



## **CHAPTER 17.12 DEVELOPMENT APPROVAL PROCEDURES**

Adopted Ord. 894, January 2, 2007  
Amended Ord. 898, August 20, 2007  
Amended Ord. 901, April 16, 2008  
Amended Ord. 902, May 7, 2008  
Amended Ord. 913, September 2, 2009  
Amended Ord. 918, March 18, 2010  
Amended Ord. 945, March 5, 2012  
Amended Ord. 949, April 17, 2013  
Amended Ord. 960, September 3, 2013  
Amended Ord. 982, August 5, 2015  
Amended Ord. 1005, February 2, 2017  
Amended Ord. 1017, April 18, 2018  
Amended Ord. 1032, June 19, 2019  
Amended Ord. 1034, July 17, 2019

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**CHAPTER 17.12****DEVELOPMENT APPROVAL PROCEDURES****SECTIONS**

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**17.12.010 PURPOSE**

The purpose of this chapter is to provide clear and uniform procedures for the application for, review of, and decisions upon requests for land use and development permits.

**17.12.020 APPLICATIONS FOR CHANGES AND EXCEPTIONS**

All applications for land use and development approval actions as governed by the land use and development code are subject to the procedures and conditions set forth herein.

**17.12.030 APPLICATION PROCEDURE**

Any application for a land use or development approval action authorized in this title shall be filed in the following manner.

1. **FORMS.** The application shall be submitted on forms provided by the City Planner.
2. **FILING LOCATION.** Unless stated otherwise, the application shall be filed with the City Planner at City Hall.
3. **PROPERTY OWNER AUTHORIZATION.** If the property owners are not the applicants, then the application shall be accompanied by a notarized statement certifying the authority of anyone representing the owner(s) of property involved in the application. The application shall be signed by the property owner or authorized representative.
4. **SUPPLEMENTAL INFORMATION.** All supplemental documentation and information specified in those sections governing the approval or action being requested shall accompany the application. The applicant shall be responsible for providing any and all information required for a complete application.
5. **COST FOR SERVICES.**
  - a. **Basic Application Costs.** Basic application costs are intended to recover expenses incurred by the City in the receipt, review and processing of a land use application. A deposit in an amount established in the Deposit Schedule will be required at the time an application is filed.
  - b. **Outside Planning Services.** An applicant may, upon permission of the City, choose outside planning services at the applicant's expense, approved by the City, to process any land use application. The outside planning service will be tantamount to the function of the City Planner and will be subject to the supervision, direction and review of the City Planner. Utilizing outside planning services does not forego the City's requirement as to costs (including non-refundable deposit).
  - c. In the event the application is withdrawn before City action, the applicant shall be responsible to pay for the costs incurred up to the time of its withdrawal.
  - d. **Waiver of Charges.** The City Council may, at its discretion, waive some or all charges for the processing of applications determined by the City Council to be in the public interest.
6. **DEPOSIT SCHEDULE.** A deposit schedule shall be in resolution form and adopted by the City Council.

**17.12.040 MULTIPLE APPLICATIONS**

1. **PROCESSING.** Combined or multiple requests by the same applicant(s) for approvals of different land use and development permits which are governed by the provisions of this chapter and which affect the same property or properties, shall be considered concurrently by the City. In the case of different applications requiring Planning Commission final action for one and City Council final action for another, the City Council may act upon both together.
2. **CHARGES FOR MULTIPLE APPLICATIONS.** Multiple applications shall be assessed charges as provided in Section 17.12.030 for each individual application which is part of a multiple application. The City Administrator shall be empowered to waive all but the highest charge for multiple applications.

**17.12.050 STAFF RESPONSIBILITY AND ACTIONS**

1. Upon receiving an application, the City staff will review the application for completeness. Staff has a total of 30 days to review the application for completeness. The 120-day decision period begins the day after the application is deemed complete. It shall be the duty of staff to notify the applicant within three days of an application being deemed complete.

If the information contained in the application is not sufficient for complete staff review, staff will return the application to the applicant with a written explanation disclosing what information, forms, or fees are missing. It shall be the responsibility of the applicant to revise or supplement the application as required by the City staff in order to make it a complete application. If appropriate, a written agreement from the applicant may be accepted by the City staff, explaining how the technical problems will be resolved or information prepared. Failure of the applicant to provide a complete application within 181 days of the original submission shall result in the application being considered withdrawn. City staff shall notify the applicant that the application is considered withdrawn and inform the applicant that the application may be resubmitted at any time.

