

Chapter 6 – Applications

The purpose of Chapter 6 (Applications) is to outline the application process and approval criteria to decide on land use applications. In some cases, land use applications, such as land division applications, are listed in other Chapters.

6.000 ANNEXATION

6.010 Annexation Criteria. A proposal to annex territory to the City shall be conducted as a Type III or Type IV decision, with supplements or modifications to procedures as required to comply with state law. An annexation proposal shall be referred to the Planning Commission. The Commission shall base its recommendation to the City Council on compliance with the following criteria:

- A. The proposal conforms to the Comprehensive Land Use Plan, or substantial changes in conditions occurred which render the Comprehensive Land Use Plan inapplicable to the annexation.
- B. The subject area to be annexed is located within the City's Urban Growth Boundary and adjacent to the City limits.
- C. Public facilities, including suitable public access, are available or there are feasible options for making them available at the time of development.
- D. The annexed territory can be developed or redeveloped to one (1) or more uses provided for in the relevant portions of the Comprehensive Plan and this Code.

6.020 City Council Review. The City Council shall make affirmative findings on the criteria if it proceeds with the annexation. However, nothing shall require the City Council to approve an annexation if the Council determines that annexation is not in the public interest.

6.030 Comprehensive Plan Designation and Zoning. An annexation proposal may be consolidated with a Comprehensive Plan Map amendment or a Comprehensive Plan and Zoning Map amendment. Absent a contemporaneous amendment to the Comprehensive Plan map or Zoning Map, the County Comprehensive Plan or zoning designation shall continue on the property until an amendment is approved as provided in this Code.

6.035 Conformity. Development, uses, or both which have received approval from the former jurisdiction shall continue to be approved and subject to the conditions of approval established by the former jurisdiction, if any. After the effective date of the ordinance to apply City zoning, any change to any development or use annexed into the City shall be subject to the City zoning regulations in effect at the time of the proposes change.

6.100 COMPREHENSIVE PLAN TEXT AMENDMENT

- 6.105 Purpose. The purpose of a Comprehensive Plan Text Amendment application is to provide a mechanism for legislative amendments to the Comprehensive Plan. It is recognized that such amendment may be necessary from time to time to reflect changing community conditions, needs, and desires and to fulfill regional obligations.
- 6.110. Applicability. The Comprehensive Plan Text Amendment application shall apply to any change to Comprehensive Plan text or diagrams.
- 6.115 Procedure Type. The Type IV procedure, as described in Section 2.065 of this Code, shall apply to Comprehensive Plan Text Amendment applications.
- 6.120 Approval Criteria. The following criteria shall be used to review and decide amendments to the text of the Comprehensive Land Use Plan. In preparing its recommendation, the Planning Commission shall evaluate the proposal based on the following criteria:
- A. Compliance with the Statewide Land Use Goals and related administrative rules has been met.
 - B. Public need is best satisfied by this particular change.
 - C. The change will not adversely affect the health, safety, and welfare of the community.

6.200 COMPREHENSIVE LAND USE PLAN MAP AMENDMENT

- 6.205 Purpose. The purpose of a Comprehensive Land Use Plan Map Amendment application is to provide a mechanism for quasi-judicial and legislative amendments to the Comprehensive Land Use Plan Map. It is recognized that such amendment may be necessary from time to time to reflect changing community conditions, needs, and desires and to fulfill regional obligations.
- 6.210 Applicability. The Comprehensive Land Use Plan Map Amendment application shall apply to any change to the City's Comprehensive Land Use Plan map.
- 6.215 Procedure Type. The Type III procedure, as described in Section 2.060 of this Code, shall apply to quasi-judicial Comprehensive Land Use Plan Map amendments. The Type IV procedure, as described in Section 2.065 of this Code, shall apply to legislative zoning map amendments. The Planning Director shall determine if a Comprehensive Land Use Plan Map amendment is quasi-judicial or legislative.
- 6.220 Approval Criteria. In order to approve a Comprehensive Land Use Plan Map Amendment application, the decision making authority shall make findings of fact based on evidence demonstrating that the following criteria are satisfied for both legislative and quasi-judicial Comprehensive Land Use Plan Map amendments:
- A. Compliance with applicable Statewide Land Use Planning Goals and related Oregon Administrative Rules.
 - B. Consistency with the applicable goals and policies of the Comprehensive Land Use Plan.
 - C. The Plan does not provide adequate areas in appropriate locations for uses allowed in the proposed land use designation, and the addition of this property to the inventory of lands so designated is consistent with projected needs for such lands.
 - D. The Plan provides more than the projected need for lands in the existing land use designation.
 - E. Uses allowed in the proposed designation will not significantly adversely affect existing or planned uses on adjacent lands.
 - F. Public facilities and services necessary to support uses allowed in the proposed designation are available, or are likely to be available in the near future. The applicant shall demonstrate compliance with the Transportation Planning Rule, specifically by addressing whether the proposed amendment creates a significant effect on the transportation system pursuant to OAR 660-012-0060.

