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Article 4 – Application Review Procedures and Approval Criteria

Chapters:

- 4.1 General Review Procedures and Zoning Checklist
- 4.2 Site Plan Review
- 4.3 Land Divisions and Property Line Adjustments
- 4.4 Conditional Use Permits
- 4.5 Modifications to Approved Plans
- 4.6 Amendments to the Zoning Map or Code
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Chapter 4.1 – General Review Procedures

Sections:

- 4.1.010 Purpose and Applicability
- 4.1.020 Zoning Checklist
- 4.1.030 Administrative Decision
- 4.1.040 Quasi-Judicial Decision (Public Hearing)
- 4.1.050 Legislative Decision
- 4.1.060 General Provisions Applicable to All Reviews

4.1.010 Purpose and Applicability

- A. **Purpose.** This chapter establishes standard decision-making procedures for the review of land use and development applications, affording the public a means of participating in the local decision-making process in an efficient manner. Table 4.1.010 provides a key for determining the applicable review procedure for land use approvals in Ukiah.
- B. **Applicability of Review Procedures.** All land use and development permits and approvals in the City of Ukiah, except building permits, shall follow the procedures contained in this chapter. There are four types of permit/approval procedures as described below and as identified in Table 4.1.010.
1. Zoning Checklists (City Council Meeting-No Land Use Notice Required). The City Council reviews Zoning Checklists for all projects requiring land use, development, or building permit approval. The Checklist is a preliminary step that is intended to ensure a project proposal meets the basic requirements of Article 2 (Zoning) before more detailed plans are drawn up. The City Council reviews Checklists at a regularly scheduled, noticed City Council meeting.
 2. Administrative Land Use Decisions (City Council Meeting With Notice). Administrative Land Use decisions are for minor land use proposals, such as property line adjustments and small variances, where a public hearing is not necessary. The Administrative procedure is also used for minor modifications to approved plans and for final approvals, i.e., when City Council has previously granted preliminary approval (e.g., final subdivision plats). City Council makes Administrative land use decisions at regularly scheduled, noticed Council meetings with an opportunity for public comment. The State Land Use Board of Appeals is the appellate body for administrative decisions.
 3. Quasi-Judicial Land Use Decisions (City Council Hearing With Notice). Quasi-Judicial Land Use decisions are for complex land use or development proposals, such as preliminary subdivision plans, conditional use permits, major variances, site development plan reviews, and small zone changes (e.g., a single parcel). City Council makes quasi-judicial decisions at a noticed public hearing. The State Land Use Board of Appeals is the appellate body for quasi-judicial decisions.
 4. Legislative Decisions (City Council Hearing With Notice). Legislative decisions involve changes in city policy, such as Comprehensive Plan amendments, Zoning

Map amendments affecting more than one parcel (or a large area), and changes to this Code. City Council makes legislative decisions after a noticed public hearing. The State Land Use Board of Appeals is the appellate body for legislative land use decisions.

Table 4.1.010 Summary of Approvals by Type of Review Procedure		
Approvals*	Review Procedures	Applicable Regulations
Zoning Checklist Review	Administrative	Applicants are required to complete a Zoning Checklist before applying for any other permit or approval. See Section 4.1.020.
Access to a Street	Administrative or Quasi-Judicial	Chapter 3.1 and the standards of the applicable roadway authority (City/County/ODOT)
Annexation	Legislative	See Oregon Revised Statute 222
Code Interpretation	Administrative or Quasi-Judicial	Chapter 1.5
Code Text Amendment	Legislative	Chapter 4.6
Comprehensive Plan Amendment	Legislative	Chapter 4.6
Conditional Use Permit	Quasi-Judicial	Chapter 4.4
Home Occupation	Zoning Checklist	Chapter 4.7
Modification to Approval or Condition of Approval	Administrative or Quasi-Judicial	Chapter 4.5
Zoning District Map Change	Legislative or Quasi-Judicial	Chapter 4.6
Property Line Adjustments, including Lot Consolidations	Administrative	Chapter 4.3
Legal Lot Determination	Administrative	Chapter 1.3
Non-Conforming Use or Structure, Expansion of	Administrative or Quasi-Judicial	Chapter 1.4
Partition or Re-plat of 2-3 lots Preliminary Plat Final Plat	Quasi-Judicial Administrative	Chapter 4.3 Chapter 4.3
Site Plan Review	Quasi-Judicial	Chapter 4.2
Subdivision or Replat of >3 lots Preliminary Plat Final Plat	Quasi-Judicial Administrative	Chapter 4.3 Chapter 4.3
Variance		
Minor	Administrative	Chapter 4.7
Major	Quasi-Judicial	Chapter 4.7

* The applicant may be required to obtain building permits through the State Building Official, and/or approvals from other agencies, such as Umatilla County, ODOT, or State or Federal natural resource regulatory agencies, prior to commencing a use or development. The City's failure to notify the applicant

of any requirement or procedure of another agency shall not invalidate a permit or action taken by the City under this Code. The applicant is responsible for obtaining all required permits.

4.1.020 Zoning Checklist

See Section 4.1.010 for the purpose and applicability of Zoning Checklists.

A. Application Requirements.

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

B. Requirements. A land use permit or approval shall not be granted and a building permit shall not be issued until the City Council has approved a Zoning Checklist for the proposed project.

C. Criteria and Decision. The City Council review of Zoning Checklists is intended to determine whether minimum code requirements are met and whether any other land use permit or approval is required prior to issuance of a building permit. City Council, upon referral of a Zoning Checklists by the City Recorder, in a public meeting (not a hearing), shall either approve, deny, or amend the Zoning Checklist.

D. Effective Date. A Zoning Checklist decision is final on the date it is made by City Council. It is not a land use decision as defined by ORS 197.015, and therefore is not subject to appeal to the State Land Use Board of Appeals. See also, Section 1.2.090, Zoning Checklist and Building Permits.

4.1.030 Administrative Land Use Decisions

See Section 4.1.010 for the purpose and applicability of Administrative decisions.

A. Application Requirements.

1. Application Forms. Applications for projects requiring Administrative review shall be made on forms provided by the City Recorder.
2. Submittal Information. The City Recorder shall refer to the Zoning Checklist previously approved by City Council in advising the applicant on application requirements. At a minimum, the application shall include all of the following:
 - a. The information requested on the application form;
 - b. Plans and exhibits required for the specific approval(s) being sought (For example, requirements for property line adjustments are in Chapter 4.3.);
 - c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail;
 - d. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail; and
 - e. The required fee.