2. For all cases in which City staff does not make the initial decision on an application, City staff shall refer the file, together with their report as required by this title, to the appropriate decision maker (Planning Commission or City Council), and shall schedule a public hearing therefore at the next available, regularly scheduled meeting.
3. For purposes of planning coordination, the City staff shall provide to local, state, and federal agencies likely to be impacted by the proposal or entitled to receive such notice under law, referrals of the request with an explanation of the character of the proposal. This referral will be made within 5 days of application acceptance. Agencies so contacted will be requested to reply within 12 days of mailing of the referral, and will be notified that failure to reply or participate in the hearing may be interpreted as no objection to the proposal. (Ord. 898, August 20, 2007)
4. For all applications other than a comprehensive plan amendment, the City staff will prepare a written staff report on the proposed action within 20 days after the application is deemed complete, or 7 days before a duly scheduled public hearing, whichever occurs earlier. A written report on a proposed comprehensive plan amendment shall be prepared within 30 days after the application is deemed complete, or 7 days before a duly scheduled public hearing, whichever occurs earlier.
5. For comprehensive plan amendment and zone change applications, the City staff shall notify the Oregon Department of Land Conservation and Development of the proposed amendment pursuant to the requirements of ORS 197.610. Comments or objections received as a result of the notification shall be made a part of the staff report to the Planning Commission and/or the City Council.
6. The staff shall present their report on the application to the Planning Commission and/or the City Council at the scheduled public hearing. (Ord. 898, August 20, 2007)
7. For all cases in which the Planning Commission acts as the decision authority on an application, City staff shall provide notice of the Planning Commission's actions to the City Council in accordance with Section 17.12.130. (Ord. 898, August 20, 2007)
8. It shall be the duty of the City staff to monitor the 120-day decision period and to notify the Planning Commission and City Council in a timely manner to allow completion of the prescribed process within the 120-day period.

**17.12.060 NOTICE OF PUBLIC HEARING**

1. Public notice of any public hearing before the Planning Commission or City Council shall include the following information:
  - a. Identification of the application by City file number.
  - b. Identification of the property involved in the request by ownership and tax map and tax lot numbers, and street address if available.
  - c. Identification of the property owner and applicant.
  - d. Date, time, and place of the hearing and the decision authority to conduct the hearing.
  - e. A brief description of the nature of the application and the proposed activities or uses which could be allowed by a favorable decision.
  - f. List the applicable criteria from the Comprehensive Plan and its implementing ordinances that apply to and govern the decision on the application under consideration.
  - g. The name of the City staff or designee and a telephone number to contact where information may be obtained.
  - h. A statement that the application, all documents and evidence relied upon by the applicant, and applicable criteria are available for inspection at the office of the City staff and that copies will be provided at reasonable cost.
  - i. A statement that the staff report on the application will be available for inspection at the office of the City staff and that copies will be provided at reasonable cost within 7 days of the hearing.
  - j. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
  - k. A statement that the failure to raise an issue in person or by letter during the open record period, or failure to provide sufficient specificity to afford the City an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA) on that issue.
  - l. A statement that indicates the day in which the application was deemed complete.
  - m. If the hearing is an appeal, identification of the appellant's name if different than the property owner's name or applicant's name.
2. Notices of public hearing shall be mailed to each property owner of record within the affected area not later than 20 days prior to the first public hearing on a case, and not later than 10 days prior to any additional public hearings on the same case. The notification area shall be for all properties located a minimum of 300 feet from the exterior boundaries of the property which is the subject of the notice. Failure to receive such notice shall not affect the validity of the proceedings.
3. The applicant shall be required to post the property, 10 days prior to the hearing date, with a sign or placard provided by the City. The applicant shall file written certification or affidavit of such posting with the City staff prior to the hearing date. Posting shall be placed as near to a public street as possible, and shall be done in such a manner that the notice sign is easily visible from a public street.

4. In addition, for an application for annexation notice of each public hearing shall be published in a newspaper of general circulation in the community once each week for two successive weeks prior to the day of the public hearing. (Ord. 982, August 5, 2015)



**17.12.070 DECISION AUTHORITY**

1. **AUTHORITY.** The decision authority on applications shall be as follows:
  - a. **Staff Decisions.** City staff shall be required and empowered to review, evaluate and render decisions on the following land use applications:
    - 1) **Site Plan Review**
      - a) Development on a previously vacant lot for which the area of development is 5,000 square feet or less.
      - b) Expansions, additions or other modifications to a previously developed lot that would increase the floor area of the structure by less than 15% or increase the number of parking spaces needed by less than 15%.
      - c) (Repealed, Ord. 898, August 20, 2007)
    - 2) Final subdivision and partition plats.
    - 3) Minor modifications
  - b. **Planning Commission Decisions.** The Planning Commission shall be empowered to review, evaluate and render decisions on applications for site plan reviews except as specified in 17.12.070.1.a.1; conditional uses; variances; partitions; preliminary and detailed development plans for master planned developments not associated with annexations, comprehensive plan changes, or zone changes; and subdivisions not associated with annexations, comprehensive plan amendments or zone changes.
  - c. **Planning Commission Recommendations.** The Planning Commission shall be required to review, evaluate, and make recommendations to the City Council on all land use applications involving changes to the development code; comprehensive plan amendments; zone changes; annexations; and subdivisions or master planned developments associated with annexations, comprehensive plan amendments, or zone changes.
  - d. **City Council Decisions.** The City Council shall be required and empowered to review, evaluate, and render final decisions on all land use applications involving changes to the development code; comprehensive plan amendments; zone changes; annexations; and subdivisions or master planned developments associated with annexations, comprehensive plan amendments or zone changes.
  - e. **City Council Authority.** Notwithstanding the division of the authority to make decisions set forth above, the City Council shall have at its sole discretion, the authority to review and consider any land use action of the staff or Planning Commission.
  - f. **Combined Authority.** At the discretion of the City Council, proceedings of the Council and Planning Commission may be combined in the form of mutual or joint public meetings, work sessions, or hearings. Unless otherwise determined by the Council, decisions or actions taken on applications subject to or following such proceedings shall have the status of final Council decisions or actions.
2. **STANDARDS.** It is the responsibility of the applicant to provide evidence that allows the decision authority to make findings that the application is in conformance with applicable standards of the Comprehensive Plan, this title, and other state and local law; and that the specific approval criteria for the application, as contained within applicable sections of this code, have been satisfied.

