

Chapter 4.1 - Types of Applications and Review Procedures**Sections:**

4.1.100	Purpose
4.1.200	Description of Permit Procedures
4.1.300	Type I Procedure
4.1.400	Type II Procedure
4.1.500	Type III Procedure
4.1.600	Type IV Procedure
4.1.700	General Provisions
4.1.800	Appeals
4.1.900	Special Procedures
4.1.1000	Neighborhood Meetings

4.1.100 Purpose

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

4.1.200 Description of Permit/Decision-Making Procedures

All land use and development permit applications, except building permits, shall be decided by using the procedures contained in this Chapter. General provisions for all permits are contained in Section 4.1.700. Specific procedures for certain types of permits are contained in Section 4.1.200 through 4.1.600. The procedure "type" assigned to each permit governs the decision-making process for that permit. There are four types of permit/decision-making procedures: Type I, II, III, and IV. These procedures are described in subsections A-D below. In addition, Table 4.1.200 lists all of the City's land use and development applications and their required permit procedure(s).

- A. Type I Procedure (Ministerial). Type I decisions are made by the Community Development Director, or someone he or she officially designates, without public notice and without a public hearing. The Type 1 procedure is used when there are clear and objective approval criteria, and applies city standards and criteria that require no use of discretion. Appeals are possible to Oregon Land Use Board of Appeals (LUBA);
- B. Type II Procedure (Administrative). Type II decisions are made by the Community Development Director or designee with public notice, and an opportunity for a public hearing if appealed. The appeal of a Type II decision is heard by the Planning Commission;
- C. Type III Procedure (Quasi-Judicial). Type III decisions are made by the Planning Commission after a public hearing, with appeals heard by the City Council. Type III decisions generally use discretionary approval criteria;

- D. Type IV Procedure (Legislative). Type IV procedures apply to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations, zone changes, and comprehensive plan amendments which apply to entire districts). Type IV matters are considered initially by the Planning Commission with final decisions made by the City Council and appeals possible to the Oregon Land Use Board of Appeals.

Table 4.1.200 Summary of Development Decisions/Permit by Type of Decision-making Procedure		
Action	Decision Type	Applicable Regulations
Accessory Dwelling Unit	Type I	Chapter 2.15
Annexation	Type I/IV	Comprehensive Plan and city/county intergovernmental agreement(s), as applicable.
Appeals	Type II/ III/IV	Chapter 4.1 – Must be filed no later than 5 p.m. on the fourteenth calendar day following mailing of the decision
Code Interpretation	Type II	Chapter 4.8
Code Amendment	Type IV	Chapter 4.7
Comprehensive Plan Amendment	Type IV	Comprehensive Plan
Minor Conditional Use Permit	Type II	Chapter 4.4
Conditional Use Permit	Type III	Chapter 4.4
Home Occupation Permit	Type I	Chapter 2.15
Master Planned Development	Type III	Chapter 4.5
Cluster Developments	Type III	Chapter 4.6
Land Use District Map Change		
Quasi-Judicial (no plan amendment required)	Type III/IV	Chapter 4.7
Legislative (plan amendment required)	Type IV	Chapter 4.7
Lot Line Adjustment	Type I	Chapter 4.3
Partition	Type II	Chapter 4.3
Replat	Type I	Chapter 4.3
Sign Permit	Type I	Chapter 3.6
Site Plan Review		
Type II	Type II	Chapter 4.2
Subdivision	Type III	Chapter 4.3
Temporary Use Permit	Type I/ II	Chapter 2.15
Minor Variance	Type II	Chapter 5.1
Major Variance	Type III	Chapter 5.1

- E. Notice of all Type III and IV hearings will be sent to public agencies and local jurisdictions (including those providing transportation facilities and services) that may be affected by the proposed action. Affected jurisdictions could include ODOT, the Department of Environmental Quality, the Oregon Department of Aviation, and neighboring jurisdictions

4.1.300 Type I Procedure (Ministerial)

- A. Application Requirements. See 4.1.700.
- B. Administrative Decision Requirements. The Community Development Director or designee's decision shall address all of the approval criteria. Based on the criteria and the facts contained within the record, the Community Development Director or designee shall approve, approve with conditions, or deny the requested permit or action. A written record of the decision shall be provided to the applicant and kept on file by the City.
- C. Final Decision. The decision shall be final on the date it is mailed or otherwise provided to the applicant, whichever occurs first. The decision is the final decision of the City. It cannot be appealed to City officials. Appeals are possible to Oregon Land Use Board of Appeals (LUBA).
- D. Effective Date. The decision is effective the day after it is final.