6.300 CONDITIONAL USE CU

- 6.305 Purpose. The purpose of a Conditional Use application is to review uses that may be allowed in the underlying zone but due to their size, operation, or other characteristics require review on a case-by-case basis. These uses are subject to the regulations in this Section because they may, but do not necessarily, result in significant adverse effects upon the environment, public services, or create nuisances. Conditional Uses may be approved, approved with site-specific conditions designed to minimize or mitigate identified adverse impacts, or denied.
- 6.310 Scope. Approval of a conditional use permit shall not constitute a zone change and shall be granted only for the specific use requested. Any change of use, modification, or limitation of conditions from an approved conditional use shall be as authorized in Section 6.325 of this Chapter.
- 6.315 Application. Conditional Uses are subject to the Type III review process, as described in Section 2.060 of this Code. A written application for a conditional use shall be filed with the Planning Division indicating the Section of this Code under which the conditional use is sought on forms provided by the Planning Division. The application shall include site plans, drawn to scale, showing the dimension and layout of the proposed use with other information and drawings as may be required to provide an understanding of the proposed conditional use and its relationship to surrounding property.
- 6.320 Approval Criteria. The Planning Commission may approve an application, approve with modifications, or deny an application for a conditional use. The applicant must submit evidence substantiating that all requirements of this Code relative to the proposed use are satisfied and demonstrate that the proposed use also satisfies the following criteria:
- A. The use is listed as a conditional use in the underlying district, or approved by the Planning Commission as similar to conditional uses listed in the underlying district.
 - B. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features.
 - C. All transportation systems, public facilities, and public services related to the proposed development have, or can be improved to have, adequate capacity to serve the proposed development at the time of its completion.
 - D. The proposed use will provide adequate open space, landscaping, and aesthetic design to mitigate any possible adverse effect on surrounding properties and uses.
 - E. The proposed use, as conditioned, will not cause or not result in the creation of a public nuisance including, but not limited to, air, land, or water degradation, noise, glare, heat, vibration, or other impacts that may be injurious to public health, safety, and welfare.
 - F. The proposal satisfies the applicable provisions of this Code.

- 6.325 Conditions. Notwithstanding any otherwise applicable standards, the Planning Commission may attach to an approved conditional use reasonable conditions, restrictions, or safeguards that would uphold the purpose and intent of this Section and mitigate any adverse impact upon adjoining properties which may result by reason of the approved conditional use. A list of conditions may include, but is not limited to, the following:
- A. Increasing the required lot size or yard dimensions.
 - B. Increasing street width.
 - C. Increasing the number of off-street parking or loading spaces or area.
 - D. Improving public facilities such as:
 - 1. Water supply.
 - 2. Sanitary sewers.
 - 3. Storm drainage.
 - 4. Sidewalks, curbs, and other street improvements; and/or
 - 5. Fire hydrants.
 - E. Controlling the location and number of vehicular access points to and from the site.
 - F. Limiting lot coverage or height of buildings.
 - G. Undergrounding of utilities.
 - H. Public safety and crime prevention measures.
 - I. Requiring landscaping, fencing, diking, screening, or berms.
 - J. Limiting the number, size, and location of signs.
 - K. Land dedication or money in lieu of dedication for public purposes.
 - L. Bonds or other suitable security to ensure that requirements are met.
 - M. Submittal of final detailed plans indicating conformance with conditions.
- 6.330 Conditional Use Permit. A conditional use permit shall be obtained before site development. The permit shall specify any conditions, limitations, and/or restrictions imposed by the Planning Commission in addition to those specifically set forth in this Section.
- 6.335 Expiration. Refer to Section 2.220 of this Code.
- 6.340 Building Permit. Permits for construction for all or any portion of a project approved as a conditional use permit shall be the responsibility of the Building Official. The Planning Director shall be responsible to assure that all conditions of approval from the conditional use have been addressed prior to the issuance of a building permit for all or any portion of work conducted. Any change in the approved plan that occurs during the plan review process or during construction shall be submitted to the Planning Commission as a new application, except as authorized in Section 6.230 of this Chapter.
- 6.345 Revocation. The Director may initiate a Type III proceeding for the Planning Commission to consider revocation of a conditional use permit on the grounds that the application or other information provided by the applicant included material false information, or if the conditions of approval have not been complied with or are not being maintained. If the Planning Commission finds that the original approval was based on materially false information it may revoke the approval or impose additional conditions to mitigate the impact of the false information.

If the Planning Commission finds that the conditions of approval have not been complied with or are not being maintained, a reasonable time shall be given for making correction. If corrections are not made within that time, revocation of the conditional use permit shall become effective ten (10) days after the time specified.

6.350 Changes and Modifications

- A. Minor Changes. Minor changes to an approved conditional use may be approved under a Type II procedure, provided that such changes meet all of the following:
1. Does not violate any previous conditions of approval for the conditional use.
 2. Does not change the use as defined by the Troutdale Development Code and the current Oregon Structural Specialty Code.
 3. Does not change the boundaries of the development.
 4. Individual or cumulative changes do not increase the floor area on the site by more than ten percent (10%), up to a maximum of ten thousand (10,000) square feet, or in those cases not involving structures, individual or cumulative changes do not increase the exterior improvement area on the site by more than ten percent (10%), up to a maximum of ten thousand (10,000) square feet.
 5. Does not increase traffic volumes to the site more than ten percent (10%) over current conditions.
- B. Major Changes. Any change to an approved conditional use that does not qualify as a minor change shall be considered a major change. Major changes shall be processed as a new application and shall be made in accordance with the procedures specified in this Chapter.

