. Filing an appeal requires a deposit of three hundred dollars (\$300.00) to cover costs. An appellant faces the possibility of an assessment of five hundred dollars (\$500.00) for the total costs of local proceedings if the appellant does not prevail. If an appellant materially improves its position, the deposit and appeal fee shall be refunded.

K. Basis of an Appeal of the Initial Decision. The local appeal shall be based on the following:

1. The failure to meet local substantive and procedural requirements;

2. Unconstitutionality;

3. The decision was not within the expedited land division category; or

4. A party's substantive rights have been substantially prejudiced by an error in procedure of the local government.

L. Hearings Officer. A city designated hearings officer shall hear the appeal of the initial expedited land use decision. The hearings officer may not be a city officer or city employee.

M. Hearings Officer Notification. Within seven days of the hearings officer's appointment, the city shall notify the appellant, the applicant (if not the appellant), and the persons or organizations entitled to notice and which provided written comments, of the hearing date before the hearings officer. If a person submitting comments did not appeal, the issues presented by that person are limited to those in their submitted comments.

N. Appeal Hearing. The hearings officer conducts a hearing that:

1. Follows the commission proceeding requirements;

2. Allows the local government's explanation of its decision; and

3. May consider evidence not previously considered.

~~O. — Hearings Officer Decision. In all cases, not involving a procedural issue, the hearings officer shall seek to identify means by which the application can satisfy the applicable requirements. The hearings officer may not reduce the density of the application or remand the application to the city, but shall make a written decision on the appeal within forty two (42) days of the filing of the appeal. Unless the local government determines that exigent circumstances exist, a hearings officer who fails to decide a case within the forty two (42) day period shall receive no compensation for services as the hearings officer. If the decision was not an expedited land division, the hearings officer must remand the decision for proper procedural determination.~~

~~P. — Appeal of Hearings Officer Decision. Appeals of the hearings officer decision are to the Oregon Court of Appeals.~~

~~Q. — Basis of an Appeal of the Hearings Officer Decision. The grounds for review of a hearings officer's decision are limited to:~~

- ~~1. — Whether the decision followed the process for an expedited land division and appellant raised that issue;~~
- ~~2. — Unconstitutionality; and~~
- ~~3. — Certain bias or interest on the part of the hearings officer or local government.~~

~~R. — Process for Final Plat Approval. Final plats for expedite land divisions shall be reviewed consistent with the requirements in Section 17.172.050.~~

## **Chapter 17.174 EXPEDITED LAND DIVISIONS**

### **17.174.010 Definition.**

**An expedited land division, consistent with ORS 197.360, is division of land into two or more parcels that:**

- A. Includes land that is zoned for residential uses and is within an urban growth boundary;**
- B. Is solely for the purposes of residential use, including recreational or open space uses accessory to residential use;**
- C. Does not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect open spaces, scenic historic areas, natural resources, and estuarine resources;**
- D. Satisfies minimum street or other right-of-way connectivity standards established by acknowledged land use regulations or, if such standards are not contained in the applicable regulations, as required by statewide planning goals or rules;**
- E. Will result in development that either:**
  - 1. Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or**
  - 2. All dwellings will be sold or rented to households with incomes below 120 percent of the median family income for Yamhill County. A copy of a deed restriction or other legal mechanism approved by the City Manager shall be submitted.**

### **17.174.020 Process.**

- A. The expedited land division process is not a land use or limited land use decision and is not subject to the permit requirements of city enabling legislation. Decisions are not subject to the comprehensive plan and not eligible for appeal to the land use board of appeals (LUBA).**
- B. Complete Application. The city shall review an application and makes a decision on its completeness within twenty-one (21) days of submittal. Upon determination of an incomplete application, the applicant has one hundred eighty (180) days to submit the missing information.**
- C. Public Notice. Upon submittal of a complete application, the city shall send written notice to affected governmental agencies and property owners within two hundred (200) feet of the site proposed for the land division. The notice shall include the following:**
  - 1. A fourteen (14)-day deadline for submission of written comments;**
  - 2. The time and place where all copies of evidence submitted by the applicant will be available for review;**
  - 3. The name, address, and telephone number of the city's staff person available to comment on the application;**
  - 4. Summary of the local decision making process for such a decision;**
  - 5. Applicable decision criteria;**