B. Procedure.

1. The City Recorder shall mail notice of a pending Administrative Decision to the following individuals and agencies not less than 14 days prior to the City Council meeting where an Administrative decision is scheduled to be made and pursuant to the requirements of subsections 2 and 3 below.
2. The purpose of the Administrative decision notice is to give nearby property owners and other interested people and agencies the opportunity to submit written comments on the application before the City Council makes its decision. The intent is to invite people to participate early in the decision-making process. Therefore all of the following individuals and agencies shall be notified:
 - a. All owners of record of real property within a minimum of 300 feet of the subject site;
 - b. Any person who submits a written request to receive a notice; and
 - c. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies. At a

minimum, the City Recorder shall notify the road authority if different than the City of Ukiah. The failure of another agency to respond with written comments on a pending application shall not invalidate an action or permit approval made by the City under this Code.

3. The notice of pending Administrative Decision, at a minimum, shall contain all of the following information:
 - a. The deadline for submitting written comments, which must be at least 14 days prior to the scheduled City Council meeting as described above;
 - b. A summary of the proposal and the relevant approval criteria. The notice must have sufficient detail to help the public identify and locate applicable code requirements;
 - c. State the address and City contact person for submitting written comments; and the date, time and location the City Council is scheduled to make a decision on the application;
 - d. Describe the street address or other easily understandable reference to the location of the proposed use or development;
 - e. 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;
 - f. State that all evidence relied upon by the City Council to make its decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City; and
 - g. State that after the comment period closes, the City Council will issue its decision, and that the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.
4. At the conclusion of the comment period, the City Recorder shall transmit all written comments received, if any, along with a copy of the application to City Council for review and decision.
5. The City Council shall review the application at its next regularly scheduled meeting, where it may approve, approve with conditions, or deny the application. The City Council's decision shall be based on the applicable approval criteria and standards of this Code. The City Council may continue its review to the next meeting to allow the applicant time to respond to questions, provided the City Council must make a final decision within the 120-day period prescribed under

State law (ORS 227.178) and as described in Section 4.1.060 of this Code. Alternatively, the applicant may voluntarily waive his or her right to a final decision within the 120-day timeframe and City Council may decide to accept oral and written testimony in a public hearing review of the application, pursuant to Section 4.1.040; in which case a new public notice must be mailed to those who received the original notice indicating the change to a quasi-judicial (public hearing) review procedure.

6. Within seven (7) days of the City Council’s Administrative decision, the City Recorder shall proceed to prepare a notice of decision and mail it to the applicant, property owner (if different), the State Building Official, those who provided written comments on the proposal, and those who requested a copy of the decision. The City Recorder shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law.
7. The Administrative Notice of Decision shall contain all of the following information:
 - 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 (i.e., copy of assessor’s map may be used);
 - c. A statement of where the City’s decision can be obtained;
 - d. The date the decision shall become final, unless appealed; and
 - e. A statement that all persons entitled to notice may appeal the decision to the State Land Use Board of Appeals within 21 days of the Notice date.

C. Final Decision and Effective Date. An Administrative Decision is effective the date the City mails it unless the conditions of approval specify otherwise. The City Council’s decision may be appealed to the State Land Use Board of Appeals pursuant to ORS 197.805 - 197.860.

4.1.040 Quasi-Judicial Land Use Decisions

See Section 4.1.010 for the purpose and applicability of Quasi-Judicial decisions.

A. Application Requirements.

1. Application Forms. Applications for applications requiring Quasi-Judicial review shall be made on forms provided by the City Recorder.
2. Submittal Information. The City Recorder shall refer to the Zoning Checklist previously approved by City Council in advising the applicant on application requirements. At a minimum, the application shall include all of the following:
 - a. The information requested on the application form;
 - b. Plans and exhibits required for the specific approval(s) being sought (For example, the requirements for land divisions are in Chapter 4.3.);
 - c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail; and
 - d. The required fee.

B. Procedure.

1. Mailed and Published Notice. The City shall mail public notice of a public hearing on a Quasi-Judicial application at least 20 days before the hearing date to the same individuals and organizations that are entitled to notice for an Administrative Decision. (See Section 4.1.030.) The City Recorder shall prepare an affidavit of notice, which shall be made a part of the file. The affidavit shall state the date that the notice was mailed. At least fourteen (14) business days before the hearing, notice of the hearing shall be printed in a newspaper of general circulation in the City. A copy of the newspaper's publication of the notice shall be made part of the administrative record.
2. Content of Notice. Notice of a Quasi-Judicial hearing to be mailed and published per Subsection 1 above shall contain all of the following information:
 - a. A summary of the proposal and the relevant approval criteria. The notice must have sufficient detail to help the public identify and locate applicable code requirements;
 - b. State the date, time and location of the City Council hearing;
 - c. Describe the street address or other easily understandable reference to the location of the proposed use or development;

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- d. 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;
- e. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards shall be available for review at the office of the City Recorder and that copies shall be provided at a reasonable cost;
- f. 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 (7) days before the hearing, and that a copy shall be provided on request at a reasonable cost;
- g. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and
- h. A statement that after the public hearing closes, the City Council will issue its decision, and the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.

C. Conduct of the Public Hearing.

- 1. At the commencement of the hearing, the Mayor, or his or her designee, shall state to those in attendance all of the following information and instructions:
 - a. The applicable approval criteria by Code chapter that apply to the application;
 - b. Testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;
 - c. Failure to raise an issue with sufficient detail to give the City Council and the parties an opportunity to respond to the issue, may preclude appeal to the State Land Use Board of Appeals on that issue;
 - d. At the conclusion of the initial evidentiary hearing, the City Council shall deliberate and make a decision based on the facts and arguments in the public record. See subsection ‘D’ Record of the Public Hearing.
 - e. Any participant may ask the City Council for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing; if the City Council grants the request, it will schedule a date to

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continue the hearing as provided in paragraph 5 of this subsection, or leave the record open for additional written evidence or testimony as provided paragraph 6 of this subsection.