6.400 DIRECTOR'S INTERPRETATION

- 6.405 Purpose. The purpose of the Director's Interpretation is to address new uses which may come into existence over time that are not addressed specifically in the Code or some of the terms or phrases within the Code which may require further interpretation. The Director's Interpretation is established for resolving Code interpretation issues in advance of, or concurrent with, applying for approval of an application, development, permit, or other action. This Section is carried out by the approval criteria listed herein.
- 6.410. Applicability. The Director shall have the initial authority and responsibility to interpret all terms, provisions, and requirements of this Code.
- 6.415. Threshold. An application for Director's Interpretation shall be required when one or more of the following thresholds apply:
- A. A request that the Director interpret the Development Code in writing.
 - B. A request that the Director provide a determination of nonconforming status of a lot, structure, or use in writing.
- 6.420 Application. Director's Interpretations are subject to the Type II review process as described in Section 2.055 of this Code. A written application for a Director's Interpretation shall be filed with the Planning Division indicating the Section of this Code under which the interpretation is sought on forms provided by the Planning Division.
- 6.425 Approval Criteria. In order to approve a Director's Interpretation application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
- A. That the interpretation is consistent with the City's Comprehensive Plan and other provisions within the Development Code.
 - B. When interpreting that a use not identified in the Development Code is a Permitted, Conditional, or Prohibited Use, that use must be substantially similar to a use currently identified in the subject zoning district or elsewhere in the Development Code.
 - C. The proposal contains all applicable application submittal requirements as specified in Section 2.035 of the Development Code.
- 6.430 Conditions of Approval. The decision making authority may impose conditions on the approval of a Director's Interpretation application to ensure compliance with the approval criteria.

6.500 HISTORIC LANDMARKS

6.505 Purpose. The purpose of the Historic Landmarks Section is to provide procedures to identify, designate, and preserve historic resources including buildings, structures, sites, objects, or districts, which are of historical, architectural, or cultural significance to the City of Troutdale, and to provide appropriate means for their protection and preservation consistent with state preservation laws. The City and the Historic Landmarks Commission shall support the enforcement of all state laws relating to historic preservation.

6.510 Applicability. The historic landmark protection standards of this Chapter apply to designated historic landmarks listed in Table A of Section 4.230 of this Code and to historic resources listed on the National Register of Historic Places whether or not that resource is designated a historic landmark by the City. No provision of this Chapter shall be construed to prevent the ordinary repair or maintenance of a historic landmark or historic resource on the National Register of Historic Places when such action does not involve a change in design, materials, or appearance. No provision in this Chapter shall be construed to prevent the alteration, demolition, or relocation of a historic landmark or historic resource listed on the National Register of Historic Places when the Building Official certifies that such action is required for the public safety. At his or her discretion, the Building Official may find that that a historic landmark or historic resource on the National Register of Historic Places does not meet current Building Code but is not dangerous as defined by that Code.

6.515 Application. There are four types of applications under this Section, as follows: Historic Landmark Designation; Removal of a Historic Landmark Designation; Alterations to a Historic Landmark; and Demolition or Relocation of a Historic Landmark.

A. Historic Landmark Designation.

1. Purpose. Historic landmark designation may be applied to any historic resource whether or not it is listed in the City's current inventory of historic resources.
2. Procedure Type. The Type III procedure, as described in Section 2.060 of this Code, shall apply to a Historic Landmark Designation application. The decision making authority is the Historic Landmarks Commission.
3. Approval Criteria. In order to approve a Historic Landmark Designation application, the Historic Landmarks Commission shall make findings of fact based on the following National Register of Historic Places criteria to evaluate whether the historic resource merits a historic landmark designation as follows:
 - a. The historic resource must be over fifty (50) years of age (or of extraordinary historic importance if under fifty (50) years).
 - b. The historic resource must also meet at least one (1) of the following:
 - 1) Be associated with events that have made a significant contribution to the

broad patterns of local, state, or national history; or

- 2) Be associated with the lives of persons, organizations, or groups of people, significant in local, state, or national history; or
- 3) Embody distinctive characteristics of an architectural style, period or method of construction or that represents the work of a master, or that possesses high artistic values, or that represents a significant and distinguishable entity whose components may lack individual distinction; or
- 4) Be listed on the National Register of Historic Places.