**6. Notification that participants must raise all issues during the written comment period.**

**D. Initial Decision. The City Manager shall allow at least fourteen (14) days for written comments and shall render a decision within sixty-three (63) days of a complete application. No public hearing may be held during the initial decision making phase.**

**E. Notice of Final Decision. A notice of decision must be given to the applicant and other participants of the decision. The notice of decision shall state the appeal process.**

**F. Time Extension.**

**1. Applicant. If a decision is not made within sixty-three (63) days, the applicant may seek review by writ of mandamus;**

**2. City. The city may extend the sixty-three (63) day period up to one hundred twenty (120) days based on the determination that an unexpected or extraordinary increase in applications makes the sixty-three (63)-day period impracticable. Following a seven-day notice to the applicant, consideration of an extension is considered at a regularly scheduled City Council meeting. That determination is specifically declared not to be a land use decision or limited land use decision.**

#### **17.174.030 Decision criteria.**

**The City Manager's decision must be based on compliance with the standards of this Chapter and the applicable development standards of this code. An approval may include conditions to ensure that the application meets applicable land use regulations.**

#### **17.174.040 Appeal.**

**A. A decision may be appealed within fourteen (14) days of the mailing of the decision notice by the applicant or a person or organization who submitted written comments during the written comment period allowed by Section 17.174.020.C. The appeal must include the appeal application and a \$300.00 deposit for costs.**

**B. An appeal must be based solely on one or more of the allegations:**

**1. The decision violates the substantive provisions of the applicable land use regulations;**

**2. The decision is unconstitutional;**

**3. The application was not eligible for review under this Chapter, Expedited Land Divisions, and should be reviewed as a land use decision or limited land use decision;**

**4. The appellant's substantive rights were substantially prejudiced by a procedural error.**

**C. The City must appoint a Hearings Officer to decide the appeal decision and the appointed Hearings Officer must comply with ORS 197.375(3)through (6) when issuing a decision.**

#### **17.174.050 Final plat.**

**Final plats for expedited land divisions shall be reviewed consistent with the requirements in Section 17.176.050.**

## **Chapter 17.176 SUBDIVISIONS AND PLANNED UNIT DEVELOPMENTS**

### **17.176.010 General provisions.**

- A. All subdivisions and planned unit developments (PUDs) shall conform to all applicable zoning district Standards, development standards and other provisions of this title.
- B. A master plan for development is required for any application that leaves a portion of the subject property capable of redevelopment.

### **C. All subdivisions and PUDs shall be reviewed in accordance with the Type III review procedures.**

### **17.176.020 Application ~~and fee~~ requirements.**

- A. The following submittal requirements shall apply to all preliminary plan applications for subdivisions and PUDs:
  - 1. All applications shall be submitted on forms provided by the city to the city recorder along with the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this chapter;
  - 2. The applicant shall submit ten (10) clear and legible copies of the preliminary plan on sheets that are twenty-four (24) inches by thirty-six (36) inches in size. Preliminary plans shall be drawn to a scale of one-inch equals one hundred (100) feet or larger;
  - 3. General Information. The following general information shall be shown on the preliminary plan:
    - a. Vicinity map extending one thousand two hundred (1,200) feet in each direction showing all streets, property lines, streams, and other pertinent data to locate the proposal;
    - b. North arrow, scale of drawing and date of preparation;
    - c. Tax map and tax lot number or tax account of the subject property;
    - d. Dimensions and size in square feet or acres of the subject property;
    - e. The names and addresses of the property owner, partitioner and engineer, surveyor, or other individual responsible for laying out the partition.
  - 4. Existing Conditions. The preliminary plan shall show:
    - a. Location of all existing easements within the property;
    - b. Location of city utilities (water, sanitary sewer, storm drainage) within or adjacent to the property proposed for use to serve the development;
    - c. The location and direction of watercourses or drainage swales. The location and disposition of any wells, wetlands identified on the State Wetland Inventory, septic tanks, and drain fields in the development;
    - d. Existing uses of the property, including location of existing structures on the property. It should be noted whether the existing structures are to be removed or to remain on the property;