3. **BURDEN OF PROOF.** The applicant has the burden of proof for any land use action before the City of Stayton. According to law, the applicant must present to the decision authority facts, evidence, analysis, and justification for each and every decision criteria in order to carry that burden of proof. The burden of proof lies with the applicant to prove why their proposal complies with the Stayton Comprehensive Plan and the City's land use ordinances. There is no assumption that the applicant is entitled to an approval from the City of Stayton and the burden of proof does not lie with the City of Stayton, staff, or appointed or elected officials.

**17.12.080 ADMINISTRATIVE DECISION PROCEDURE**

1. **ADMINISTRATION STAFF EVALUATION.** The City staff shall consider the following matters in evaluating and reaching a decision on an application:
  - a. Consistency of the proposed action with the mandatory approval criteria for the application including the objectives of this title and other applicable ordinances and policies of the City.
  - b. Staff's own analysis and evaluation of the proposal; including all facts submitted relevant to the application, any information in the record by the staff, and any other information that is of general knowledge.
2. **NOTICE OF APPLICATION.** Notice shall be mailed to each property owner of record within the affected area not later than 20 days prior to City staff taking any action on a land use application for which it is the decision maker. The notification area shall be for all properties located a minimum of 300 feet from the exterior boundaries of the property which is the subject of the notice. Failure to receive such notice shall not affect the validity of the proceedings.
3. **ADMINISTRATIVE STAFF ACTION.** On any application for which the City staff is empowered to make a decision pursuant to Section 17.12.070.1.a, staff may:
  - a. Approve the proposal as submitted, including the establishment of conditions of approval as may be deemed appropriate.
  - b. Request the proposal be modified in order to comply with this code before making a decision.
  - c. Deny the proposal.
  - d. Refer the application to the Planning Commission for a decision in accordance with Section 17.12.090.
4. **FORM OF ADMINISTRATIVE ACTION.** The decision of City staff shall be in the form of a written Notice of Decision, which shall be distributed pursuant to Section 17.12.130.
5. **EFFECTIVE DATE OF ADMINISTRATIVE DECISION.** Unless appealed or called up by the Planning Commission or City Council, a decision of City staff shall become final 14 days following the date of mailing of the Notice of Decision.

**17.12.090 PLANNING COMMISSION HEARING AND DECISION PROCEDURE**

1. **TIMING.** The staff report shall be placed before the Planning Commission no less than 7 days prior to the scheduled public hearing or meeting. The Planning Commission shall hold at least 1 public hearing on the proposal unless otherwise provided by this title. A work session(s) open to the public may also be held at the Commission's discretion.
2. **RULES OF PROCEDURE.** All public hearings shall be conducted in accordance with Stayton City Land Use Hearings Rules of Procedure, as amended. Copies of the Rules of Procedure shall be made available to applicants and other participants at the hearings.
3. **EVIDENCE.** Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs, and shall become part of the record for the application. Evidence shall address the mandatory approval criteria listed in the notice of hearing. The Planning Commission may reject any evidence that is immaterial or irrelevant to the approval criteria. Evidence that has been rejected shall be kept with the record on the application, but shall be noted on the face of that evidence that it was rejected, and the basis for the rejection.
4. **PLANNING COMMISSION EVALUATION.** The Planning Commission shall also consider the following matters in evaluating and reaching a decision on the application:
  - a. Consistency of the proposed action with the mandatory approval criteria for the application, the objectives of this title, and other applicable ordinances and policies of the City.
  - b. Staff analysis and evaluation of the proposal.
  - c. The Planning Commission's own analysis and evaluation of the proposal including all facts submitted relevant to the application and any other information that is of general knowledge.
5. **PLANNING COMMISSION ACTION.** The Planning Commission shall make a decision on any application following a public hearing and other Commission action, except those requiring final action by the City Council. The Commission may:
  - a. Approve the proposal as submitted, and establish conditions of approval as deemed appropriate by the Commission in order to bring the proposal into compliance with this Code.
  - b. Request the proposal be modified in order to comply with this code before making a decision.
  - c. Remand the application back to the City staff.
  - d. Deny the proposal.
  - e. Refer the matter on to the City Council without action or recommendation.
  - f. On those actions requiring final approval by the City Council, the Planning Commission shall perform the same function as described in a. through c. of this section, except the Commission action shall be in the form of a recommendation to the Council rather than a final decision.
  - g. If additional information is required to allow completion of action by the Planning Commission, it shall be prepared within 1 week, if possible, and brought before either a special meeting or the next regularly scheduled meeting of the Commission.