B. Removal of a Historic Landmark Designation.

1. Purpose. Historic landmark designation may be removed from any of the properties so designated as historic resources in the City’s current inventory of historic resources.
2. Procedure Type. The Type III procedure, as described in Section 2.060 of this Code, shall apply to a Removal of a Historic Landmark Designation application. The decision making authority is the Historic Landmarks Commission.
3. Approval Criteria. In order to approve a Removal of a Historic Landmark Designation, the Historic Landmarks Commission shall make findings of fact based on the following:
 - a. The significance or integrity of the approved historic landmark designation has been substantially reduced or diminished since designation approval.
4. Exception. The Director shall delete from the Troutdale historic resource inventory any historic resource or historic landmark that has been destroyed or is damaged in excess of seventy percent (70%) of its previous value due to vandalism, fire, flood, wind, earthquake, or any natural disaster. The Director shall send written notice to the property owners and the State Historic Preservation Office (SHPO).
5. Timeline. Upon approval, the effective date of removal shall be one hundred (120) days from the date of the application to remove the historic landmark designation.

C. Alterations to a Historic Landmark.

1. Purpose. Properties designated as historic landmarks by the City and any historic resource listed in the National Register of Historic Places may be altered subject to the process specified herein unless exempted by Section 6.515.C.4.
2. Procedure Type. The Type III procedure, as described in Section 2.060 of this Code, shall apply to an Alteration to a Historic Landmark application. The decision

making authority is the Historic Landmarks Commission.

3. Approval Criteria. In order to approve an Alteration to a Historic Landmark Designation, the Historic Landmarks Commission shall make findings of fact based on the following:
 - a. The historic character of a property shall be retained and preserved. The relocation of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property shall be avoided.
 - b. A property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, shall not be undertaken.
 - c. Changes to a property that have acquired historic significance in their own right shall be retained and preserved.
 - d. Distinctive materials, features, finish, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
 - e. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and where possible, like materials. Replacement of missing features shall be substantiated by documentary and physical evidence.
 - f. New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale, proportion, and massing to protect the integrity of the property and its environment.
 - g. New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed, in the future, the essential form and integrity of the historic property and its environment would be unimpaired. Archeological resources shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken; and/or new additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment; and/or

4. **Designation Status.** When a request for relocation is approved, the Historic Landmarks Commission may retain the historic landmark designation with the informed written request of the owners, upon adoption of findings that the criteria of Section 6.515.A of this Code are met.

5. **Timeline.** The effective date of an approval to demolish or relocate a historic landmark shall be one hundred twenty (120) days from the date of the application to demolish or relocate the historic landmark. Demolition or relocation permits shall not be issued for at least one hundred twenty (120) days from the date of the land use application to demolish or relocate the historic landmark.

6.600 NON-CONFORMING EXPANSIONS

- 6.605 Purpose. The purpose of the Non-Conforming Expansion applications are to allow non-conforming structures and non-conforming uses the ability to expand provided that the proposed expansion meets the applicable approval criteria.
- 6.610 Applicability. The Non-Conforming Expansion applications shall not apply to non-conforming use, structure, or development located within any overlay district which specifically prohibits the expansion of a non-conforming use, structure, or development.
- 6.615 Application. There are three types of applications under this Section, as follows: Expansion of a Non-Conforming Use - Minor; Expansion of a Non-Conforming Use - Major; and Expansion of a Non-Conforming Structure or Development.
- A. Expansion of a Non-Conforming Use - Minor.
1. Threshold. A nonconforming use may be expanded by up to twenty percent (20%) in floor area of each structure or, in those cases not involving structures, up to ten percent (10%) in land area.
 2. Procedure Type. The Type II procedure, as described in Section 2.055 of this Code, shall apply to an Expansion of a Non-Conforming Use - Minor application. The decision making authority is the Director.
 3. Approval Criteria. In order to approve an Expansion of a Non-Conforming Use - Minor application, the Director shall make findings of fact based on the following criteria as follows:
 - a. The expansion will not increase detrimental effects in the surrounding area associated with the existing nonconforming use including, but not limited to, noise, vehicle traffic, vibration, dust, odor, fumes, smoke, or glare; and
 - b. The expansion will not result in serious conflicts between the nonconforming use and existing or permitted conforming uses in the area; and
 - c. The expansion does not necessitate a variance from any dimensional standard of this Code that is applicable to the development; and
 - d. The owner will incur practical difficulties or unnecessary hardship if the nonconforming use is not expanded; and
 - e. The proposal complies with the applicable provisions of Section 5.300 (Nonconforming Uses).

B. Expansion of a Non-Conforming Use - Major.

1. **Threshold.** A nonconforming use may be expanded by more than twenty percent (20%) in floor area of each structure or, in those cases not involving structures, more than ten percent (10%) in land area.
2. **Procedure Type.** The Type III procedure, as described in Section 2.060 of this Code, shall apply to an Expansion of a Non-Conforming Use - Major application. The decision making authority is the Planning Commission.
3. **Approval Criteria.** In order to approve an Expansion of a Non-Conforming Use - Major application, the Planning Commission shall make findings of fact based on the following criteria as follows:
 - a. The expansion will not increase detrimental effects in the surrounding area associated with the existing nonconforming use including, but not limited to, noise, vehicle traffic, vibration, dust, odor, fumes, smoke, or glare; and
 - b. The expansion will not result in serious conflicts between the nonconforming use and existing or permitted conforming uses in the area; and
 - c. The expansion does not necessitate a variance from any dimensional standard of this Code that is applicable to the development; and
 - d. The owner will incur practical difficulties or unnecessary hardship if the nonconforming use is not expanded; and
 - e. The proposal complies with the applicable provisions of Section 5.300 (Non Conforming Uses).