4.1.400 Type II Procedure (Administrative)

- A. Application requirements. See 4.1.700.
- B. Notice of Application for Type II Administrative Decision.
 - 1. Before making a Type II Administrative Decision, the Community Development Director or designee shall mail notice to:
 - a. All owners of record of real property within 250 feet (measured from the property line) of the subject site;
 - b. All City-recognized neighborhood groups or associations whose boundaries include the site;
 - c. Any person who submits a written request to receive a notice; and
 - d. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies; ODOT shall be notified when there is a land division abutting a State facility as appropriate, for review of the application.
 - 2. Posted Notice. Before making a Type II Administrative Decision, the Community Development Director or designee shall post the notice on-site 14 calendar days prior to the date of the decision.
 - 3. The purpose of the notice is to give nearby property owners and other interested people the opportunity to submit written comments about the application, before the Type II decision is made. The goal of this notice is to invite people to participate early in the decision-making process.

4. Notice of a pending Type II Administrative Decision shall:
 - a. Provide a 14 calendar day period for submitting written comments before a decision is made on the permit; List the relevant approval criteria by name and number of code sections;
 - b. State the place, date and time the comments are due, and the person to whom the comments should be addressed;
 - c. Include the name and telephone number of a contact person regarding the Administrative Decision;
 - d. Identify the specific permits or approvals requested;
 - e. Describe the street address or other easily understandable reference to the location of the site;
 - f. State that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence;
 - g. State that all evidence relied upon by the Community Development Director or designee to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City;
 - h. State that after the comment period closes, the Community Development Director or designee shall issue a Type II Administrative Decision. The decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;
 - i. Contain the following notice: "Notice to mortgagee, lien holder, vendor, or seller: The City of Sisters Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."
- C. Administrative Decision Requirements. The Community Development Director or designee shall make Type II written decisions addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the Community Development Director or designee shall approve, approve with conditions, or deny the requested permit or action. The decision may include a requirement for non-remonstrations for future road improvements. At the discretion of the Community Development Director or designee, any Type II application may be forwarded to the Planning Commission for decision.
- D. Notice of Decision.
 1. Within five days after the Community Development Director or designee signs the decision, a Notice of Decision shall be posted on the property and sent by mail unless stated otherwise to:

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

- E. Final decision and effective date. A Type II administrative decision is final for purposes of appeal, when it is mailed by the City. A Type II administrative decision is effective on the day after the appeal period expires. If an appeal is filed, the decision is effective when the appeal is decided.
- F. Appeal. Appeals shall be processed in accordance with the requirements and procedures provided by 4.1.800.

4.1.500 Type III Procedure (Quasi-Judicial)

- A. Application requirements. See 4.1.700.
- B. Notice of Hearing.
 - 1. Mailed notice. Notice of a Type III hearing shall be given by the Community Development Director or designee in the following manner:
 - a. At least 14 calendar days before the hearing date, notice shall be mailed to:
 - 1. The applicant and all owners or contract purchasers of record of the property which is the subject of the application;
 - 2. All property owners of record within 250 feet of the property line of the site;
 - 3. Owners of airports shall be notified of a proposed zone change in accordance with ORS 227.175;
 - 4. Any neighborhood or community organization recognized by the City Council and whose boundaries include the property proposed for development;
 - 5. Any person who submits a written request to receive notice;
 - 6. For a land use district change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
 - b. The Community Development Director or designee shall have an affidavit of notice be prepared and made a part of the file. The affidavit shall state the date that the notice was posted on the property and mailed to the persons who must receive notice;
 - c. At least 14 calendar days before the hearing, notice of the hearing shall be printed in a newspaper of general circulation in the City. The newspaper's affidavit of publication of the notice shall be made part of the administrative record;
 - d. At least 14 calendar days before the hearing, the applicant shall post notice of the hearing on the property. The applicant shall prepare and

submit an affidavit of posting of the notice which shall be made part of the administrative record.