- h. If so requested by a participant, the record of the hearing shall be held open for at least 7 days after the hearing is completed.
- 6. **PLANNING COMMISSION REVIEW OF ADMINISTRATIVE DECISIONS.** For actions where a Notice of Decision has been issued by City staff, any individual member of the Planning Commission may elect to call up the application to further consider the decision. A call up must be made within the appeal period as specified in Section 17.12.110, and shall be in writing on forms provided by City staff. When a decision is called up, the Planning Commission may elect to hold a public hearing, or refer the case back to the City staff with directions on how to proceed.
- 7. **FORM OF ACTION.** Planning Commission action shall be in the form of an order stating the Commission's findings of fact, conclusions of law, decision and any conditions of approval which shall be signed by the presiding officer of the Commission.
- 8. A Notice of Decision shall be distributed pursuant to Section 17.12.130.
- 9. **REFERRAL OF ACTION.** For those actions in which the Planning Commission is called upon to make only a recommendation to the City Council, the record of the matter, including Planning Commission orders and findings, and all information received by the Planning Commission shall be referred to the Council for review and further action.
- 10. **EFFECTIVE DATE OF DECISION.** Unless appealed or called up by the City Council or Mayor, a decision of the Planning Commission shall become final 14 days following the date of the Notice of Decision.

**17.12.100 CITY COUNCIL HEARING AND DECISION PROCEDURES**

1. **COUNCIL HEARING REQUIRED.** For all land use applications involving changes to the development code; zone changes; comprehensive plan amendments; annexations; and subdivisions or master planned developments associated with annexations, comprehensive plan amendments or zone changes the City Council shall conduct at least one public hearing on the application. Notice of public hearing shall be given pursuant to the procedures of Section 17.12.060. (Ord. 898, August 20, 2007)
2. **COUNCIL HEARING OPTIONAL.** The City Council, in its sole discretion, may hold a public hearing for any application, other than zone changes, comprehensive plan amendments, and annexations, which is before the Council for decision.
3. **COUNCIL REVIEW OF ADMINISTRATIVE AND PLANNING COMMISSION DECISIONS.** For those actions where a Notice of Decision has been issued by either City staff or the Planning Commission, any member of the Council or the Mayor may elect to call-up the application to further consider the decision. A call-up must be made within 14 days of the mailing of the notice of decision, and shall be in writing on forms provided by City staff. The Council may elect to hold a public hearing, or refer the case back to the original decision authority with directions on how to proceed when a decision is called up. Once a case is called up, staff and/or the Planning Commission lose jurisdiction to further consider the matter unless the Council directs otherwise. (Ord. 898, August 20, 2007)
4. **HEARINGS.** For those matters requiring City Council decision, the Council will consider recommendations of the Planning Commission and other information related to the application before the Council in the form of a de novo procedure. Hearings on appeals only may be de novo or on the record, as the Council deems appropriate. In cases heard on the record, no new evidence shall be allowed, however the applicant or appellant as the case shall be afforded a brief opportunity to argue the merits of the case to the Council, so long as no new evidence is presented.
5. **PROCEDURES.** Conduct and procedures of the hearing and matters to be considered by the City Council shall be the same as those prescribed for the Planning Commission hearing as described in Section 17.12.090.
6. **COUNCIL ACTION.** As the final decision maker for all City business, the City Council shall have the right to take whatever action it deems necessary on any land use case brought before it. The power and the authority of the Council in this regard are not limited in any way.
7. **FORM OF ACTION.** Any decision or action by the City Council on a land use case shall be by Order, except for annexations, zone changes, and comprehensive plan amendments which shall be by Ordinance. The Order and/or Ordinance shall contain detailed findings of fact and conclusions as to whether or not the facts satisfy the approval criteria. The decision shall contain the effective date of the decision, and the appeal rights of the parties. If the application is approved, the Order/Ordinance shall specify any conditions of approval established by the Council. The Council decision shall be mailed to all persons who are entitled to receive the Notice of Decision as specified in Section 17.12.130.
8. **REMAND TO PLANNING COMMISSION.** The City Council may remand any land use case to the Planning Commission for further proceedings, including conducting a new public hearing and making a new decision or recommendation. In the event of remand, the application shall be processed just as if it was a new application.

**17.12.110 APPEALS**

1. **APPEAL OF ADMINISTRATIVE DECISION.** An administrative decision of the City staff may be appealed to the Planning Commission by an aggrieved party within 14 days of the mailing of the Notice of Decision. The notice of appeal shall indicate the nature of the decision that is being appealed and the matter at issue will be a determination of the appropriateness of the interpretation of the requirements of this title. (Ord. 898, August 20, 2007)
2. **APPEAL OF PLANNING COMMISSION DECISION.** A Planning Commission decision may be appealed to the City Council by an aggrieved party within 14 days of the mailing of the Notice of Decision. The appeal shall be in writing and shall clearly state the issue being appealed and the grounds for the appeal. The appeal shall be placed before the Council. The Council will consider the appeal and either accept the appeal and set a date for public hearing, or elect to deny the appeal based on the record. If the Council accepts an appeal of a Commission action, the Council may at its discretion remand the decision back to the Commission for further consideration and findings which will then be reported to the Council prior to a final Council decision on the appeal.
3. **JURISDICTIONAL DETERMINATION.** In order for the appeal to be jurisdictionally adequate, and therefore able to be considered by the appropriate appellate authority, the appeal must meet all of the requirements set forth herein. These include: specificity, use of proper form (properly filled out), payment of fee, and timely filing.
4. **SPECIFICITY.** Issues of appeal must be raised with sufficient specificity before the appeal body to have afforded the decision authority and the applicant, if appropriate, an adequate opportunity to respond to and resolve each issue.
5. **STAY OF PROCEEDINGS.** When an appeal is filed, it shall stay all proceedings by all parties in connection with the matter upon which the appeal is taken until the determination of such appeal is completed.
6. **FEE.** An appeal pursuant to Section 17.12.100.1 shall be accompanied by an application fee and deposit as required by the adopted Fee Schedule.
7. **APPEAL FORM.** In order to be properly considered, an appeal shall be submitted on an appeal form created by the City. Appeal forms shall be readily available to members of the public at not cost for the form. The appeal shall be filed with the City Planner.
8. Unless otherwise specified, where ever this code refers to “days”, that reference is to calendar days, not working days. To calculate the last day for appeal, the date of the notice should be excluded, and the last day of the appeal period should be included. The last day concludes at 5:00 p.m. If the last day falls on a legal holiday or a weekend, the last day shall be the next regularly scheduled workday thereafter. To be effective, appeals must be physically received by the Planning Department.