- e. Contour lines related to an established benchmark, having the following minimum intervals:
    - i. Areas with less than five percent slope: one-foot contours;
    - ii. Areas with slope between five percent and ten (10) percent: two-foot contours;
    - iii. Areas with slope greater than ten (10) percent: five-foot contours;
  5. Proposed Plan. The preliminary plan shall clearly show to scale the following:
    - a. Proposed name of the PUD or subdivision;
    - b. Locations, approximate dimensions and area in square feet of all proposed lots. Identification of each lot and block by number;
    - c. Proposed streets and their names, approximate grade, radius of curves, and right-of-way widths;
    - d. Any other legal access to the subdivision or PUD, other than a public street;
    - e. Location, width and purpose of any proposed easements;
    - f. If the development is to be constructed in phases, indicate the area of each phase.
  6. Supplemental Information. Proposed deed restrictions, if any, in outline form.
  7. A traffic impact analysis if **requested by the City Manager** **required by subsection 17.100.070(B)**.
  - 8. A grading plan and/or geotechnical engineering report if required by Section 17.78.070.**
  - 9. Concept Plan for Building Orientation, Open Space and Vehicle Access. When lots within a proposed subdivision are intended for future construction of three or more attached townhouse dwellings, multi-family dwellings, cottage clusters or any nonresidential development, the plan submittal shall include either:**
    - a. Application for Site Design Review in accordance with Chapter 17.156 for concurrent review; or**
    - b. A concept plan, depicting the general location of buildings, orientation to the street, open space and vehicle access points for demonstrating feasibility of meeting applicable design standards in Chapter 17.106 and other relevant standards.**
  - 10. Tree Survey and Arborist Report. A survey indicating location of all trees on the property having a ten-inch trunk diameter 4.5 feet above grade or greater and their diameter. The plan shall show which trees are proposed for removal and the location of replacement trees relative to the proposed lots, streets and other improvements. The plan shall be accompanied by a certified arborist report documenting the health and species of all surveyed trees, noting any dead, dying, diseased or hazardous trees.**
- B. The following supplemental information shall be required for all PUD preliminary plan applications:
- 1. Calculations justifying the proposed density of development as required by Section 17.112.050(C);**

12. Proposed uses of the property, including **all proposed residential uses and** sites, if any, for **attached dwelling units**, recreational facilities, parks and playgrounds or other public or semi-public uses, with the purpose, condition and limitations of such reservations clearly indicated;
23. The approximate location and dimensions of all commercial **or multi-family** structures proposed to be located on the site;
34. Statement of improvements to be made or installed including streets, sidewalks, bikeways, trails, lighting, tree planting, landscaping, and time such improvements are to be made or completed;
45. Written statement-outlining proposals for ownership and maintenance of all open space areas, private streets and any commonly owned facilities.

#### **17.176.030 ~~Process.~~ Preliminary Plat Approval Criteria.**

- ~~A. Preliminary plans for subdivisions and PUDs shall be reviewed in accordance with the Type II review procedures.~~
- ~~B. Approvals of any preliminary plans for a subdivision or PUD shall be valid for eighteen (18) months after the date of the written decision. A final plat for a subdivision shall be recorded within this time period or the approvals shall lapse. PUDs that do not involve the subdivision of property shall show substantial progress toward the construction of the project within the 18 month period or the approval shall lapse.~~
- ~~C. The Planning Commission may extend the approval period for any subdivision or PUD for not more than one additional year at a time. Requests for extension of approval time shall be submitted in writing thirty (30) days prior to the expiration date of the approval period.~~
- ~~D. If the approval period is allowed to lapse, the applicant must resubmit the proposal, including all applicable fees, for public hearing before the Planning Commission. The applicant will be subject to all applicable standards currently in effect.~~

#### **A. The Planning Commission may approve, approve with conditions, or deny a preliminary plat. The Planning Commission decision shall be based on findings of compliance with all of the following approval criteria:**