2. Participants in a Quasi-Judicial hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing *ex parte* (outside the hearing) contacts as reasonably possible. Where questions related to *ex parte* contact are concerned, City Councilors shall follow the guidance for disclosure of *ex parte* contacts contained in ORS 227.180. Where a real conflict of interest arises, City Councilors shall recuse themselves from decision making, except where State law provides otherwise. Where the appearance of a conflict of interest is likely, City Councilors shall individually disclose their relationship to the applicant in the public hearing and state whether they are capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they shall be excused from the proceedings.
3. Presenting and receiving evidence.
 - a. The City Council 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 by this Section;
 - c. Members of the City Council 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 beginning of the hearing and an opportunity is provided to dispute the evidence.
4. The City Council, in making its decision, shall consider only facts and arguments in the public hearing record; except that the Council may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous city decisions; case law; staff reports) upon announcing its intention to take notice of such facts in its deliberations and allowing persons who previously participated in the hearing to request the hearing record be reopened, if necessary, to present evidence concerning the noticed facts.
5. If the City Council decides to continue the hearing, the hearing shall be continued to a date that is at least seven (7) days after the date of the first evidentiary hearing (e.g., next regularly scheduled meeting). 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 (7) days, so that they can submit

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additional written evidence or arguments in response to the new written evidence. In the interest of time, after the close of the hearing, the City Council may limit additional testimony to arguments only and not accept additional evidence.

6. If the City Council leaves the record open for additional written testimony, the record shall be left open for at least seven (7) days after the hearing. Any participant may ask the City Council in writing for an opportunity to respond to new evidence (i.e., information not disclosed during the public hearing) submitted when the record was left open. If such a request is filed, the City Council shall reopen the record, as follows:
 - a. When the City Council reopens the record to admit new evidence or arguments (testimony), any person may raise new issues that relate to that new evidence or testimony;
 - b. An extension of the hearing or record granted pursuant to this Section is subject to the limitations of Section 4.1.060 (ORS 227.178 - “120-day rule”), unless the applicant waives his or her right to a final decision being made within 120 days of filing a complete application; and
 - c. If requested by the applicant, the City Council shall grant the applicant at least seven (7) days after the record is closed to all other persons to submit final written arguments, but not evidence, unless the applicant expressly waives this right.

D. Record of the Public Hearing.

1. The official record shall include all of the following information:
 - a. All materials considered by the hearings body;
 - b. All materials submitted by the City Recorder to the hearings body regarding the application;
 - c. The minutes of the hearing;
 - d. The final written decision; and
 - e. Copies of all notices given as required by this Chapter, and correspondence regarding the application which the City mailed or received.
2. The meeting minutes shall be filed in hardcopy form with the City Recorder. The minutes and other evidence presented as a part of the hearing shall be part of the record.

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3. All exhibits received and displayed shall be marked to provide identification and shall be part of the record.

E. **Final Decision and Effective Date.** A Quasi-Judicial Decision is effective the date the City mails it unless the conditions of approval specify otherwise. The City Council's decision may be appealed to the State Land Use Board of Appeals pursuant to ORS 197.805 - 197.860.

4.1.050 Legislative Land Use Decisions

A. **Timing of Requests.** The City Council may establish a schedule for when it will accept legislative code amendment or plan amendment requests, or the City Council may initiate its own legislative proposals at any time, including zone changes required when property is annexed to the City of Ukiah. Legislative requests are not subject to the 120-day review period under ORS 227.178.

B. Application Requirements.

1. Application forms. Legislative applications shall be made on forms provided by the City Recorder.
2. Submittal Information. The application shall contain all of the following information:
 - a. The information requested on the application form;
 - b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
 - c. The required fee, except when City of Ukiah initiates request; and
 - d. One copy of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.

C. **Procedure.** Hearings on Legislative Land Use requests are conducted similar to City Council hearings on other legislative proposals, except the notification procedure for Legislative Land Use requests must conform to State land use laws (ORS 227.175), as follows:

1. The City Recorder shall notify in writing the Oregon Department of Land Conservation and Development (DLCDC) of legislative amendments (zone change, rezoning with annexation, or comprehensive plan amendment) at least forty-five (45) days before the first public hearing at which public testimony or new evidence will be received. The notice shall include a DLCDC Certificate of Mailing.
2. At least twenty (20) days, but not more than forty (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 for any zone change, a notice shall be prepared in conformance with ORS 227.175 and mailed to:

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- a. Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one Comprehensive Plan land use category to another);
 - b. Any affected governmental agency;
 - c. Any person who requests notice in writing; and
 - d. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175;
3. At least ten (10) days before the scheduled City Council public hearing date, public notice shall be published in a newspaper of general circulation in the City.
 4. For each mailing and publication of notice, the City Recorder shall keep an affidavit of mailing/publication in the record.

D. Final Decision and Effective Date. A Legislative Land Use 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. Notice of a Legislative Land Use decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development within five (5) business days after the City Council decision is filed with the City Recorder. The City shall also provide notice to all persons as required by other applicable laws.

4.1.060 Time Limit; Consolidated Review; City Recorder's Duties

- A. **Time Limit - 120-day Rule.** The City shall take final action on Administrative and Quasi-Judicial land use applications, pursuant to this Chapter, including resolution of all appeals, within 120 days from the date the City Recorder deems the application complete for purposes of processing, unless the applicant requests an extension in writing. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (Note: The 120-day rule does not apply to Legislative Land Use decisions.)
- B. **Time Periods.** In computing time periods prescribed or allowed by this Chapter, the day of the act or event from which the designated period of time begins shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which case the period runs until the end of the next day that is not on a weekend or legal holiday.
- C. **Consolidated Review of Applications.** When an applicant applies for more than one type of land use or development permit for the same one or more contiguous parcels of land, the proceedings shall be consolidated for review and decision. When proceedings are consolidated, required notices may be consolidated, provided the notice shall identify each application to be decided. When more than one application

is reviewed in a hearing, separate findings and decisions shall be made on each application.

D. **City Recorder's Duties.** The City Recorder, or his or her designee, shall perform all of the following duties with regard to administration of this Code:

1. Prepare application forms based on in the provisions of this Code and applicable State law;
2. Prepare required notices, and process applications for review and action by City Council;
3. Assist City Council in administering the hearings process;
4. Prepare staff reports summarizing pending applications, including applicable decision criteria;
5. Prepare findings consistent with City Council decisions on land use and development applications;
6. Prepare notices of final decisions, file the notices in the City's records and mail a copy of the notices to all parties entitled to notice under this Code; and
7. Maintain and preserve the file and public record for each application.