**17.12.120 EFFECTIVE DATES AND DEADLINES FOR ACTIONS**

1. **EFFECTIVE DATE.** A final decision on a quasi-judicial land use action is intended to provide certainty to the applicants and all parties participating in the process. The effective date of a decision shall be:
  - a) 14 days from the date of the notice of decision for an administrative decision;
  - b) 14 days from the date of the notice of decision for a decision by the Planning Commission;
  - c) 21 days from the date of the notice of decision for a decision by the City Council.

If a decision is not appealed pursuant as specified in 17.12.110, the decision becomes final.

2. **EVIDENTIARY MATERIAL SUBMITTED.** All documents or evidence relied upon by the applicant shall be submitted to the City staff at least 20 days prior to the first evidentiary hearing on the matter.
3. **DEADLINES EXCEPT FOR PLAN AMENDMENT.**
  - a) The City shall take final action on an application for a multifamily housing of five or more dwellings, at least 50 percent of which will be sold or rented as affordable housing as defined in Section 1 of Chapter 745 of the Oregon Laws of 2017, and which will be subject to a covenant that restrict sales price or rents to maintain affordability, including any appeals within 100 days after the application is submitted and deemed complete.
  - b) The City shall take final action on any other application, except for a comprehensive plan amendment or an annexation, including resolution of all appeals under Section 17.12.110 within 120 days after the application is submitted and deemed complete.
4. **MINIMUM TIME FOR REAPPLICATION:** An application denied after due consideration may not be resubmitted in less than one (1) year's time unless the applicant can demonstrate that the factual circumstances which brought about the denial no longer exist or are no longer applicable to the proposal.
5. **EXTENSIONS.** The applicant may elect to waive or grant an extension to the time requirement stated in subsection 3 of this section by written statement to the City staff. Such waiver requests shall be made a part of the record on the application. The total of all extensions may not exceed 245 days.
6. **TIME CALCULATIONS.** Unless otherwise specified, where ever this code refers to "days", that reference is to calendar days, not working days. To calculate the last day for appeal, the date of the notice should be excluded, and the last day of the appeal period should be included. The last day concludes at 5:00 p.m. If the last day falls on a legal holiday or a weekend, the last day shall be the next regularly scheduled workday thereafter.
7. **RIGHT MUST BE EXERCISED.** Land use approvals granted under this Title shall be effective only when the exercise of the right granted therein is commenced within 1 year of the effective date of that decision, unless a longer period be specified or thereafter allowed by the decision authority. Exercising the rights granted by an approval shall require:
  - a) Commencement of construction, with a valid building permit or site development permit, in the case of an application for variance, conditional use, or site plan review;
  - b) Submittal and acceptance of construction plans, as required by Section 17.24.060, in the case of a partitioning or subdivision that requires construction plans; or



- c) Submittal and acceptance of a draft final plat in the case of a partitioning or subdivision that does not require construction plans.

In case such right has not been exercised or extension obtained the approval shall be void.

- 8. EXTENSION OF APPROVAL. A written request for an extension of time, filed with the City Planner at least 30 days prior to the expiration date of the approval, shall extend the duration of the one-year period until the decision authority has taken action on the request if the following criteria are met:

- a. Progress has been made on final engineering.
- b. Applications to other regulatory agencies for necessary approvals have been filed.

The decision authority shall, within 31 days of the filing of a request for extension consider whether to grant an extension. An extension shall be granted upon a finding that the criteria above are satisfied and that no changes in this Title have been enacted that would affect the application. Only one (1) extension may be granted of no longer than one year.

(All of Section 17.12.120 amended Ord. 1017, April 18, 2018)

**17.12.130 NOTICE OF DECISION**

All administrative, Planning Commission, and City Council decisions shall be produced as a written Notice of Decision. This Notice of Decision shall contain at a minimum, the following information:

1. A brief description of the proposal contained in the application.
2. The nature of the decision, including a description of any conditions of approval.
3. The effective date of the decision.
4. A brief description of the rights and procedures for appeals.

This Notice of Decision shall be mailed or electronically mailed to: the applicant, all persons who submitted comments in writing or electronically prior to the public hearing or testified at the public hearing, anyone who has requested a copy of the decision, and all members of the Planning Commission and City Council, within 3 days of the decision. (Amended Ord. 945, March 5, 2012)

**17.12.140 SUBSTANTIAL CHANGES IN APPLICATION AFTER FILING**

In the event, at the City Council level, the applicant proposes changes to the land use application under consideration that make it substantially different from the proposal that was considered by the Planning Commission, then the Council shall remand the case to the Planning Commission to consider the proposed changes. Changes that shall make the application substantially different include, but are not limited to, substantial changes to the following:

1. The size, number, or location of accesses. (Ord. 898, August 20, 2007)
2. Elimination of landscaping.
3. The size or configuration of the subject property. (Ord. 898, August 20, 2007)
4. Increase in the density of the proposal.
5. The location of the parking areas. (Ord. 898, August 20, 2007)

The application must be considered without the proposed changes in the event the applicant does not waive or appropriately extend the 120 day application completion requirement (Oregon Revised Statutes 227.179) prior to further consideration by the City.