- 1. The land division application shall conform to the requirements of Chapter 17.176;**
- 2. All proposed lots and land uses shall conform to the applicable provisions of Division II (Zoning and Development Provisions);**
- 3. Access to individual lots, block configuration and public improvements necessary to serve the development, including but not limited to water, sewer, and streets, shall conform to Division III (General Development Standards);**
- 4. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;**
- 5. The proposed streets, utilities, and surface water drainage facilities conform to City of Carlton adopted plans and applicable engineering standards, and allow for transitions to**



**existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications;**

- 7. All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas is assured through appropriate legal instrument;**
- 8. Evidence that any required state and federal permits, as applicable, have been obtained or can reasonably be obtained prior to development;**
- 9. Evidence that improvements or conditions required by the City, road authority, Yamhill County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met.**
- 10. Flag Lots. Flag lots may be created only when a through street cannot be extended to serve abutting uses or future development. A flag lot driveway ("flag pole") shall serve not more than four dwelling units, including accessory dwellings and dwellings on individual lots. The layout of flag lots, the placement of buildings on such lots, and the alignment of shared drives shall be designed so that future street connections can be made as adjacent properties develop, to the extent practicable, and in accordance with the transportation connectivity and block length standards of Section 17.88.040.**
- 11. Emergency Vehicle Access. A drive serving more than one lot shall have a reciprocal access and maintenance easement recorded for all lots it serves. No fence, structure, or other obstacle shall be placed within the drive area. Where required, emergency vehicle apparatus lanes, including any required turn-around, shall conform to applicable building and fire code requirements. Fire sprinklers may also be required for buildings that cannot be fully served by fire hydrants (i.e., due to distance from hydrant or insufficient fire flow).**
- 12. Lot Size Averaging. To allow flexibility in subdivision design and to address physical constraints, such as topography, existing development, significant trees, and other natural and built features, the approval body may grant without a variance a 10 percent modification to the lot area and/or lot dimension (width/depth) standards in Division II, provided that the overall density of the subdivision does not exceed the allowable density of the district and the approval body finds that all of the following are met:**
  - a. Where a proposed subdivision would abut an existing subdivision with standard-, or larger-, sized lots, the perimeter of the proposed subdivision shall contain standard-, or larger-, sized lots; except that this provision does not apply where the existing lots are larger than 20,000 square feet; and**
  - b. The Planning Commission may require screening, buffering, or other transitions in site design where lots are proposed to abut standard-, or larger-, sized lots.**

**13. Housing Variety. To promote a variety of housing options, no single residential dwelling type may account for more than seventy five (75) percent of the dwelling units in any proposed subdivision with 28 or more dwelling units.**

**14. Preservation and Replacement of Trees. All existing trees having a ten-inch trunk diameter 4.5 feet above grade or greater, as documented in the tree survey per subsection 17.156.020(A)(10), are considered significant and shall be preserved or replaced at a 'one-to-one' ratio.**

**a. Replacement trees shall meet the size specifications of subsections 17.84.080(H) or (I).**

**b. Any trees planted to meet the requirements of Chapter 17.84 including street trees shall be counted as replacement trees.**

**c. Trees removed for installation of public infrastructure shall not required to be replaced, however they should be preserved where possible.**

**d. Dead, dying, diseased or hazardous trees, as documented in the arborists report per subsection 17.156.020(A)(10), shall not be required to be replaced.**

#### **17.176.035 Open space requirements.**

**A. A minimum of five percent (5%) of the total lot area (after exclusion of non-buildable land, such as streets, streams, slopes, open space, easements, and other rights-of-way) shall be maintained as open space. Cottage cluster development is subject to the open space requirements of Section 17.106.040 and not to the requirements of this section. The following may not be counted as open space:**

**1. Required yards or setbacks.**

**2. Submerged lands, including storm drainage facilities.**

**3. Areas of special flood hazard.**

**4. Any area required to meet a standard found elsewhere in this code.**

**B. Open space must be developed as either 'active-style,' 'passive-style,' 'boulevard style,' or any combination thereof.**

**1. Active-style open spaces shall be a minimum of ten thousand (10,000) square feet in size, have a minimum average width and depth no less than fifty (50) feet, and be developed with grass areas for picnics and recreational play, sports courts, walking paths, seating areas, pet areas, and other similar features. Open space must have a minimum of ten (10) feet of street frontage to ensure access, or other similar means of access.**