Chapter 4.2 - Site Plan Review

Sections:

4.2.010	Purpose
4.2.020	Applicability
4.2.030	Review Procedure
4.2.040	Application Submission Requirements
4.2.050	Approval Criteria and Adjustments
4.2.060	Assurances
4.2.070	Compliance with Conditions; Modifications; Permit Expiration

4.2.010 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 and its comprehensive plan policies 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 the provision of transportation options.

4.2.020 Applicability

Site Plan Review approval is required for new commercial, industrial, and multifamily housing developments. Site Plan Review approval is also required to expand a non-conforming use or development. Site Plan Review is not required to expand an existing conforming use or development when such expansion is limited to 35 percent of the existing floor area or developed area, as applicable.

4.2.030 Review Procedure

Zoning Checklist is used to determine whether Site Plan Review is required. When required, Site Plan Review shall be conducted using the Quasi-Judicial procedure, per Section 4.1.040.

4.2.040 Application Submission Requirements

Applications for Site Plan Review shall contain all of the following:

- A. **General Submission Requirements.** In addition to the information required for a Quasi-Judicial application under Section 4.1.040, the applicant shall submit a City Council-approved Zoning Checklist for the project, and an evaluation of the proposed development with respect to its potential impacts on the transportation system (vehicles and pedestrians), water and sewer systems, and drainage; and with respect to required parking, landscaping, screening. For each system and type of impact, the applicant shall propose improvements as necessary to meet City standards, pursuant to the Zoning Checklist and the requirements of Article 3?. Where the City or other roadway authority requires a traffic impact analysis, the analysis shall conform to the requirements of the applicable roadway authority.
- B. **Site Plan Review Information.** The following Site Plan information is required, except the City Council, during its review of a Zoning Checklist for the project, may waive certain information that it deems unnecessary or irrelevant.
1. Existing Conditions. At a minimum the site analysis map shall contain all of the following information:
 - a. The applicant’s entire property and the surrounding property to a distance sufficient to determine the location of the development in the City, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions and gross area shall be identified;
 - b. Topographic contour lines at 2-foot intervals or other appropriate intervals;
 - c. The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site, including the type of pavement and any limitations or restrictions on use;
 - d. Existing structures, parking areas, paved or graveled areas, utilities, underground tanks, trees, fences, and landscaping, as applicable;
 - e. Areas subject to City of Ukiah Flood Plain Ordinance;
 - f. North arrow, scale, names and addresses of all persons listed as owners of the subject property on the most recently recorded deed; and
 - g. Name and address of property owner, applicant (if different), and the project engineer, surveyor, and/or planner, as applicable.
 2. Proposed Site Plan. The site plan shall contain all of the following information, except where the City Council has waived certain items because they are not relevant:

- a. The proposed development site, including boundaries, dimensions, and gross area;
- b. Features identified on the existing site analysis maps that are proposed to remain;
- c. Features identified on the existing site map, if any, which are proposed to be removed or modified by the development;
- d. The location and dimensions of all proposed streets, drives, rights-of-way, utilities, structures, and easements;
- e. Setback dimensions for all existing and proposed structures;
- f. Proposed entrances and exits to the site, and proposed location and dimensions of vehicle circulation and parking areas, and pedestrian walkways (as applicable);
- g. Loading and service areas, if any;
- h. Outdoor recreation spaces and common areas (multifamily developments);
- i. Location, type, and height of outdoor lighting;
- j. Locations, sizes, and types of signs; and
- k. Any proposed fences, landscaping, and screening.

4.2.050 Approval Criteria

An application for Site Plan Review shall be approved if the proposal meets all of the following criteria:

- A. The application is complete;
- B. The application complies with all of the applicable provisions of the underlying Zoning District (Article 2);
- C. The proposal complies with all of the applicable standards of Article 3;
- D. Adverse impacts to adjacent properties, such as light, glare, noise, odor, vibration, smoke, dust, or visual impact are avoided; or where impacts cannot be avoided, they are minimized through screening, setbacks, or other mitigation measures;
- E. Non-conforming uses or development on the site, if any, will not become less conforming to the Code as a result of the proposed development; and

- F. The City Council may impose conditions of approval to ensure compliance with this Code, or other City codes and requirements, prior to issuance of building permits. Such conditions shall be specified in the final decision, which shall be transmitted to the State Building Official.

4.2.060 Assurances

Public improvements required as part of a Site Plan Review approval shall be installed concurrent with development. City Council may require a warranty bond for public improvements, pursuant to Section 3.4.090.

4.2.070 Compliance With Conditions; Modifications; Permit Expiration

Development shall not commence until the applicant has received final Site Plan Review approval. Construction of public improvements shall not commence until the City Council has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.).

- A. **Approval Period.** Site Plan Review approvals shall be effective for a period of one (1) year from the date of approval. The approval shall lapse if:
1. A public improvement plan or building permit application for the project has not been submitted within one year of approval; or
 2. Construction on the site is in violation of the approved plan and the applicant has not responded in good faith to remedy the violation.
- B. **Extension.** The City Council, upon written request by the applicant, may grant a written extension of the approval period not to exceed one (1) year, provided that all of the following criteria are met:
1. No changes are made on the original approved Site Plan Review plan;
 2. The applicant can show intent of initiating construction on the site within the one-year extension period;
 3. There have been no changes to the applicable Code provisions on which the approval was based. If there have been changes to the applicable Code provisions and the expired plan does not comply with those changes, then the extension shall not be granted and a new Site Plan Review may be required; and
 4. The applicant demonstrates that failure to obtain building permits and substantially begin construction within one year of site design approval was beyond the applicant's control.

Chapter 4.3 - Land Divisions and Property Line Adjustments

Sections:

4.3.010	Purpose
4.3.020	General Requirements
4.3.030	Approval Process
4.3.040	Preliminary Plat Submission Requirements
4.3.050	Approval Criteria: Preliminary Plat
4.3.060	Land Division-Related Variances
4.3.070	Final Plat Submission Requirements and Approval Criteria
4.3.080	Public Improvements
4.3.090	Assurances
4.3.100	Filing and Recording
4.3.110	Re-platting and Vacation of Plats
4.3.120	Property Line Adjustments

4.3.010 Purpose

The purpose of this chapter is to implement the objectives in subsections A-E, below:

- A. Provide rules, regulations and standards governing the approval of subdivisions, partitions and lot line adjustments as follows:
 1. Subdivisions are the creation of four (4) or more lots from one parent lot, parcel or tract, within one (1) calendar year.
 2. Partitions are the creation of three (3) or fewer lots within one calendar year.
 3. Lot line adjustments are modifications to lot lines or parcel boundaries that do not result in the creation of new lots (includes consolidation of lots).
- B. Carry out the City's development pattern, as envisioned by the City's comprehensive plan.
- C. Encourage efficient use of land resources and public services, and to provide transportation options.
- D. Promote the public health, safety and general welfare through orderly and efficient urbanization.
- E. 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.