C. Expansion of a Non-Conforming Structure or Development.

1. **Threshold.** Any proposal which increases the non-conformity of an existing non-conforming structure or development may be expanded subject to the approval of an Expansion of a Non-Conforming Structure or Development application.
2. **Procedure Type.** The Type II procedure, as described in Section 2.055 of this Code, shall apply to an Expansion of a Non-Conforming Structure or Development application. The decision making authority is the Director.
3. **Approval Criteria.** In order to approve an Expansion of a Non-Conforming Structure or Development application, the Director shall make findings of fact based on the following criteria as follows:
 - a. Special circumstances or conditions including, but not limited to, lot size, lot

shape, topography, or size or shape of building, applied to the property and nonconforming structure or development, are not typical of the general conditions in the surrounding area; and

- b. The expansion of the nonconforming structure or development, if authorized, will not be injurious to adjacent properties or the surrounding neighborhood or otherwise be detrimental to the public welfare; and
- c. The expansion of the nonconforming structure or development will be consistent with the general purpose and intent of the provisions which would otherwise prohibit the nonconforming structure or development; and
- d. The amount of the expansion being requested is the minimum amount necessary to relieve a practical difficulty and any resulting unnecessary hardship; and
- e. The proposal complies with the applicable provisions of Section 5.300 (Non-Conforming Uses).

6.700 PLANNED UNIT DEVELOPMENT

6.705 Purpose. The purpose of a Planned Unit Development (PUD) is to encourage innovation and creative approaches for developing land while enhancing and preserving character, value, and integrity of surrounding areas that have developed or are developing under conventional zoning district regulations.

6.710 Application. A Planned Unit Development application is subject to the Type III review process. The decision making authority is the Planning Commission. A written application for a PUD shall be filed with the Planning Division on forms provided by the Planning Division. The application shall include site plans, drawn to scale, showing the dimension and layout of the proposed use with other information and drawings as may be required to provide an understanding of the proposed PUD and its relationship to surrounding property.

6.715 Approval Criteria. The Planning Commission may approve an application, approve with modifications, or deny an application for a PUD. The applicant must submit evidence substantiating that all requirements of this Code relative to the proposed use are satisfied and demonstrate that the proposed use also satisfies the following criteria:

- A. A proposed development is compatible with the surrounding area or its zoning.
- B. That exceptions from the standards of the underlying district are warranted by the design and amenities being proposed.
- C. That the proposal, either through the formation of a homeowners association or through its design and amenity features, can reduce the public cost for the same level of facilities (streets, sewers, and storm sewers) and services (police and fire protection) as required by the standards of the underlying district, or that it allows for the rational extension of public facilities and services.

6.720 Planned Development Process. Planned Development shall be reviewed in the same two stage process as provided for a Type III subdivision, regardless of whether a land division is proposed.

6.725 Preliminary Plan.

- A. Submission Requirements. The preliminary plan shall consist of twenty (20) copies of all plans, maps, and diagrams drawn in sufficient detail to indicate the nature of the plan elements and a written narrative description.
- B. Submission Materials. The tentative plan need not be a finished drawing, but it should present all relevant graphic data, drawn on a sheet 18"x24" in size, and at a scale of 1"=100'. The information shall include, but is not limited to, the following:
 - 1. Proposed land uses and residential densities.

2. Building types and locations.
3. Means of access, circulation, and parking.
4. Parks, playgrounds, paths, and open spaces.
5. Land division plan if the land is to be divided.
6. Applicant's statement of the goals and objectives of the planned development.
7. Tables showing overall density of any proposed residential development with density of dwelling types and intensity of any commercial, industrial, or other employment-related uses.
8. Applicant's statement of how the proposed Planned Development complies with the applicable Troutdale Development Code requirements.
9. That the proposal incorporate a commitment to provide a legal instrument or instruments acceptable to the City setting forth a plan for the permanent care and maintenance of common space, including streets and greenways, recreational areas, and all community-owned facilities.
10. General timetable of development.

6.730 **Final Plan.** Final plan approval shall be a Type I process to confirm that it is consistent with the approved preliminary plan. The final plan may be approved notwithstanding minor changes such as minor shifting of the location of buildings, proposed streets, public or private ways, utility easements, parks, public open spaces, or other features of the preliminary plan based on final engineering, design or similar final detail work but shall not increase the residential densities, change zone boundaries or the perimeter boundary of the PD, change any use or change the location of amount of land devoted to a use specified in the preliminary plan. Changes other than permitted minor changes shall require a new application.

- A. All public site dedications, development rights to open spaces, or other dedications for the entire site or approved staged portion shall be recorded prior to the issuance of any building permit.
- B. Final copies of all approved articles governing operation and maintenance shall be placed on file with the Planning Division prior to the issuance of any building permit.