**2. Passive-style open spaces may be any configuration or shape, and shall be landscaped for aesthetic value and to encourage passive enjoyment (i.e. walking, sitting, trails) without the use of any irrigated turf. Open space must have a minimum of ten (10) feet of street frontage to ensure access, or other similar means of access such as a trail easement.**

**3. 'Boulevard style' open spaces may be created as enhanced streetscapes in excess of the minimum public street requirements and may count toward a maximum of ten thousand (10,000) square feet of the open space requirement.**

**Example: if a 50-foot-wide right-of-way is required for a 1,000 foot-long street and a 60-foot wide ROW with 5-foot additional plantings/meandering pathway is provided on each side of the street, the additional 10-foot-wide area x 1,000 linear feet, or 10,000 square feet, counts toward the open space requirement.**

**C. The open space shall be conveyed in accordance with one of the following methods:**

- 1. By dedication to the City as public open space (if acceptable to the City). Open space proposed for dedication to the City must be acceptable to the City Manager with regard to the size, shape, location, improvement, environmental condition, and budgetary and maintenance abilities;**
- 2. By leasing or conveying title (including beneficial ownership) to a corporation, homeowners' association or other legal entity, with the City retaining the development rights to the open space. The terms of such lease or other instrument of conveyance must include provisions (e.g., maintenance, property tax payment, etc.) suitable to the City.**

**D. The density of the site area created as open space may be transferred to other lots within the subdivision, including reducing minimum lot sizes by up to twenty (20) percent to accommodate the transferred density.**

**E. The required open space is intended to serve the immediate needs of the subdivision residents and is in addition to parks and recreation facilities planned in the adopted Parks Development Plan. Therefore, open spaces are not eligible for Parks System Development Charges (SDCs) credits. Any parkland in excess of the open space required by this section dedicated to the City may be eligible for Parks System Development Charges (SDCs) credits based on the methodology identified in the most current Parks Development Plan.**

**17.176.040 Final plat requirements.**

- A. Preparation. The final plat shall be submitted to the city in a form and with information consistent with this title, county survey and map standards and state laws including ORS 92.010-160 for plats of record and ORS 209.250 for surveys.
- B. Number of Copies. The applicant shall submit three identical reproducible copies of the final plat for signature. The plats shall be Mylar, meeting the requirements of the county recorder and the county surveyor.
- C. Information Required. In addition to any information specified by current state law or county regulations, the following information shall be shown on the final plat:
  1. The area of each lot shall be shown in square feet. For parcels larger than one acre, the area shall be shown to the nearest hundredth of an acre. When front lot lines are on a curve or arc, the front lot line distance shall be indicated by bearing and chord distance;
  2. Identification of land to be dedicated for any purpose, public or private, to distinguish it from lots or parcels intended for sale. The following phrases shall be used when identifying open space dedications:
    - a. Common open space: used to identify those parcels of land created for the purpose of common ownership, enjoyment and maintenance by an approved homeowner's association or is listed as being held in common ownership, with appropriate deed restrictions and responsibilities, by owner's of property within the development;

- b. Public open space: used when identifying those parcels of land dedicated to the city for open space purposes.