4.3.020 General Requirements

- A. **Subdivision and Partition Approval Through Two-step Process.** Applications for subdivision or partition approval shall be processed by means of a preliminary plat evaluation and a final plat evaluation, according to the following two steps:
1. The preliminary plat must be approved before the final plat can be submitted for approval consideration; and
 2. The final plat must include all conditions of approval of the preliminary plat.
- B. **Compliance With Oregon Revised Statutes (ORS) Chapter 92.** All subdivision and partition proposals shall conform to state regulations in Oregon Revised Statute (ORS) Chapter 92, Subdivisions and Partitions.
- C. **Future Re-division Plan.** When subdividing or partitioning tracts into large lots (i.e., greater than three times or 300 percent the minimum lot size allowed by the underlying land use district), the lots shall be of such size, shape, and orientation as to facilitate future re-division and extension of streets and utilities.
- D. **Adequate Utilities.** All lots created through land division shall have adequate public utilities and facilities such as streets, water, sewer, gas, and electrical systems, pursuant to Chapter 3.4. These systems shall be located and constructed underground where feasible.
- E. **Adequate Drainage.** All subdivision and partition proposals shall have adequate surface water drainage facilities that reduce exposure to flood damage and improve water quality. Water quality or quantity control improvements may be required, pursuant to Chapter 3.4.
- F. **Adequate Access.** All lots created or reconfigured shall have adequate vehicle access and parking, as may be required, pursuant to Chapter 3.1.

4.3.030 Preliminary Plat Approval Process

- A. **Review of Preliminary Plat.** Preliminary plats shall be processed using a Quasi-Judicial procedure under Section 4.1.040. All preliminary plats, including partitions and subdivisions, shall be subject to the approval criteria in Section 4.3.050.
- B. **Preliminary Plat Approval Period.** Preliminary plat approval shall be effective for a period of one (1) year from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted within the 1-year period. The City Council may approve phased subdivisions with an overall time frame of more than one (1) year between preliminary and final plat approvals.

C. **Modifications and Extensions.** The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Chapter 4.5 - Modifications. The City Council may, upon written request by the applicant and payment of the required fee, grant one written extension of the approval period not to exceed one (1) year, provided that all of the following criteria are met:

1. Any changes to the preliminary plat follow the procedures in Chapter 4.5;
2. The applicant has submitted written intent to file a final plat within the one-year extension period;
3. An extension of time will not prevent the lawful development of abutting properties;
4. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required; and
5. The extension request is made before expiration of the original approved plan.

D. **Phased Subdivision.** The City Council may approve phased subdivisions, provided the applicant proposes a reasonable phasing schedule that meets all of the following criteria:

1. In no case shall the construction time period (i.e., for required public improvements, utilities, streets) for the first subdivision phase be more than one (1) year;
2. Public facilities shall be constructed in conjunction with or prior to each phase;
3. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that are required as part of the approved development proposal;
4. The proposed time schedule for phased development approval shall be reviewed concurrently with the preliminary subdivision plat application; and
5. City Council approval is required for modifications to phasing plans.

4.3.040 Preliminary Plat Submission Requirements

Applications for Preliminary Plat approval shall contain all of the following information:

A. **General Submission Requirements.** In addition to the information required for a Quasi-Judicial application under Section 4.1.040, the applicant shall submit a City Council-approved Zoning Checklist for the project, and an evaluation of the proposed development with respect to its potential impacts on the transportation system (vehicles and pedestrians),

water and sewer facilities, and drainage. For each system and type of impact, the applicant shall propose improvements necessary to meet City standards, pursuant to the Zoning Checklist and the requirements of Article 3. Where the City or other roadway authority requires a traffic impact analysis, the analysis shall conform to the requirements of the applicable roadway authority.

B. Preliminary Plat Information. In addition to the general information described in Subsection A above, the preliminary plat application shall consist of three (3) sets of drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide the following information:

1. General information:

- a. Name of subdivision (partitions are named by year and file number). This name shall not duplicate the name of another land division Umatilla County (check with County Surveyor);
- b. Date, north arrow, and scale of drawing;
- c. Location of the development sufficient to define its location in the City, boundaries, and a legal description of the site;
- d. Zoning of parcel to be divided; and
- e. A title block including the names, addresses and telephone numbers of the owners of the subject property and, as applicable, the name of the engineer and surveyor, and the date of the survey; and
- f. Identification of the drawing as a “preliminary plat”.

2. Existing Conditions. Except where the City Council, through its Zoning Checklist review, deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on existing conditions of the site:

- a. Streets: Location, name, and present width of all streets, alleys and rights-of-way on and abutting the site;
- b. Easements: Width, location and purpose of all existing easements of record on and abutting the site;
- c. Utilities: Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards;

4.3 – Land Divisions and Property Line Adjustments

- d. Ground elevations shown by contour lines at 2-foot vertical interval. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor; the City Council may waive this standard for partitions when grades, on average, are less than 6 percent;
 - e. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);
 - f. Areas subject to the City of Ukiah Flood Plain Ordinance;
 - g. North arrow and scale; and
 - h. Other information, as deemed necessary by the City Council-approved Zoning Checklist for review of the application. The City may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.
3. Proposed Development. Except where the City Council, through its Zoning Checklist review, deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on the proposed development:
- a. Proposed lots, streets, tracts, open space and park land (if any); location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;
 - b. Easements: location, width and purpose of all proposed easements;
 - c. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all proposed lots and tracts;
 - d. Proposed uses of the property, including all areas proposed to be dedicated as public right-of-way or reserved as open space for the purpose of surface water management, recreation, or other use;
 - e. Proposed public street improvements, pursuant to Chapter 3.4;
 - f. On steep slopes, as determined by the City Engineer, the preliminary location of development on lots (e.g., building envelopes), demonstrating that future development can meet minimum required setbacks and applicable engineering design standards;
 - g. Preliminary design for extending City water and sewer service to each lot, per Chapter 3.4;

- h. Proposed method of surface water drainage and treatment, if required, pursuant to Chapter 3.4;
- i. The approximate location and identity of other utilities, including the locations of street lighting fixtures, as applicable;
- j. Evidence of compliance with City of Ukiah Flood Plain Ordinance, as applicable; and
- k. Evidence of contact with the road authority for proposed new street connections.