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

- b. A statement that testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations which the person testifying believes to apply to the decision;
 - c. A statement that failure to raise an issue with sufficient detail to give the hearings body and the parties an opportunity to respond to the issue, means that no appeal may be made to the State Land Use Board of Appeals on that issue;
 - d. Before the conclusion of the initial evidentiary hearing, any participant may ask the Planning Commission for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a "continuance") per paragraph 2 of this subsection, or by leaving the record open for additional written evidence or testimony per paragraph 3 of this subsection.
2. If the Planning Commission grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or testimony in response to the new written evidence;
 3. If the Planning Commission leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the Planning Commission shall reopen the record per subsection D of this section;
 - a. When the Planning Commission re-opens the record to admit new evidence or testimony, any person may raise new issues which relates to that new evidence or testimony;
 - b. An extension of the hearing or record granted pursuant to Section C is subject to the limitations of ORS 227.178 ("120-day rule"), unless the continuance or extension is requested or agreed to by the applicant;
 - c. If requested by the applicant, the City shall allow the applicant at least seven days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant's final submittal shall be part of the record but shall not include any new evidence.
 4. The record.

- a. The record shall contain all testimony and evidence that is submitted to the City and the hearings body and not rejected;
 - b. The hearings body may take official notice of judicially cognizable facts under the applicable law. If the review authority takes official notice, it must announce its intention and allow persons participating in the hearing to present evidence concerning the noticed facts;
 - c. The review authority shall retain custody of the record until the City issues a final decision.
5. Participants in a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing ex parte contacts (see Section 6 below) as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:
- a. At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing ex parte contacts (as defined in Section 6 below) concerning the application or appeal. He or she shall state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly;
 - b. A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: Their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;
 - c. Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;
 - d. If all members abstain or are disqualified, those members present who declare their reasons for abstention or disqualification shall be re-qualified to make a decision;
 - e. If a member of the hearings body abstains or is disqualified, the City shall provide a substitute in a timely manner subject to the impartiality rules in Section 6;
 - f. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this section.
6. Ex parte communications.
- a. Members of the hearings body shall not:

1. Communicate, directly or indirectly, with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing, except upon giving notice, per Section 5 above;
 2. Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials.
- b. No decision or action of the hearings body shall be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:
1. Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and
 2. Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.
- c. Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;
- d. If all members abstain or are disqualified, those members present who declare their reasons for abstention or disqualification shall be re-qualified to make a decision;
- e. If a member of the hearings body abstains or is disqualified, the City shall provide a substitute in a timely manner subject to the impartiality rules in Section 6;
- f. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this section;
- g. A communication between City staff and the hearings body is not considered an ex parte contact.
7. Presenting and receiving evidence.
- a. The hearings body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;
 - b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing, only as provided in Section C;

- c. Members of the hearings body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the hearing and an opportunity is provided to dispute the evidence. In the alternative, a member of the hearings body may visit the property to familiarize him or herself with the site and surrounding area, but not to independently gather evidence. In the second situation, at the beginning of the hearing, he or she shall disclose the circumstances of the site visit and shall allow all participants to ask about the site visit.
- D. The Decision Process.
1. Basis for decision. Approval or denial of a Type III application shall be based on standards and criteria in the development code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the comprehensive plan for the area in which the development would occur and to the development regulations and comprehensive plan for the City as a whole;
 2. Findings and conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;
 3. Form of decision. The Planning Commission shall issue a final written decision containing the findings and conclusions stated in subsection 2, which either approves, denies, or approves with specific conditions. At the close of the hearing, the Planning Commission shall make its decision including the supportive findings of fact and conclusions of law. The decision of the Planning Commission shall be prepared in the form of a Planning Commission Resolution from the official hearing minutes and record, The Planning Commission may also issue appropriate intermediate rulings when more than one permit or decision is required;
 4. Decision-making time limits. A final order for any Type III action shall be filed with the Community Development Director or designee within ten business days after the close of the deliberation.
- E. Notice of Decision. Written notice of a Type III decision shall be mailed to the applicant and to all participants of record and emailed to the City Council within five business days after the hearings body decision. Failure of any person to receive mailed or emailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail or email the notice. The decision may include a requirement for non-remonstration for future road improvements.
- F. Final Decision and Effective Date. The decision of the hearings body on any Type III application is final for purposes of appeal on the date it is mailed by the City. The decision is effective on the day after the appeal period expires. If an

appeal is filed, the decision becomes effective on the day after the appeal is decided by the City Council. The notification and hearings procedures for Type III applications on appeal to the City Council shall be the same as for the initial hearing.