### **17.176.050 Final plat approval.**

- A. Within **eighteen (18) months** **two (2) years** of the final decision approving a preliminary plat, a final plat shall be ~~recorded~~ **submitted to the city**. If the final plat is not ~~recorded~~ **submitted** within **eighteen (18) months** **two (2) years**, the preliminary approval shall lapse.
- B. The City Manager shall upon written request by the applicant and payment of the required fee, grant an extension of the approval for a period not to exceed six (6) months provided that:
  - 1. No changes are made to the approved preliminary plat; and
  - 2. There have been no changes in existing conditions, facts, or applicable policies or ordinance provisions on which the original approval was based.
- C. After the final plat has been submitted, the city staff shall review ~~and compare it with the approved preliminary plan to ascertain whether the final plat conforms substantially to preliminary plan and to the~~ **the final plat by means of a Type I review to determine compliance or noncompliance with the preliminary plat and any** conditions of approval as were imposed. ~~The chairperson shall signify Planning Commission approval of the final plat by signing all three reproducible copies of the plat.~~
- D. No final plat shall be approved unless:
  - 1. The plat is in substantial conformance with this title and the provisions of the preliminary plan as approved, including any conditions imposed in connection therewith;
  - 2. The plat contains free and clear of all liens and encumbrances a donation to the public of all common improvements, including but not limited to streets, roads, sewage disposal and water supply systems, the donation of which is required by this title or was made a condition of the approval of the preliminary plat;
  - 3. Explanations of all common improvements required as conditions of approval of the preliminary plan have been recorded and referenced on the plat;
  - 4. All reserve blocks shown on the preliminary plan or required as conditions of approval have been deeded in fee simple to the city;
  - 5. The City Engineer certifies as follows:
    - a. All required public improvements are completed and approved by the city; or
    - b. All required public improvements are **substantially at least ninety (90) percent** complete and a performance guarantee is provided **for incomplete work** pursuant to Section 17.216.010.
- E. If the city recorder finds that conditions specified in subsection D of this section have not been met, the applicant shall be advised of the changes that must be made and afforded the opportunity to comply. Rejection of a final plat shall not affect the preliminary plan approval.
- F. When the city recorder finds that the final plat is in substantial conformity to the approved preliminary plan and is otherwise in lawful form, the city recorder shall sign and date all three reproducible copies of the plat.

- G. Following endorsement of the plat by the city recorder, the mayor and the city engineer, the applicant shall:
1. Pay all required review fees;
  2. Complete all action required by ORS 92.100;
  3. Obtain any other approval signature required by state or county laws, ordinances or regulations;
  4. Deliver the approved subdivision plat and accompanying documents to the county clerk for recording;
  5. Deliver a signed Mylar copy and three (3) copies of the recorded subdivision plat to the city recorder's office.
- H. Effective Date for Final Plat Approval. The approval process for a development shall become final upon the recording of the approved final plat together with any required documents with the county clerk. Approved final plats shall become void eighteen (18) months after final city approval if they are not recorded.

#### **17.176.060 Subdivision of a mobile home park.**

The proposed subdivision of manufactured or mobile home parks under the requirements of ORS 92.830 to 92.845 shall be processed as follows.

- A. The subdivision of an existing mobile home park shall be approved provided:
1. The park is in compliance with all standards for a mobile dwelling park or is an approved nonconforming use. A park is in compliance if the city has not issued a written notice of noncompliance on or before July 2, 2001;
  2. The tentative subdivision plan does not increase the number of lots approved for the park, change the boundary lines, or setback requirements, or make other development changes; and
  3. A plat is prepared and recorded in compliance with all regulations of this title and Oregon Revised Statutes.
- B. A subdivision of an existing mobile home park is not required to meet the minimum lot size, frontage, setback requirements, or street standards of this title, with the following exception that new structures located within yards abutting properties outside of the subdivision must meet all setback requirements or be approved for a variance.
- C. A subdivision of an existing mobile home park shall be subject to formation of a homeowners association for continued maintenance of streets and open space areas within the subdivision.

## **Chapter 17.180 ZONE CHANGE**

### **17.180.010 Process.**

Rezoning or zone changes shall be reviewed in accordance with the Type III review procedures.

### **17.180.020 Zone change defined.**

A "zone change" is a reclassification of any area from one zone or district to another, after the proposed change has been reviewed and a recommendation made by the Planning Commission. Such change shall be passed in ordinance form by the City Council after proceedings have been accomplished in accordance with the following provisions.

### ~~17.180.030 Zone change procedure.~~

- ~~A. That there is a lack of other comparatively zoned property to satisfy the proposed use;~~
- ~~B. That the change of zone is in conformance with comprehensive plan, the Carlton development code, and any applicable street and highway plans;~~
- ~~C. That the proposed property is adequate in size and shape to facilitate those uses allowed in the proposed zone;~~
- ~~D. That the proposed property related to streets and highways is adequate to serve the type of traffic that will be generated by uses in proposed zone; and~~
- ~~E. That the proposed change of zone will have no substantial impact on the abutting property or the uses thereof.~~

### **17.180.040 Application and fee.**

An application for a zone change shall be filed with the city recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this chapter.