4.3.050 Approval Criteria: Preliminary Plat

- A. **Approval Criteria.** The City Council may approve, approve with conditions or deny a preliminary plat. The Council’s decision shall be based on findings of compliance with all of the following approval criteria:
- 1. The land division application shall conform to the requirements of Chapter 4.3;
 - 2. All proposed lots, blocks, and proposed land uses shall conform to the applicable provisions of Article 2 (Zoning);
 - 3. Access to individual lots, and public improvements necessary to serve the development, including but not limited to water, sewer and streets, shall conform to Article 3 (Design Standards);
 - 4. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;
 - 5. The proposed streets, utilities, and surface water drainage facilities conform to City of Ukiah adopted master plans and applicable engineering standards, and allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications;
 - 6. All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas is assured through appropriate legal instrument;
 - 7. Evidence that any required State and Federal permits, as applicable, have been obtained or can reasonably be obtained before approval of the final plat; and
 - 8. Evidence that improvements or conditions required by the City, road authority, Umatilla County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met.

B. Conditions of Approval. The City Council may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations.

4.3.060 Land Division-Related Variances

Variances shall be processed in accordance with Chapter 4.7. Applications for variances shall be submitted at the same time an application for land division or lot line adjustment is submitted, and the applications shall be reviewed together.

4.3.070 Final Plat Submission Requirements and Approval Criteria

Final plats require review and approval by the City Council prior to recording with Umatilla County. The final plat submission requirements, approval criteria, and procedure are as follows:

- A. Submission Requirements.** The applicant shall submit the final plat within one (1) year of the approval of the preliminary plat as provided by Section 4.3.050. The format of the plat shall conform to ORS 92.
- B. Approval Process and Criteria.** By means of an Administrative Land Use Review, the City Council shall approve, approve with conditions, or deny the final plat application based on findings of compliance or noncompliance with the all of the following criteria:
1. The final plat is consistent in design (e.g., number, area, dimensions of lots, easements, tracts, right-of-way) with the approved preliminary plat, and all conditions of approval have been satisfied;
 2. All public improvements required by the preliminary plat have been installed and approved by the City Council or applicable service provider if different than the City of Ukiah (e.g., road authority);
 3. The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;
 4. Streets and roads held for private uses were approved by the City Council as part of the preliminary plat;
 5. The plat and deed contain a dedication to the public of all public improvements, including but not limited to streets, public pathways and trails, access reserve strips, parks, and water and sewer facilities, as applicable;

6. As applicable, the applicant has furnished acceptable copies of Covenants, Conditions and Restrictions (CC&R's), easements, maintenance agreements (e.g., for access, common areas, parking, etc.), and other recorded documents pertaining to common improvements recorded and referenced on the plat;
7. Certification by the City that water and sanitary sewer service is available to every lot depicted on the plat; and
8. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, indicating the initial point of the survey, and giving the dimensions and kind of such monument and its reference to some corner approved by the Umatilla County Surveyor for purposes of identifying its location.

4.3.080 Public Improvements Required

Before City approval is certified on the final plat, all required public improvements must be installed in accordance with City-approved plans, inspected, and approved by the City of Ukiah.

4.3.090 Assurances

Public improvements required as part of a Land Division approval shall be installed concurrent with development. City Council may require a warranty bond for public improvements, pursuant to Section 3.4.090.

4.3.100 Filing and Recording

A new lot is not a legal lot for purposes of ownership (title), sale, lease, or development/land use until a final plat is recorded for the subdivision or partition containing the lot is recorded. Requests to validate an existing lot created through means other than a final plat ("lot of record") shall follow the procedures set forth in ORS 92.010 to 92.190. The final plat filing and recording requirements are as follows:

- A. **Filing Plat with County.** Within sixty (60) days of the City approval of the final plat, the applicant shall submit the final plat to Umatilla County for signatures of County officials as required by ORS Chapter 92.
- B. **Proof of Recording.** Upon final recording with the County, the applicant shall submit to the City a mylar copy and three (3) paper copies of all sheets of the recorded final plat. This shall occur prior to the issuance of building permits for the newly created lots.

C. Prerequisites to Recording the Plat.

1. No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS Chapter 92;
2. No plat shall be recorded until the County Surveyor approves it in the manner provided by ORS Chapter 92.

4.3.110 Re-platting and Vacation of Plats

Any plat or portion thereof may be re-platted or vacated upon receiving an application signed by all of the owners as appearing on the deed. Except as required for street vacations, the same procedure and standards that apply to the creation of a plat (preliminary plat followed by final plat) shall be used to re-plat or vacate a plat. Street vacations are subject to ORS Chapter 271. A re-plat or vacation application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable City standards.

4.3.120 Property Line Adjustments

A Property Line Adjustment is the modification of lot boundaries when no lot is created. The application submission and approval process for Property Line Adjustments is as follows:

- A. **Submission Requirements.** All applications for Property Line Adjustment shall be made on forms provided by the City and shall include information required for a Zoning Checklist application, pursuant to Section 4.1.020. The application shall include a preliminary lot line map drawn to scale identifying all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; location of lands subject to the City of Ukiah Flood Plain Ordinance; existing fences and walls; and any other information deemed necessary by the City Council for ensuring compliance with City codes. The application shall be signed by all of the owners as appearing on the deeds of the subject lots.
- B. **Approval Criteria.** The City Council shall approve or deny a request for a property line adjustment in writing based on all of the following criteria:
 1. Parcel Creation. No additional parcel or lot is created by the lot line adjustment;
 2. Lot standards. All lots and parcels conform to the applicable lot standards of the zoning district (Article 2) including lot area, dimensions, setbacks, and coverage. As applicable, all lots and parcels shall conform the City of Ukiah Flood Plain Ordinance;

and

3. Access and Road authority Standards. All lots and parcels conform to the standards or requirements of Chapter 3.1 - Access and Circulation, and all applicable road authority requirements are met. If a lot is nonconforming to any City or road authority standard, it shall not be made less conforming by the property line adjustment.