**17.12.150 MAJOR MODIFICATIONS TO APPROVED PLANS**

1. **PURPOSE STATEMENT.** The purpose of this section is to provide an efficient process for modifying land use decisions in recognition of the cost and complexity of land development.
2. **METHOD OF ADOPTION.** Major modifications shall be adopted pursuant to the requirements of Sections 17.12.070 through 17.12.100. The decision shall be made in accordance with this title.
  - a. This Section applies to all site plan reviews, subdivisions (but not partitions), and Master Planned Developments.
  - b. Major modifications shall constitute a new land use application and not a continuation of the original approved land use application.

This Section does not apply to Comprehensive Plan amendments, zone map amendments, annexations, variances or conditional use permits.

3. **SUBMITTAL REQUIREMENTS.** In order to be accepted as complete and processed in a timely manner by the City, requests for approval of major modifications shall include the following materials and information.
  - a. Completed application forms as supplied by the City Planner.
  - b. Three copies of the site plan to a scale of 1 inch equals not more than 50 feet showing the proposed modifications to the approved plan, the surrounding properties, neighboring streets and roads, and the previously approved plan. In addition, a reduced copy of the plan sized as 11 inches by 17 inches.
  - c. A narrative statement fully explaining the request and fully addressing the criteria for approval of a major modification.
4. **APPROVAL CRITERIA.** The scope of the review shall be limited only to the modification request. The decision authority shall use as decision criteria, the criteria for the original development proposal (e.g. subdivision, site plan, master planned development) that apply within the scope of the modification request and the any conditions of approval from the original application. (This includes public infrastructure requirements under Standard Specifications and adopted Master Plans.)
5. **IMPOSITION OF RESTRICTIONS AND CONDITIONS.**
  - a. The decision authority may prescribe restrictions or limitations for the proposed modification to an approved plan as it deems necessary to fulfill the purpose and intent of the zoning district in which the modification is being proposed and the requirements of this code. Such restrictions or limitations shall be based on evidence and analysis presented during the course of evaluation of the request; and shall be made a part of the approval action.
  - b. Any reduction or change of the requirements of the zoning regulations must be considered as varying those regulations and must be processed as a variance pursuant to Section 17.12.190.

**17.12.160 PRE-APPLICATION MEETING**

1. **PURPOSE STATEMENT.** The purpose of this section is to have conferences with prospective applicants to gather general information and City guidelines before the applicants enter into binding commitments or incurring substantial expense in the preparation of plans and land use applications.
2. **WHEN REQUIRED.** A minimum of 1 pre-application meeting must be held prior to submittal of an application: (Ord. 898, August 20, 2007)
3. **SUBMITTAL REQUIREMENTS.** A pre-application meeting will be scheduled only upon submission of the following materials to the City Planner 7 days prior to the meeting. The meeting shall be scheduled no more than 14 days after the City Planner has determined adequate information has been submitted.
  - a. **Form.** A completed form provided by the City Planner requesting a pre-application meeting.
  - b. **Map(s).** The applicant should provide a map(s) that allow staff to understand the general aspects of the proposed development. Maps do not need to be to scale, but it is recommended.
    - 1) The approximate topography.
    - 2) Approximate location of any existing buildings or proposed buildings.
    - 3) The approximate location of all proposed driveways, sidewalks and parking facilities.
    - 4) The approximate location of all proposed landscaping.
    - 5) Approximate location of any proposed land divisions.
  - c. **Narrative Statement.** The applicant shall provide a brief narrative statement detailing the proposed uses for the site.
4. **PROCEDURES FOR PRE-APPLICATION MEETINGS.**
  - a. The City Planner shall notify the Public Works Department, City Engineer, Marion County Public Works, and the Stayton Fire District of the preapplication meeting. (Ord. 898, August 20, 2007)
  - b. The pre-application meeting shall be attended by representatives of the Planning and Public Works Departments.
  - c. The applicant shall make a brief description of the project proposed project.
  - d. City staff shall inform the applicant of the issues that will need to be addressed when the application is submitted and identify any potential sections of this code for which compliance may not be easily achieved.
  - e. The opinions given by City staff at the pre-application meeting are non-binding upon the City and failure of staff to identify a Code provision for which compliance later becomes an issue shall not relieve the applicant from compliance with that provision should an application be submitted.