### **17.180.050 Criteria for approval.**

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

- A. The proposed zone is appropriate for the comprehensive plan land use designation on the property and is consistent with the description and policies for the applicable comprehensive plan land use classification.
- B. The uses permitted in the proposed zone can be accommodated on the proposed site without exceeding its physical capacity.
- C. Allowed uses in the proposed zone can be established in compliance with the development requirements in this title.
- D. Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property.
- E. There is a lack of other comparatively zoned property to satisfy the purpose of the proposed zone;**

**F. The change of zone is in conformance with the Carlton development code, and any applicable street and highway plans;**

**G. The proposed property related to streets and highways is adequate to serve the type of traffic that will be generated by uses in proposed zone; and**

**H. The proposed change of zone will have no substantial impact on the abutting property or the uses thereof.**

- I. For residential zone changes, the criteria listed in the purpose statement for the proposed zone shall be met.
- J. The following additional criteria shall be used to review all nonresidential changes:
  - 1. The supply of vacant land in the proposed zone is inadequate to accommodate the projected rate of development of uses allowed in the zone during the next five years, or the location of the appropriately zoned land is not physically suited to the particular uses proposed for the subject property, or lack site specific amenities required by the proposed use;
  - 2. The proposed zone, if it allows uses more intensive than other zones appropriate for the land use designation, will not allow uses that would destabilize the land use pattern of the area or significantly adversely affect adjacent properties.

## **Chapter 17.184 ANNEXATION**

### **17.184.010 Authority of city to annex.**

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

### **17.184.020 Process.**

Annexations shall be reviewed in accordance with the Type III review procedures.

- A. Following submission of annexation proposal or initiation, the city recorder shall set a date for hearing. Notice shall be pursuant to the proposed method of annexation.
- B. The Planning Commission shall hear testimony and shall recommend approval or denial of the proposed annexation and submit such recommendation to the council within ten (10) days for the hearing. The Planning Commission's decision shall, in a written form, state the rationale used in justifying the decision, and that the decision is in conformance with the city's comprehensive plan. For all annexations the decision shall state how the proposal will:
  1. Promote an orderly, timely and economical transition of rural and agricultural lands into urbanized lands;
  2. Relate to areas with natural hazards;
  3. Protect open spaces and scenic views and areas;
  4. Provide for transportation needs in a safe, orderly and economic manner;
  5. Provide for an orderly and efficient arrangement of public services;
  6. Affect identified historical sites and structures and provide for the preservation of such sites and structures;
  7. Improve and enhance the economy of the city; and
  8. Provide quality, safe housing through a variety of housing types and price ranges.
- C. The city recorder shall set a date for a public hearing with the council upon receipt of the Planning Commission's recommendation. Notice shall be pursuant to the proposed method of annexation. After considering all testimony the council shall sustain or reverse the Planning Commission's recommendation. The council shall, in a written form, state the rationale used in justifying the decision, and that the decision is in conformance with the city's comprehensive plan. The decision shall state how the proposed annexation will address the criteria stated in Section 17.184.020(B).

### **17.184.030 ~~Annexation by election~~ **Reserved.****

~~A. The council, upon approval of the annexation proposal, has the authority to submit the proposal for annexation to the registered voters of the city.~~

~~B. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose. The voters of the city and of the territory may vote upon the proposal for annexation simultaneously or at different times not more than twelve (12) months apart.~~



~~C.— Two or more proposals for annexation may be voted upon simultaneously; however in the city each proposal shall be stated separately on the ballot and voted on separately, and in the territory proposed for annexation no proposal for annexing other territory shall appear on the ballot.~~