6.800 PUBLIC TRANSPORTATION FACILITY

- 6.805 **Purpose.** The purpose of the Public Transportation Facility application is to establish a process for review of new construction or significant expansion of transportation facilities within public rights-of-way for Collectors, Arterials, and Freeways and the areas adjacent to the rights of way where physical changes will occur as a result of such construction.
- 6.810. **Threshold.** An application for Public Transportation Facility shall be required for construction or modification of Collectors, Arterials, and Freeways when one (1) or more of the following thresholds describe the proposal:
- A. A new facility will be constructed where no transportation facility existed previously.
 - B. The work includes construction activities outside a public right-of-way or easement, including contractor staging areas and stockpiling of materials.
 - C. The work involves the acquisition of new right-of-way.
- 6.815 **Application.** Public Transportation Facility application is subject to the Type II review process as described in Section 2.055 of this Code. A written application for a Public Transportation Facility shall be filed with the Planning Division on forms provided by the Planning Division.
- 6.820 **Approval Criteria.** In order to approve a Public Transportation Facility application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
- A. The proposal meets all applicable design standards for the classification of the subject road as specified by the standards specified by the Public Works Department unless the applicable provisions have been modified by the City Engineer by separate process.
 - B. The alignment of the new or extended transportation facility is consistent with the general location shown in the Comprehensive Plan Transportation Element.
 - C. Any interim improvements have been designed to accommodate future improvement of the facility to ultimate standards.
- 6.825 **Conditions of Approval.** The decision making authority may impose conditions on the approval of a Public Transportation Facility application to ensure compliance with the approval criteria.

6.900 SITE DEVELOPMENT REVIEW

6.905 Purpose. The purpose of this Chapter is to advance all of the following objectives in the public interest:

- A. Carry out the development pattern and plan of the City through efficient and effective review of site development proposals;
- B. Promote the public health, safety and general welfare;
- C. Provide adequate light and air, prevent overcrowding of land, and provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management, and protection against natural hazards; and
- D. Encourage efficient use of land resources and public services, and provision of transportation options.

6.910 Applicability and Exemptions. Site development review approval is required for new development, change of use resulting in increased vehicle traffic or requiring an increase in minimum parking pursuant to Chapter 9, Building Expansions and to expand a nonconforming use or development. Except as specified by a condition of approval on a prior City decision, or as required for uses subject to conditional use permit approval, site development review is not required for the following:

- A. Change in occupancy from one allowed land use to another allowed land use.
- B. Physical expansion of existing structures by ten percent (10%) or less, occurring in a single expansion or in several aggregated expansions relative to the originally approved project.
- C. Single-family detached dwelling (including manufactured home on its own lot).
- D. Duplex on a single lot.
- E. Home occupation.
- F. Accessory structures that do not require a building permit, with or without accessory parking.
- G. Public improvements required by city standards or as stipulated by a condition of land use approval (e.g., transportation facilities and improvements, parks, trails, utilities, and similar improvements), except where a condition of approval requires site development review.
- H. Regular maintenance, repair and replacement of materials (e.g., roof, siding, awnings, etc.), parking resurfacing and similar maintenance and repair.

6.915 Review Procedures. Site development review shall be conducted using a Type I or Type II procedure to be determined as follows:

- A. A Type I application shall be used to review all of the following:
 - 1. Change of occupancy from one type of land use to a different type of land use resulting in an increase in vehicle traffic or demand for parking.
 - 2. Commercial, industrial, institutional, or multifamily building addition or remodel that adds less than twenty-five percent (25%) floor area.
 - 3. Site improvements, such as modifications to a landscaped area or parking area.
- B. A Type II application shall be used to review all of the following:
 - 1. All new development not exempted or made subject to a Type I procedure above.
 - 2. Commercial, industrial, institutional, or multifamily building addition or remodel that adds twenty-five percent (25%) or more floor area.
 - 3. New accessory residential units.
 - 4. New bed and breakfast inns.
 - 5. Adjustment to applicable design standards for any development proposal.

6.920 Approval Criteria. In order to approve a site development review application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that the proposal is consistent with the applicable approval criteria.

- A. An application for a Type I site development review shall be approved if the proposal meets all of the following criteria. The City decision-making body may, in approving the application, impose reasonable conditions of approval, consistent with the applicable criteria.
 - 1. The application complies with all of the applicable provisions of the underlying zone and overlay zone(s), including but not limited to: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other applicable standards, or a variance or adjustment is granted.
 - 2. The proposal includes required upgrades, if any, to existing development that does not comply with the applicable land use district standards, pursuant to Section 5.300 Nonconforming Uses.