4.1.600 Type IV Procedure (Legislative)

- A. Application requirements. See 4.1.700.
- B. Notice of Hearing.
 - 1. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications, except annexations where only a hearing by the City Council is required.
 - 2. Notification requirements. Notice of public hearings for the request shall be given by the Community Development Director or designee in the following manner:
 - a. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - 1. Each owner whose property would be rezoned in order to implement the ordinance (i.e., owners of property subject to a comprehensive plan amendment shall be notified if a zone change would be required to implement the proposed comprehensive plan amendment);
 - 2. Any affected governmental agency.
 - 3. Recognized neighborhood groups or associations affected by the ordinance;
 - 4. Any person who requests notice in writing;
 - 5. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
 - 6. Owners of airports shall be notified of a proposed zone change in accordance with ORS 227.175.
 - b. At least 14 calendar days before the scheduled Planning Commission public hearing date, and 14 calendar days before the City Council hearing date, notice shall be published in a newspaper of general circulation in the City.
 - c. The Community Development Director or designee shall:
 - 1. For each mailing of notice, file an affidavit of mailing in the record as provided by Subsection a; and
 - 2. For each published notice, file in the record the affidavit of publication in a newspaper that is required in subsection b.

- d. The Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and development code amendments at least 35 days before the first public hearing at which public testimony or new evidence will be received.
 - e. Notifications for annexation shall follow the provisions of this Chapter and ORS 199.
3. Content of notices. The mailed and published notices shall include the following information:
 - a. The number and title of the file containing the application, and the address and telephone number of the Community Development Director's office where additional information about the application can be obtained;
 - b. A description of the location of the proposal reasonably calculated to give notice of the location of the geographic area;
 - c. A description of the proposal in enough detail for people to determine that a change is proposed, and the place where all relevant materials and information may be obtained or reviewed;
 - d. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the Council and available at City Hall (See section C below); and
 - e. Each mailed notice required by section B shall contain the following statement: "Notice to mortgagee, lien holder, vendor, or seller: The Sisters Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."
 4. Failure to receive notice. The failure of any person to receive notice shall not invalidate the action, providing:
 - a. Personal notice is deemed given where the notice is deposited with the United States Postal Service;
 - b. Published notice is deemed given on the date it is published.
- C. Hearing Process and Procedure.
1. Unless otherwise provided in the rules of procedure adopted by the City Council:
 - a. The presiding officer of the Planning Commission and of the City Council shall have the authority to:
 1. Regulate the course, sequence, and decorum of the hearing;
 2. Direct procedural requirements or similar matters; and
 3. Impose reasonable time limits for oral presentations.

- b. No person shall address the Commission or the Council without:
 - 1. Receiving recognition from the presiding officer; and
 - 2. Stating their full name and address.
- c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
- 2. Unless otherwise provided in the rules of procedures adopted by the Council, the presiding officer of the Commission and of the Council, shall conduct the hearing as follows:
 - a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the City Council or the final decision of the Council;
 - b. The Community Development Director's or designee's report and other applicable staff reports shall be presented;
 - c. The public shall be invited to testify;
 - d. The public hearing may be continued to allow additional testimony or it may be closed; and
 - e. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.
- D. Continuation of the Public Hearing. The Planning Commission or the City Council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.
- E. Decision-Making Considerations. The recommendation by the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:
 - 1. Approval of the request is consistent with the Statewide Planning Goals;
 - 2. Approval of the request is consistent with the Comprehensive Plan; and
 - 3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property. The applicant must demonstrate that the property and affected area shall be served with adequate public facilities, services and transportation networks to support maximum anticipated levels and densities of use allowed by the District

without adversely impacting current levels of service provided to existing users; or applicant's proposal to provide concurrently with the development of the property such facilities, services and transportation networks needed to support maximum anticipated level and density of use allowed by the District without adversely impacting current levels of service provided to existing users.

4. Compliance with 4.7.600, Transportation Planning Rule (TPR) Compliance
- F. Approval Process and Authority.
1. The Planning Commission shall:
 - a. After notice and a public hearing, vote on and prepare a recommendation in the form of a Resolution to the City Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and
 - b. Within 14 calendar days of determining a recommendation, the presiding officer shall sign the written recommendation, and it shall be filed with the Community Development Department.
 2. Any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file a written statement of opposition with the Community Development Department before the Council public hearing on the proposal. The Community Development Director or designee shall send a copy to each Council member and place a copy in the record;
 3. If the Planning Commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal, within 60 days of its first public hearing on the proposed change, the Community Development Director or designee shall:
 - a. Report the failure together with the proposed change to the City Council; and
 - b. Provide notice and put the matter on the City Council's agenda, a public hearing to be held, and a decision to be made by the Council. No further action shall be taken by the Commission.
 4. The City Council shall:
 - a. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application;
 - b. Consider the recommendation of the Planning Commission; however, it is not bound by the Commission's recommendation; and