~~D.— The council shall give notice of each annexation election by publication prior to such election one each week for four successive weeks in a newspaper of general circulation in the city. Whenever simultaneous elections are held, the same notice and publication shall fulfill the requirements of publication for the city election and the election held in the territory. Notice shall also be given by posting notices of the election in four public places within the city if votes are to be cast therein and four public places in each territory proposed to be annexed for a like period as provided in this chapter for publication of notice. The notice shall distinctly state the proposition to be submitted, shall contain a legal description of, and a map indicating the boundaries of each territory proposed to be annexed, and the registered voters shall be invited thereby to vote upon such annexation. The council shall also designate and the notice shall state the hours during which the polls will be open within the city and each territory proposed to be annexed. If the election is to be held at the usual precinct polling places designated for a general election held at that time, or if the election is not held at the same time as a general election, but is held at the same polling places used for the last preceding general election, the notice shall so state; if any polling place is to be different than the regular polling places, the notice shall describe the location of the polling places to be used in the area or precincts in which the polling places are different.~~

#### **17.184.040 Annexation ~~without city election.~~**

A. ~~By ordinance, the council may elect to dispense with submitting the annexation proposal to the registered voters of the city, set a date for public hearing, at which time the registered voters of the city can be heard on the annexation proposal.~~ **An annexation shall be subject to the review procedures for Type III actions in Chapter 17.188.**

B. **In addition to the public notice requirements for Type III actions in Chapter 17.192:**

**1.** Notice of the public hearing shall be published once a week for two successive weeks prior to the day of the hearing, in a newspaper of general circulation in the city, and posted in four public places in the city for a like period.

**A 2.** Written notice shall be given to all property owners within the boundaries of the proposed annexation and within two hundred (200) feet of the external boundaries of the proposed annexation.

~~D.— After the public hearing the council, by ordinance subject to referendum, and containing a legal description of the proposed annexation:~~

~~1.— Declare that the territory is annexed to the city upon the condition that the majority of the votes cast in the territory is in favor of annexation;~~

~~2.— Declare that the territory is annexed to the city where persons with land ownership in the proposed territory consent in writing to such annexation.~~

#### **17.184.050 ~~Annexation with election in proposed territory~~ **Reserved.****

~~A.— The council need not call or hold an election in any contiguous territory proposed to be annexed, or post notice in the contiguous territory, if more than half the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein~~

~~representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file the annexation proposal on or before the day:~~

- ~~1. The public hearing procedure shall be pursuant to Sections 17.184.020(A) and (B); and Sections 17.184.040(B) and (C). If the council dispenses with submitting the question to the registered voters of the city; or~~
- ~~2. The council takes action to call an annexation election in the city under Section 17.184.030(D), if the council submits the question to the registered voters of the city.~~

#### **17.184.060 Island annexation.**

- A. It is within the power and authority of the city by ordinance subject to referendum, to annex land that is surrounded by the corporate limits or boundaries of the city, with or without consent of any property owner or resident in the territory.
- B. Notice and procedure for public hearing shall be provided pursuant to the provisions of Section 17.184.040.
- ~~C. If the council elects to submit the questions to the registered voters of the city, procedure shall be pursuant to Section 17.184.030.~~

#### **17.184.070 Submission of annexation reports.**

- A. The city shall report all changes in the boundaries or limits of the city to the county clerk, county assessor and Oregon Department of Revenue. The report shall contain a legal description of the new boundaries and shall be filed within ten (10) days from the effective date of the change of any boundary lines.
- B. With the exception of "island annexation" the city recorder shall submit to the Secretary of State:
  1. A copy of the annexation ordinance;
  2. An abstract of the vote within the city if votes were cast therein, which shall show the whole number of registered voters voting therein on the annexation, the number of votes cast in favor of, and against the annexation;
  3. A copy of the statement of consent of landowners in the territory annexed;
  4. A copy of the ordinance of the city declaring that no election is required in the city; and
  5. An abstract of the vote upon the referendum if a referendum petition was filed with respect to the deferred ordinance.

#### **17.184.080 Effective date of annexation.**

The annexation shall be complete from the date of filing with the Secretary of State as provided in ORS 222.150, 222.160, 222.170, and 111.900. Thereafter, the annexed territory shall be and remain part of the city. The date of such filing shall be the effective date of annexation, provided such filing is not made later than ninety (90) days prior to any general or primary election; otherwise, the effective date of such annexation shall be the day after the primary or general election next following the date of filing.

**17.184.090 Zone designation of annexed property.**

The City Council shall establish the appropriate zoning, in conformance to the comprehensive plan, effective upon the effective date of the annexation of property to the city.