**17.12.170****COMPREHENSIVE PLAN AMENDMENTS**

1. **PURPOSE.** The Comprehensive Plan is the City's official and controlling land use document, guiding public and private activities that affect Stayton's growth, development, and livability. The Plan is intended to be a flexible document, reflecting changing circumstances and community attitudes through occasional amendments. This section provides a process for amending the Comprehensive Plan without violating its integrity or frustrating its purposes. This process applies to proposed amendments to Comprehensive Plan text, goals, policies or actions, and to Comprehensive Plan Map designations.
2. **DEFINITION:** A plan amendment may be the redesignation of an area from one land use classification to another, or a modification to policies or text of the plan. Amendments may either be legislative amendments or quasi-judicial amendments. A legislative amendment is one that is initiated by the City Council or Planning Commission, constitutes a change in policy or a correction of an error in the Plan, and affects a wide number of properties. A quasi-judicial amendment is one that is initiated by a property owner or group of property owners and results in changes in the Comprehensive Plan text or map that impacts a property or a small number of properties. Major revisions, including the updating of all or parts of the plan and affecting the framework or principal elements of the plan, are considered to be legislative amendments and may not be initiated by individual applicants.
3. **INITIATION:** A legislative Comprehensive Plan amendment may be initiated either by the Planning Commission or City Council by the adoption of a resolution. A quasi-judicial Comprehensive Plan amendment may be initiated by an applicant through the submission of an application.
4. **METHOD OF ADOPTION:** Pursuant to the requirements of Sections 17.12.060 through 17.12.100, Comprehensive Plan amendments shall be adopted by an ordinance passed by the City Council. All proceedings shall be conducted in accordance with this Chapter.
5. **SUBMITTAL REQUIREMENTS:** In order to be accepted as complete and processed in a timely manner by the City, applicant-initiated requests for Comprehensive Plan amendments shall include the following materials and information:
  - a. Completed application forms as supplied by the City Planner.
  - b. Evidence of the applicant's right, title or interest in the property for which the amendment is requested, including the latest recorded deed for the property. If the applicant is not the owner the applicant shall submit a purchase and sales contract, option, or other document executed by the owner indicating the applicant's right to proceed with the application.
  - c. A map, drawn to scale, showing the property for which the amendment is requested, surrounding properties within 300 feet, neighboring streets and roads, existing plan designation(s) and zoning district(s) on the property, and the exact extent of requested land use designation(s).
  - d. A narrative statement fully explaining the request and fully addressing the criteria for approval for a plan amendment. If the request is a text-only amendment (e.g., no requested change in land use designation), the statement must fully explain the nature of the requested amendment and provide reasons why the amendment is appropriate and how the Comprehensive Plan will continue to comply with all applicable statewide planning goals and administrative rules. For a Comprehensive Plan Map amendment, the narrative shall include at least the following:
    - 1) A statement of availability, capacity, and status of existing water, sewer, storm drainage, transportation, park, and school facilities.

- 2) A statement of increased demand for the above facilities that will be generated by the proposed change in land use designation. The applicant shall refer to the criteria of the City's facility master plans to determine the methodology used to estimate public facility demands. Information related to an actual development proposal may be included for informational purposes. At minimum, the demand calculations associated with the full range of development potential (min. to max.) under current vs. proposed land use designations shall be addressed in the analysis.
  - 3) A statement of additional facilities required to meet the increased demand and phasing of such facilities in accordance with projected demand. The applicant shall review adopted public facility plans, master plans, and capital improvement programs, and state whether additional facilities are planned or programmed for the subject area. Information related to an actual development proposal may be included for informational purposes. At minimum, the demand calculations associated with the full range of development potential (min. to max.) under current vs. proposed land uses designations shall be addressed in the analysis.
  - 4) A traffic impact analysis in accordance with the requirements of Section 17.26.050.3. The City Engineer shall define the scope of the traffic impact analysis. Information related to an actual development proposal may be included for informational purposes. At minimum, the traffic calculations associated with the full range of development potential (min. to max.) under current vs. proposed land uses designations shall be addressed in the analysis.
  - 5) A statement outlining the method and source of financing required to provide those additional facilities identified in subsection 3) above.
- e. If the application is for a Comprehensive Plan Map amendment, the applicant shall concurrently submit an application for a Zoning Map Amendment.
6. APPROVAL CRITERIA: In order to approve a Comprehensive Plan amendment, the following affirmative findings concerning the action must be able to be made by the decision authority.
- a. Legislative Amendments.
    - 1) The amendment is consistent with the other goals and policies of the Comprehensive Plan, including any relevant area plans, and the statewide planning goals.
  - b. Quasi-judicial Amendments.
    - 1) The amendment is consistent with the goals and policies of the Comprehensive Plan, including any relevant area plans, and the statewide planning goals. In the case of a Comprehensive Plan Map amendment, the requested designation for the site shall be evaluated against relevant Comprehensive Plan policies and the decision authority shall find that the requested designation on balance is more supportive of the Comprehensive Plan as a whole than the old designation.
    - 2) The current Comprehensive Plan does not provide adequate areas in appropriate locations for uses allowed in the proposed land use designation and the addition of this property to the inventory of lands so designated is consistent with projected needs for such lands in the Comprehensive Plan.
    - 3) Compliance is demonstrated with the statewide land use goals that apply to the subject properties or to the proposed land use designation. If the proposed designation on the subject property requires an exception to the Goals, the applicable criteria in the LCDC Administrative Rules for the type of exception needed shall also apply.