- c. Act by ordinance, which shall be signed by the Mayor after the Council's adoption of the ordinance.
- G. Vote Required for a Legislative Change.
 1. A vote by a majority of the qualified voting members of the Planning Commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.
 2. A vote by a majority of the qualified members of the City Council present is required to decide any motion made on the proposal.
- H. Notice of Decision. Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five business days after the City Council decision is filed with the Community Development Department. The City shall also provide notice to all persons as required by other applicable laws.
- I. Final Decision and Effective Date. A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.
- J. Record of the Public Hearing.
 1. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record;
 2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;
 3. The official record shall include:
 - a. All materials considered by the hearings body;
 - b. All materials submitted by the Community Development Director or designee to the hearings body regarding the application;
 - c. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;
 - d. The final ordinance;
 - e. All correspondence; and
 - f. A copy of the notices which were given as required by this Chapter.

4.1.700 General Provisions**A. Application Requirements.**

1. Include the information requested on the application form;
2. Include electronic copies of all materials submitted (acceptable file types to be determined by the Community Development Director or designee);
3. Include a preliminary title report or equivalent printed within 90 days of the date of the application submittal;
4. Be filed with a minimum of one (1) copy of a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making. The Community Development Director or designee may require additional copies to be provided;
5. Be filed with the required fee;
6. Land Divisions. Include an impact study for all land division applications. The impact study shall quantify and assess the effect of the development on public facilities and services. The study shall address, at a minimum the following:
 - a. Drainage system, the parks system, the water system, the sewer system, and the noise impacts of the development;
 - b. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users.
 - c. In situations where this Code requires the dedication of real property to the City, the City shall either (1) include in the written decision evidence that shows that the required property dedication is roughly proportional to the projected impacts of the development on public facilities and services, or (2) delete the dedication as a condition of approval.
7. Type III. Include an impact study for all Type III applications. The impact study shall quantify/assess the effect of the development on public facilities and services. The study shall address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water system, the sewer system, and the noise impacts of the development. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users. In situations where this Code requires the dedication of real property to the City, the City shall either (1) include in the written decision evidence that shows that the required property dedication is roughly proportional to the projected impacts of the development on public facilities and services, or (2) delete the dedication as a condition of approval; and,
8. Type IV - A map and/or plan addressing the appropriate criteria and

standards in sufficient detail for review and decision (as applicable);

- B. 120-day Rule. The City shall take final action on permit applications which are subject to this Chapter, including resolution of all appeals, within 120 days from the date the application is deemed as complete unless superseded by other ORS chapters or provisions. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (The 120-day rule does not apply to Type IV legislative decisions - plan and code amendments - under ORS 227.178.)
- C. Time Computation. In computing any period of time prescribed or allowed by this chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday or legal holiday, including Sunday, in which event, the period runs until the end of the next day which is not a Saturday or legal holiday.
- D. Pre-application Meetings.
1. Participants. A Pre-Application Conference is optional for Type I, II, III and IV applications.
 2. The fee charged for pre-application reviews shall be credited towards any additional city application fee charges applied to the proposed subject project. If no additional city permits are sought for the proposed project subject to the pre-application review, the applicant shall not be refunded any portion of the pre-application review fee.
 3. At such meeting, the Community Development Director or designee may:
 - a. Cite the comprehensive plan policies and map designations applicable to the proposal;
 - b. Cite the ordinance provisions, including substantive and procedural requirements applicable to the proposal;
 - c. Provide available technical data and assistance which will aid the applicant;
 - d. Identify other governmental policies and regulations that relate to the application; and
 - e. Reasonably identify other opportunities or constraints concerning the application.
 - f. The written comments received are advisory and intended as a guideline to assist developers in preparing land use applications. Comments received for these reviews are not land use decisions, and are subject to change. Comments are based solely on the information submitted and may not apply to subsequent applications.
 4. Disclaimer. Failure of the Community Development Director or his/her designee to provide any of the information required by this Section C shall not constitute a waiver of any of the standards, criteria or requirements for the application;
 5. Changes in the law. Due to possible changes in federal, state, regional, and local law, the applicant is responsible for ensuring that the application

complies with all applicable laws on the day the application is deemed complete.