3. The proposal complies with all of the applicable site design and development standards of this Code, such as landscaping and parking.
 4. The proposal meets all existing conditions of approval for the site or use, as required by prior land use decision(s), as applicable.
- B. An application for a Type II site development review shall be approved if the proposal meets all of the following criteria. The City decision-making body may, in approving the application, impose reasonable conditions of approval, consistent with the applicable criteria.
1. The proposal complies with the approval criteria specified in Section 6.920.A.
 2. If applicable design standards are proposed to be adjusted, the proposed adjustment:
 - a. Is justified due to unique site conditions.
 - b. Conforms to the extent practicable with these design standards.
 - c. Mitigates potential impacts from the adjustment to the extent practical
- 6.925 Maintenance. All approved on-site improvements shall be the ongoing responsibility of the property owner or occupant. The owner, occupant, or agent shall be jointly and severally responsible for the maintenance of all landscaping which shall be maintained in good condition so as to present a healthy, neat, and orderly appearance, and shall be kept free of refuse and debris. All on-site improvements shall be controlled by maintaining, pruning, trimming, or otherwise so that:
- A. It will not interfere with the maintenance or repair of any public facility;
 - B. It will not restrict pedestrian or vehicular access; and
 - C. It will not constitute a traffic hazard because of reduced visibility.
- 6.930 Compliance.
- A. The development site shall be checked by the staff to ensure compliance with final approved plans prior to issuance of an occupancy permit.
 - B. The development must be completed as per the approved final plans including landscaping and recreation areas before the occupancy permit is issued.
 - C. It shall be the duty of the Director to enforce these regulations, and to assure that conditions of final development approval are carried out.

6.1000 TEMPORARY STRUCTURES

- 6.1005 Purpose. The purpose of a Temporary Structures application is to recognize that temporary structures serve a useful purpose in the life of the community. Such activity does not mandate application of the requirements relating to permanent activity, but there is the potential of adverse impact on surrounding property created by temporary activity; therefore, specific requirements are necessary.
- 6.1010 Threshold. Temporary structures in connection with the building or sale of dwellings and land, construction of industrial or commercial facilities, or as approved by the Director, may be permitted in any zoning district.
- 6.1015 Application. A Temporary Structure application is subject to the Type I review process as described in Section 2.050 of this Code. A written application for a Temporary Structure shall be filed with the Planning Division on forms provided by the Planning Division.
- 6.1020 Approval Criteria. In order to approve a Temporary Structure application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
- A. The proposal is for an approved development located within the City.
 - B. The proposal would locate a temporary mobile structure within the boundaries of the subdivision where land is for sale or under development.
 - C. A construction permit for the permanent development has been issued and has not expired.
 - D. The Temporary Structure shall not block fire hydrants, storm drains, manholes, catch basins, or other similar infrastructure improvements.
 - E. No connection of the temporary structure to any water, sanitary or storm sewer utility shall be allowed unless the system(s) are deemed substantially complete by the City.
- 6.1025 Conditions of Approval. The decision making authority may impose conditions on the approval of a temporary Structure application to ensure compliance with the approval criteria.
- 6.1030 Expiration of a Decision. The use authorized by the decision making authority shall commence, operate, and conclude within one (1) year of the date of approval. Renewal of a temporary structure permit shall be processed under the Type II procedure and may be approved only if the applicant demonstrates that:
- A. Renewal is sought for reasons beyond the reasonable control of the applicant and not to maintain the structure for other than a temporary use; and
 - B. The structure has not adversely impacted nearby properties or uses.

6.1100 TEXT AMENDMENT

- 6.1105 Purpose. The purpose of a Text Amendment application is to provide a mechanism for legislative amendments to the Development Code. It is recognized that such amendment may be necessary from time to time to reflect changing community conditions, needs, and desires and to fulfill regional obligations, and to address changes in the law.
- 6.1110 Applicability. The Text Amendment application shall apply to any change to Development Code text or diagrams.
- 6.1115 Procedure Type. The Type IV procedure, as described in Section 2.065 of this Code, shall apply to Text Amendment applications.
- 6.1120 Approval Criteria. The following criteria shall be used to review and decide amendments to the text of the Development Code:
- A. The proposed change to the Development Code does not conflict with applicable Comprehensive Land Use Plan goals or policies.
 - B. The proposed change is consistent with the applicable Statewide Planning Goals.
 - C. The proposed change is consistent with the applicable provisions of Metro Code.
 - D. Public need is best satisfied by this particular change.
 - E. The change will not adversely affect the health, safety, and welfare of the community.

6.1200 VACATION

- 6.1205 Vacation Criteria. A proposal to vacate a dedicated public right-of-way, public square, or other public place shall be conducted under the Type IV procedure, with supplements or modifications required to comply with state law. The Planning Commission shall base its recommendation to the City Council on whether the following criteria have been met:
- A. The proposal does not cause a conflict with the Comprehensive Land Use Plan.
 - B. The public interest will not be prejudiced by the vacation.
- 6.1210 City Council Action. The City Council shall make affirmative findings on these criteria if it proceeds with a vacation under administrative rather than legislative proceedings. Proceedings may be terminated by the City Council at any time.
- 6.1215 Conditions Attached to a Vacation. The following reservations or conditions may be attached to the approval of a vacation:
- A. Retention of an easement for a public utility or other public service facility, and limitations on the use of the area adjacent to such facility.
 - B. Construction or removal of a public utility or other public service utility.
 - C. Another matter of like or different nature related to any of the following:
 - 1. The area to be vacated.
 - 2. A remaining or relocated street area within, or adjacent to, the vacated property.
 - 3. An area dedicated or reserved as a condition to the vacation.