C. Recording Property Line Adjustments

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

Chapter 4.4 - Conditional Use Permits

Sections:

- 4.4.010** **Conditional Use Permits - Purpose**
- 4.4.020** **Conditional Use Permits - Approvals Process**
- 4.4.030** **Conditional Use Permits - Application Submission Requirements**
- 4.4.040** **Conditional Use Permits - Criteria, Standards and Conditions of Approval**
- 4.4.050** **Conditional Use Permits - Supplemental Development Standards**

4.4.010 **Conditional Use Permits - Purpose**

There are certain uses, which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. These are identified as conditional uses in Chapter 2.2 - Zoning District Regulations. The purpose of this chapter is to provide procedures and standards for permitting conditional uses.

4.4.020 **Conditional Use Permits - Approvals Process**

Conditional use applications are reviewed by City Council using a Quasi-Judicial procedure, per Section 4.1.040. City Council may require annual, or less frequent, renewal of conditional use permits. Modifications to conditional use permits are subject to Chapter 4.5 Modifications.

4.4.030 **Conditional Use Permits - Application Submission Requirements**

In addition to the submission requirements for a Quasi-Judicial review under Section 4.1.040, applications for conditional use permits shall include a description of existing conditions, a site plan, and information on any existing and any proposed restrictions or covenants. (For a more detailed description of each item, please refer to Section 4.2.040 Site Plan Review Application Submission Requirements.) In addition, the application shall contain a narrative report or letter responding to the applicable approval criteria in Section 4.4.040

4.4.040 Conditional Use Permits - Criteria, Standards and Conditions of Approval

The City Council shall approve, approve with conditions, or deny an application for a conditional use, including requests to enlarge or alter a conditional use, based on findings of fact with respect to all of the criteria and standards in A-C.

A. Use Criteria

1. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations.
2. The negative impacts of the proposed use, if any, on adjacent properties and on the public can be mitigated through application of other Code standards, or other reasonable conditions of approval.
3. All required public facilities, including water, sanitary sewer, and streets, have adequate capacity or are to be improved to serve the proposal, consistent with City standards.
4. A conditional use permit shall not allow a use that is prohibited or not expressly allowed under Article 2; nor shall a conditional use permit grant a variance without a variance application being reviewed with the conditional use application.

B. Conditions of Approval. The City may impose conditions that are found necessary to ensure that the use is compatible with other uses in the vicinity, and that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions include, but are not limited to, one or more of the following:

1. Limiting the hours, days, place and/or manner of operation;
2. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;
3. Requiring larger setback areas, lot area, and/or lot depth or width;
4. Limiting the building or structure height, size, lot coverage, and/or location on the site;
5. Designating the size, number, location and/or design of vehicle access points or parking and loading areas;
6. Requiring street right-of-way to be dedicated and street improvements made, or the installation of pathways or sidewalks, as applicable;

7. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;
8. Limiting the number, size, location, height and/or lighting of signs;
9. Limiting or setting standards for the location, type, design, and/or intensity of outdoor lighting;
10. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
11. Requiring and designating the size, height, location and/or materials for fences;
12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands;
13. Requiring improvements to water, sanitary sewer, or storm drainage systems, in conformance with City standards; and
14. Establish a timetable for periodic review and renewal, or expiration, of the conditional use permit to ensure compliance with conditions of approval; such period review may occur through a Administrative or Quasi-Judicial Land Use review process.

Chapter 4.5 - Modifications to Approved Plans and Conditions

Sections:

- 4.5.010** **Modifications - Purpose**
- 4.5.020** **Modifications - Applicability**
- 4.5.030** **Major Modifications**
- 4.5.040** **Minor Modifications**

4.5.010 **Modifications - Purpose**

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

4.5.020 **Modifications - Applicability**

This Chapter applies when an applicant proposes to modify an approved application or condition of approval.

4.5.030 **Major Modifications**

A. **Major Modification.** The City Council reviews applications for major modifications through the Quasi-Judicial procedure under Section 4.1.040. Any one of the following changes constitutes a major modification:

1. A change in land use, from a less intensive use to a more intensive use; or
2. An increase in floor area to a commercial or industrial development, or an increase in the number of dwelling units in a multifamily development; or
3. A reduction in required setbacks, or an increase in lot coverage, by more than ten percent (10%), provided the resulting setback or lot coverage complies with the minimum standards of Article 2; or
4. A change in the type and/or location of vehicle access points, driveways, or parking areas affecting off-site traffic; or
5. A reduction to screening, or a reduction to the area reserved for common open space or landscaping by more than ten percent (10%); or

4.5 – Modifications to Approved Plans and Conditions of Approval

6. Change to a condition of approval, or a change similar to items 1-5, above, that could have a detrimental impact on adjoining properties. The City Council shall have discretion in determining detrimental impacts triggering a major modification.

B. Major Modification Applications; Approval Criteria. Requests for major modifications shall conform to all of the following procedures and criteria:

1. The applicant shall submit an application form, filing fee, a letter describing the modification, and a site plan using the same plan format as in the original approval. The City Council may require other relevant information, as necessary, in evaluating the request;
2. The application shall be subject to the same approval criteria used for the initial project approval; except that a modification adding a conditional use to a project approved without a conditional use shall require findings in conformance with Chapter 4.4;
3. The scope of review shall be limited to the modification request. For example, a request to modify a commercial development's parking lot shall require Site Plan Review only for the proposed parking lot and any changes to associated access, circulation, etc. Notice shall be provided in accordance with Chapter 4.1; and
4. The City Council shall approve, deny, or approve with conditions an application for major modification based on written findings on the applicable Code criteria (e.g., subdivision, site plan review, conditional use, etc.).

4.5.040 Minor Modifications

A. Minor Modification. The City Council shall review a request for a minor modification through an Administrative Land Use Review, pursuant to Section 4.1.030. A minor modification is a change to an approved plan or condition of approval that does not meet any of the thresholds for a major modification listed in Section 4.5.030(A).

B. Minor Modification Applications; Approval Criteria. An application for minor modification shall include an application form, filing fee, a letter describing the modification, and a site plan using the same plan format as in the original approval. The City Recorder may require other relevant information, as necessary, in evaluating the request.

C. Minor Modification Approval Criteria. The City Council shall approve, deny, or approve with conditions an application for minor modification based on findings of compliance or noncompliance with the applicable requirements of the Development Code and the conditions of approval on the original decision.