E. Applications.

1. Initiation of applications:

a. Applications for approval under this chapter may be initiated by:

1. Order of City Council;
2. Resolution of the Planning Commission;
3. The Community Development Director or designee;
4. Recorded owner of property (person(s) whose name is on the most recently recorded deed), or contract purchaser with written permission from the record owner.
5. Any person authorized to submit an application for approval may be represented by an agent authorized in writing to make the application on their behalf.

2. Consolidation of proceedings. When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same one or more parcels of land, the proceedings shall be consolidated for review and decision.

a. If more than one approval authority would be required to decide on the applications if submitted separately, then the decision shall be made by the approval authority having original jurisdiction over one of the applications in the following order of preference: the Council, the Commission, or the Community Development Director.

b. When proceedings are consolidated:

1. The notice shall identify each application to be decided;
2. The decision on a plan map amendment shall precede the decision on a proposed land use district change and other decisions on a proposed development. Similarly, the decision on a zone map amendment shall precede the decision on a proposed development and other actions; and
3. Separate findings and decisions shall be made on each application.

3. Check for acceptance and completeness. In reviewing an application for completeness, the following procedure shall be used:

a. Acceptance. When an application is received by the City, the Community Development Director or designee shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant;

1. The required form;
 2. The required fee;
 3. The signature of the applicant on the required form and signed written authorization of the property owner of record if the applicant is not the owner.
- b. Completeness.
1. Review and notification. After the application is accepted, the Community Development Director or designee shall review the application for completeness. If the application is incomplete, the Community Development Director or designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant 180 days to submit the missing information;
 2. When the application is deemed complete for review. In accordance with the application submittal requirements of this chapter, the application shall be deemed complete upon the receipt by the Community Development Director or designee of all required information. The applicant shall have the option of withdrawing the application, or refusing to submit information requested by the Community Development Director or designee in (1), above. For the refusal to be valid, the refusal shall be made in writing and received by the Community Development Director or designee. If the applicant refuses in writing to submit the missing information, the application shall be deemed complete.
 3. Standards and criteria that apply to the application. Approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first accepted.
 4. Coordinated Review. The City shall also submit the application for review and comment to City Engineer; ODOT, and other applicable County, State and federal agencies for review.
4. Changes or additions to the application during the review period. Once an application is deemed complete:
- a. All documents and other evidence relied upon by the applicant shall be submitted to the Community Development Department at least seven days before the notice of action or hearing is mailed, if possible. Documents or other evidence submitted after that date shall be received by the Community Development Department, and transmitted to the hearings body, but may be too late to include with the staff report and evaluation;
 - b. When documents or other evidence are submitted by the applicant during the review period, but after the application is deemed complete, the

assigned review person or body shall determine whether or not the new documents or other evidence submitted by the applicant significantly change the application;

- c. If the assigned reviewer determines that the new documents or other evidence significantly change the application, the reviewer shall include a written determination that a significant change in the application has occurred as part of the decision. In the alternate, the reviewer may inform the applicant either in writing, or orally at a public hearing, that such changes may constitute a significant change (see “d”, below), and allow the applicant to withdraw the new materials submitted, in order to avoid a determination of significant change;
- d. If the applicant's new materials are determined to constitute a significant change in an application that was previously deemed complete, the City shall take one of the following actions:
 1. Continue to process the existing application and allow the applicant to submit a new second application with the proposed significant changes. Both the old and the new applications will proceed, but each will be deemed complete on different dates and may therefore be subject to different criteria and standards and different decision dates;
 2. Suspend the existing application and allow the applicant to submit a new application with the proposed significant changes. Before the existing application can be suspended, the applicant must consent in writing to waive the 120-day rule (Section A, above) on the existing application. If the applicant does not consent, the City shall not select this option
 3. Reject the new documents or other evidence that has been determined to constitute a significant change, and continue to process the existing application without considering the materials that would constitute a significant change. The City will complete its decision-making process without considering the new evidence;
 4. If a new application is submitted by the applicant, that application shall be subject to a separate check for acceptance and completeness and will be subject to the standards and criteria in effect at the time the new application is accepted.