6.1300 VARIANCE**6.1305 General Provisions.**

- A. The variance procedures are intended to allow modifications of specific standards contained within this Code when authorized as provided below.
- B. In approving a variance request, the approving authority may attach reasonable conditions, restrictions, or safeguards to mitigate any adverse impacts which may result by reason of the approved variance.
- C. Separate variance provisions apply to uses within the Vegetation Corridor and Slope District and the Flood Management Area.
- D. Because variance applications arise from unique situations, the decision making authority will consider each application on its own facts and merits. Variances are discretionary, prior variances allowed within the City do not establish a precedent or control present or future variance applications.

6.1310 Regulations Which May Not Be Varied.

- A. No variance may be granted which will permit a use not permitted in the applicable zoning district.
- B. No variance may be granted which will increase the maximum residential density or decrease the minimum residential density allowed in the applicable zoning district.
- C. No variance may be granted to the provisions of Chapter 5.300, Nonconforming Uses and Developments of this Code.

6.1315 Type I Variance. The Director may grant a variance under the Type I procedure if the request involves the expansion or reduction of a quantifiable provision in this Code by no more than ten percent (10%), and the following criteria are met:

- A. Special circumstances or conditions including, but not limited to, lot size, lot shape, topography, or size or shape of building, apply to the property, development, or to the intended use and are not typical of the general conditions in the surrounding area; and
- B. The variance authorized will not be injurious to adjacent properties or the surrounding neighborhood or otherwise detrimental to the public welfare; and
- C. The variance authorized will be consistent with the general purpose and intent of the provision from which a variance is sought; and
- D. The variance is the minimum necessary to relieve a practical difficulty with full compliance and to avoid or minimize the resulting hardship.

- 6.1320 Type II Variance. The Director may grant a variance under the Type II procedure if the request involves the expansion or reduction of a quantifiable provision in this Code by more than ten percent (10%), but not more than thirty percent (30%), and the criteria in Section 6.1315 are met.
- 6.1325 Type III Variance. The Planning Commission may grant a variance under the Type III procedure if the request involves the expansion or reduction of a quantifiable provision in this Code by more than thirty percent (30%), or if the request is referred to the Planning Commission in accordance with Section 6.1335 of this Chapter. The variance shall be granted only if the Planning Commission determines that the criteria in Section 6.1315 of this Chapter are met.
- 6.1330 Type III Special Variance. The Planning Commission may grant a special variance under the Type III procedure if the request involves waiving a provision in this Code, not involving a quantifiable standard, is not prohibited by Section 6.1310, and the following criteria are met:
- A. The unique nature of the proposed development is such that the intent and purpose of the regulations and of the provisions to be waived will not be violated;
 - B. Authorization of the special variance will not be materially detrimental to the public welfare and will not be injurious to other property in the area when compared with the effects of development otherwise permitted; and
 - C. Application of the provision to be waived is unreasonable and unwarranted due to the specific nature of the proposed development.
 - D. A special variance is not required for a Type II design adjustment as provided in Section 8.240.
- 6.1335 Referral to Planning Commission. The Director may refer any variance request involving the expansion or reduction of a quantifiable provision of this Code by thirty percent (30%) or less to the Planning Commission if the Director determines that a higher level of review is justified given the complexity or controversial nature of the request. A variance that is referred to the Planning Commission shall be considered in accordance with Section 6.1325 of this Chapter.

6.1400 ZONING MAP AMENDMENT

- 6.1405 Purpose. The purpose of a Zoning Map Amendment application is to provide a mechanism for quasi-judicial and legislative amendments to the zoning map. It is recognized that such amendment may be necessary from time to time to reflect changing community conditions, needs, and desires and to fulfill regional obligations.
- 6.1410 Applicability. The Zoning Map Amendment application shall apply to any change to the City's zoning map.
- 6.1415 Procedure Type. The Type III procedure, as described in Section 2.060 of this Code, shall apply to quasi-judicial Zoning Map Amendments. The Type IV procedure, as described in Section 2.065 of this Code, shall apply to legislative Zoning Map Amendments. The Planning Director shall determine if a Zoning Map Amendment is quasi-judicial or legislative.
- 6.1420 Approval Criteria. In order to approve a Zoning Map Amendment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that the following criteria are satisfied:
- A. The proposed zone is appropriate for the Comprehensive Land Use Plan land use designation on the property, and is consistent with the description and policies for the applicable Comprehensive Land Use 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. Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property. The applicant shall demonstrate compliance with the Transportation Planning Rule, specifically by addressing whether the proposed amendment has a significant effect on the transportation system pursuant to OAR 660-012-0060.
 - D. The amendment will not interfere with the livability, development, or value of other land in the vicinity of site-specific proposals when weighed against the public interest in granting the proposed amendment.
 - E. The amendment will not be detrimental to the general interest of the community.
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