Chapter 4.6 – Amendments to Zoning Map or Code

Sections:

- 4.6.010** **Amendments - Purpose**
- 4.6.020** **Amendments - Procedure**
- 4.6.030** **Amendments - Criteria**
- 4.6.040** **Record of Amendments**
- 4.6.050** **Transportation Planning Rule Compliance**

4.6.010 **Amendments - Purpose**

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this Code and Zoning Map. Amendments may be necessary from time to time to reflect changing community conditions, to correct mistakes, or to address changes in the law.

4.6.020 **Amendments - Procedure**

- A. Amendments to the Zoning Map that affect only a small area and that are intended to implement the Comprehensive Plan are reviewed using the Quasi-Judicial procedure in Section 4.1.040.
- B. The Legislative procedure is used for amendments to the Zoning Map that do not meet the criterion in subsection 4.6.020A, above, and for amendments to the Development Code or Comprehensive Plan.

4.6.030 **Amendments - Criteria**

City Council approval of a Zoning Map, Development Code or Comprehensive Plan amendment shall be based on all of the following criteria:

- A. If the proposal involves an amendment to the Comprehensive Plan, the amendment must be consistent with the Statewide Planning Goals and relevant Oregon Administrative Rules;
- B. The proposal must be consistent with the Comprehensive Plan. (The Comprehensive Plan may be amended concurrently with proposed changes in zoning);
- C. The City Council must find the proposal to be in the public interest with regard to community conditions; the proposal either corrects a mistake or inconsistency in the Comprehensive Plan, Development Code, or Zoning Map; or it responds to changes in the community; and

- D. The amendment must conform to the Transportation Planning Rule provisions under Section 4.6.050.

4.6.040 Record of Amendments

The City Recorder shall maintain a record of amendments to the text of this Code and the Zoning Map in a format convenient for public use.

4.6.050 Transportation Planning Rule Compliance

- A. **Review of Applications for Effect on Transportation Facilities.** Proposals to amend the Comprehensive Plan or Zoning Map shall be reviewed to determine whether they significantly affect a transportation facility pursuant to Oregon Administrative Rule (OAR) 660-012-0060 (Transportation Planning Rule - TPR). Where the City Council, in consultation with the applicable roadway authority, finds that a proposed amendment would have a significant affect on a transportation facility, the City shall work with the roadway authority and applicant to modify the request or mitigate the impacts in accordance with the TPR and applicable law.

Chapter 4.7 - Variances

Sections:

- 4.7.010** Variances - Purpose
- 4.7.020** Variances – General Provisions
- 4.7.030** Minor Variances
- 4.7.040** Major Variances
- 4.7.050** Variances – Expiration

4.7.010 Variances - Purpose

Chapter 4.7 provides standards and procedures for variances, which are modifications to development standards that are not otherwise permitted elsewhere in this Code as exceptions or adjustments to code standards. The variance procedures provide relief from specific code provisions when they have the unintended effect of preventing reasonable development in conformance with all other codes. The variance procedures provide flexibility while ensuring that the resulting development is consistent with Code’s intent.

4.7.020 Variances – General Provisions

- A. **Exceptions and Adjustments versus Variances.** A code standard or approval criterion (“code section”) may be modified without approval of a variance if the applicable Code expressly allows the City Council to grant exceptions or adjustments. Where the Code does not expressly provide for an exception or adjustment, then a variance may be granted pursuant to Chapter 4.7.
- B. **Application Requirements.** Variance applications shall be filed pursuant to the requirements for Administrative or Quasi-Judicial reviews, under Section 4.1.030 or Section 4.2.040, as applicable. In addition, the applicant shall provide a narrative or letter explaining the reason for the variance request, alternatives considered, how the variance criteria in Section 4.7.040 are satisfied, and why the subject Code standard(s) cannot be met without the variance.
- C. **Combining Variances With Other Approvals; Permit Approvals by Other Agencies.** Variance requests may be combined with other land use and development applications; however, some variances may be subject to approval by other permitting agencies, such as ODOT or Umatilla County in the case of variances to highway or street access standards. Variances to City of Ukiah Engineering Standards are reviewed by the City Council and are not subject to this Code.

D. **Types of Variances and Limitations.** As provided in Section 4.7.030, there are two types of variances: Minor and Major. Minor involve variances involve limited discretion and therefore are reviewed through an Administrative Land Use procedure (Section 4.1.030). Major variances require a public hearing under the Quasi-Judicial Land Use procedure (Section 4.1.040) because they involve more discretion. Uses allowed in a particular zoning district (Table 2.2.020) shall not be modified through a variance.

4.7.030 Minor Variances

A. **Applicability.** The following are Minor Variances:

1. Setbacks. Up to a 20 percent change to a minimum setback.
2. Lot Coverage. Up to 20 percent increase to the lot coverage standard.

B. **Approval criteria.** A Minor Variance shall be granted if the applicant demonstrates compliance with all of the following criteria:

1. The variance allows for a building plan that is more compatible with adjacent land uses, or it does not create a conflict with adjacent uses;
2. Approval of the variance does not create a violation(s) of any other adopted ordinance or code standard;
3. An application for a Minor variances is limited to one (1) lot per application. Each code standard to be modified shall require a separate variance request; and
4. No more than three (3) Minor variances may be approved for one lot or parcel in a continuous 12-month period; and
5. All applicable building code requirements shall be met.

4.7.040 Major Variances

A. **Applicability.** A Major Variance is a variance that does not otherwise meet the criteria under subsection 4.7.030 (Minor Variance).

B. **Approval Criteria.** The City Council may approve a Major Variance only upon finding that it meets all of the following criteria:

1. The variance is necessary because the subject Code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses;
2. The variance is the minimum necessary to address the special or unique physical circumstances related to the subject site;
3. The need for the variance is not self-imposed by the applicant or property owner. (For example, the variance request does not arise as result of a property line adjustment or land division approval previously granted to the applicant);
4. The variance does not conflict with other applicable City policies or other applicable regulations;
5. The variance will result in no foreseeable harm to adjacent property owners or the public; and
6. All applicable building code requirements shall be met.

4.7.050 Variances –Expiration

A variance approval shall expire if not acted upon by the property owner within one (1) year of the City approving the variance. Where the owner has applied for a building permit or final plat, or has made site improvements consistent with an approved development plan (e.g., site design review or preliminary subdivision plan), the City Council may extend the variance approval accordingly.