F. The Community Development Director or designee shall:

1. Prepare application forms based on the criteria and standards in applicable state law, the City’s comprehensive plan, and implementing ordinance provisions;
2. Accept all development applications which comply with Section 4.1.700;
3. Prepare a staff report that summarizes the application(s) and applicable decision criteria, and provides findings of conformance and/or non-conformance with the criteria. The staff report should also provide a recommended decision of: approval; denial; or approval with specific conditions that ensure conformance with the approval criteria;

4. Prepare a notice of the proposal decision:
 - a. In the case of an application subject to a Type I or II review process, the Community Development Director or designee shall make the staff report and all case-file materials available at the time that the notice of the decision is issued;
 - b. In the case of an application subject to a hearing (Type III or IV process), the Community Development Director or designee shall make the staff report available to the public at least seven days prior to the scheduled hearing date, and make the case-file materials available when notice of the hearing is mailed, as provided by Sections 4.1.400.B (Type II), 4.1.500.B (Type III), or 4.1.600.C (Type IV);
 5. Administer the hearings process;
 6. File notice of the final decision in the City's records and mail a copy of the notice of the final decision to the applicant; all persons who provided comments or testimony; persons who requested copies of the notice; and any other persons entitled to notice by law, and in the case of Type II decisions by staff also email the final decision to the Planning Commission on the date the notice is mailed to the Applicant and in the case of Type II and Type III decision by the Planning Commission, email the final decision to the City Council on the date the Decision is mailed to the Applicant;
 7. Maintain and preserve the file for each application for the time period required by law. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given; the affidavits of notice; the application and all supporting information; the staff report; the final decision including the findings, conclusions and conditions, if any; all correspondence; minutes of any meeting at which the application was considered; and any other exhibit, information or documentation which was considered by the decision-maker(s) on the application; and
 8. Administer the appeals and review process.
- G. Amended Decision Process.
1. The purpose of an amended decision process is to allow the Community Development Director or designee to correct typographical errors, rectify inadvertent omissions and/or make other minor changes which do not materially alter the decision.
 2. The Community Development Director or designee may issue an amended decision after the notice of final decision has been issued but before the appeal period has expired. If such a decision is amended, the decision shall be issued within 10 business days after the original decision would have become final, but in no event beyond the 120-day period required by state law. A new 14-calendar day appeal period shall begin on the day the amended decision is issued.

3. Notice of an amended decision shall be given using the same mailing and distribution list as for the original decision notice.
 4. Modifications to approved plans or conditions of approval requested by the applicant shall follow the procedures contained in Chapter 4. All other requested changes to decisions that do not qualify as minor or major modifications shall follow the appeal process.
- H. Review by Planning Commission and City Council.
1. All Type II Decisions shall be emailed to Planning Commission members on the date the Decision is mailed to the applicant. Three or more members of the Planning Commission may initiate review of a Type II decision.
 2. All Decisions (Type II and III) approved by the Planning Commission shall be emailed to City Council members on the date the Decision is mailed to the applicant. Two or more members of the City Council may initiate review of a Type III Decision.
 3. The review shall be initiated in writing and delivered to the Community Development Department no later than 5 p.m. on the 14 calendar days following the date of the mailing of the final written decision to the applicant.
 4. Review shall be conducted in the same manner provided for in appeals, except that an appeal fee shall not be required.
- I. Re-submittal of Application Following Denial. An application which has been denied, or an application which was denied and which on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission or the courts, may not be resubmitted as the same or a substantially similar proposal for the same land for a period of at least 12 months from the date the final City action is made denying the application, unless there is substantial change in the facts or a change in City policy which would change the outcome, as determined by the Community Development Director or designee.
- J. Major Modification.
1. An applicant may apply to modify an approval at any time after a period of 60 days has elapsed from the time a development approval has become final.
 2. Unless otherwise specified in this Code and is not considered a minor modification, the grounds for filing a modification shall be that a change of circumstances since the issuance of the approval makes it desirable to make changes to the proposal, as approved. A modification shall not be filed as a substitute for an appeal or to apply for a substantially new proposal or one that would have significant additional impacts on surrounding properties.
 3. An application to modify an approval shall be directed to one or more discrete aspects of the approval, the modification of which would not amount to approval of a substantially new proposal or one that would have significant additional impacts on surrounding properties. Any proposed modification, as defined in this section, shall be reviewed only under the criteria applicable to that particular aspect of the proposal. Proposals that would modify an approval in a scope

greater than allowable as a modification shall be treated as an application for a new proposal.

4. An application for a modification of a Type I approval shall be processed as a Type I application. An application for a modification of a Type II approval shall be processed as a Type II application. An application for a Type III approval shall be processed as a Type III application. The Communication Development Director shall have the discretion to forward any Type I or Type II modification to the Planning Commission for review.
5. The effect, if any, of a modification upon the original approval time limitation shall be established in the modification decision.

4.1.800 Appeals

A. Purpose

The purpose of this Section is to establish uniform procedures for the appeal of land use and development and policy decisions provided in Chapter 4 of this Code.

B. Appeal Authority

1. Decisions reached by the following review authorities pursuant to Chapter 4 shall be subject to appeal to the authority shown:
 - a. Community Development Department/Community Development Director/Planner - Decision may be appealed to the Planning Commission.
 - b. Planning Commission - Decision may be appealed to the City Council
 - c. City Council - Decision may be appealed to the Land Use Board of Appeals (LUBA).
2. Any request for modification or removal of conditions of approval shall be subject to review by the approving body. The approving body shall grant such request or portions thereof, only upon finding that the application of the condition or conditions would impose an undue or unnecessary hardship on the applicant, and that the condition causing the difficulty was not created by the applicant.

C. Standing to Appeal

To have standing to appeal, persons must participate either orally or in writing at the public hearing.

D. Initiation of Appeal

A decision of a review authority pursuant to Chapter 4 shall be appealed by a party with standing within the time limits prescribed. The filing of a Notice of Appeal shall be accompanied by the fee prescribed by Resolution of the City Council. Except as otherwise required, the notice of appeal and appeal fee must be received by the Community Development Department no later than 5 p.m. on the fourteenth calendar day following mailing of the decision. Notices of Appeals may not be filed by facsimile machine. The Notice of Appeal shall be submitted upon the form provided by the Community Development Department, shall include any such information as listed on the application submittal checklist and shall contain the following:

1. A concise description of the land use decision sought to be reviewed, including the date of decision.
 2. A statement of the interest of the appellant seeking review and, that the appellant was a party to the initial proceedings.
 3. The grounds relied upon for review.
- E. Scope of Review on Appeal
All appeals to the Planning Commission or City Council shall include a de novo evidentiary hearing.
- F. Review of the Record
1. When an appeal is scheduled for hearing by the Planning Commission or City Council, the Community Development Department shall prepare and transmit the Record, which shall include:
 - a. Findings prepared by the Community Development Department and the Resolution adopted by the Planning Commission.
 - b. All exhibits, materials, pleadings, memoranda, stipulations and motions submitted by any party and received or considered in reaching the decision under review.
 - c. Minutes of any hearing or meeting during which the matter was discussed.
 2. The appeal authority shall make its decision based upon the Record and the testimony received during the hearing.
- G. Notice of Appeal Hearing
Notice of the hearing held by an appeal authority shall be of the same type as that required for the original hearing. Notice shall be mailed to the appellant, to all persons originally notified, and to parties to the hearing who may not have been on the original notification list.
- H. Appeal Authority Decision
1. Upon review, the appeal authority may by Resolution remand, affirm, reverse, or modify a determination or requirement of the decision that is under review. When the appeal authority renders a decision that reverses or modifies a decision of the hearing body, the appeal authority, in its Resolution, shall set forth its findings and state its reasons for taking the action encompassed in the Resolution. When the appeal authority elects to remand the matter to the hearing body for further consideration, it shall include a statement explaining the errors or omissions found to have materially affected the outcome of the original decision and the action necessary to rectify such.
 2. Action by the appeal authority shall be decided by a majority vote of a quorum of the hearing body. The appeal authority shall render its decision no later than thirty (30) days from the date at which review was made. Decision, Findings of Fact and Resolution shall be prepared in accordance with Chapter 4.

4.1.900 Special Procedures

- A. Expedited Land Divisions. An Expedited Land Division (“ELD”) shall be defined and may be used as in ORS 197.360 which is expressly adopted and incorporated by reference here.
1. Selection. An applicant who wishes to use an ELD procedure for a partition, subdivision or planned development instead of the regular procedure type assigned to it, must request the use of the ELD in writing at the time the application is filed, or forfeit his/her right to use it;
 2. Review procedure. An ELD shall be reviewed in accordance with the procedures in ORS 197.365;
 3. Appeal procedure. An appeal of an ELD shall be in accordance with the procedures in ORS 197.375.

4.1.1000 Neighborhood Meetings

- A. Neighborhood Meeting Requirement. Applicants are encouraged to meet with adjacent property owners and neighborhood representatives prior to submitting their application in order to solicit input and exchange information about the proposed development. In some cases, the Community Development Director or designee may require the applicant to meet with adjacent property owners or neighborhood representatives prior to accepting an application as complete.