- 4) Existing or anticipated transportation facilities are adequate for uses permitted under the proposed designation and the proposed amendment is in conformance with the Oregon Transportation Planning Rule (OAR 660-012-0060).
  - 5) The current Comprehensive Plan Map provides more than the projected need for lands in the existing land use designation.
  - 6) Public facilities and services necessary to support uses allowed in the proposed designation are available or are likely to be available in the near future.
  - 7) Uses allowed in the proposed designation will not significantly adversely affect existing or planned uses on adjacent lands.
7. PLAN MAP: Whenever any land is redesignated pursuant to a plan amendment, the Comprehensive Plan Map shall be modified to accurately portray such change.

(All of Section 17.12.170 adopted Ord. 960, Sept. 3, 2013)



**17.12.175 LAND USE CODE AMENDMENTS**

1. **PURPOSE.** This Title must be consistent with the adopted Comprehensive Plan, as amended, and as such is the implementation of the City's land use planning goals and policies. The purpose of this Section is to provide a framework for the adoption of amendments to this Title that meet the criteria of this Section.
2. **DEFINITION:** A Land Use Code amendment is an amendment to the text of this Title, any of the tables or diagrams in this Title, or the addition of new Chapters or Sections to this Title, but does not include an amendment to the Official Zoning Map.  
  
Land Use Code amendments are considered to be legislative amendments and may not be initiated by individual applicants. However, an individual may request the Planning Commission initiate an amendment.
3. **INITIATION:** A Land Use Code amendment may be initiated either by the Planning Commission or City Council by the adoption of a resolution. An individual may request the Planning Commission initiate a Land Use Code amendment by submitting a written request generally describing the proposed amendment.
4. **METHOD OF ADOPTION:** Pursuant to the requirements of Sections 17.12.060 through 17.12.100, Land Use Code amendments shall be adopted by an ordinance passed by the City Council. All proceedings shall be conducted in accordance with this Chapter.
5. **SUBMITTAL REQUIREMENTS:** If an individual would like to request that the Planning Commission initiate a Land Use Code amendment, the following information shall be submitted to the Planning Commission:
  - a. A general description of the issue to be addressed by the amendment, citing the existing the Land Use Code provisions that are proposed to be changed.
  - b. A draft of a proposed amendment, showing current text to be deleted crossed out and proposed text to be added underlined.
6. **IMPACT ON TRANSPORTATION FACILITIES:** Proposals to amend this Title 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, in consultation with the applicable roadway authority, finds that a proposed amendment would have a significant effect on a transportation facility, the City shall work with the roadway authority to modify the request or mitigate the impacts in accordance with the TPR and applicable law.

(All of Section 17.12.175 except 17.12.175.6 adopted Ord. 960, Sept. 3, 2013)  
(Section 17.12.175.6 adopted Ord. 1034, July 17, 2019)

**17.12.180 ZONING MAP AMENDMENTS**

1. **PURPOSE.** The Official Zoning Map must be consistent with the adopted Comprehensive Plan Map, as amended, and as such is a reflection of the City's land use planning goals and policies. The Official Zoning Map has also been adopted as part of this Code and covers only the area within the City Limits, whereas the Comprehensive Plan Map covers the entire area within the Urban Growth Boundary. The purpose of this Section is to allow for amendments to the Official Zoning Map that meet the criteria of this Section.

2. **DEFINITION:**

When the Official Zoning Map is amended, there often must be a corresponding change to the Comprehensive Plan Map. There are, however, instances where more than one zone corresponds to a Comprehensive Plan designation. In these situations, the zone may be amended without a Comprehensive Plan Map amendment. Section 17.16.020.2 Classification of Zones, lists the relationship between the Comprehensive Plan Map and the Official Zoning Map designations in the City.

Official Zone Map amendments are classified as legislative or quasi-judicial, depending on how they are initiated and the number of properties involved. A legislative amendment is the amendment of the Official Zoning Map, initiated by the City Council or Planning Commission, either to create a new zoning district that does not exist within Chapter 17.16 or to reclassify a large area of the City from one zoning district to another. A quasi-judicial amendment is one requested by a property owner or group of property owners reclassifying their property from one zoning district to another, provided the new zoning district exists within Chapter 17.16.

3. **INITIATION:** An Official Zone Map amendment may be initiated either by the Planning Commission or City Council by the adoption of a resolution or by an applicant through the submission of an application.

4. **METHOD OF ADOPTION:** Pursuant to the requirements of Sections 17.12.060 through 17.12.100, Official Zone Map amendments shall be adopted by an ordinance passed by the City Council. All proceedings shall be conducted in accordance with this Chapter.

5. **SUBMITTAL REQUIREMENTS:** In order to be accepted as complete and processed in a timely manner by the City, applicant-initiated requests for Official Zone Map amendments shall include the following materials and information:

- a. Completed application forms as supplied by the City Planner.
- b. Evidence of the applicant's right, title or interest in the property for which the amendment is requested, including the latest recorded deed for the property. If the applicant is not the owner the applicant shall submit a purchase and sales contract, option, or other document executed by the owner indicating the applicant's right to proceed with the application.
- c. A map, drawn to scale, showing the property for which the amendment is requested, surrounding properties within 300 feet, neighboring streets, existing Comprehensive Plan Map designation(s) and zoning district(s) on the property and surrounding properties, and the exact extent of requested zoning change.
- c. A narrative statement fully explaining the request and fully addressing the criteria for approval for an Official Zone Map amendment. At a minimum, the narrative shall include:
  - 1) A statement of availability, capacity, and status of existing water, sewer, storm drainage, transportation, park, and school facilities.

- 2) A statement of increased demand for the above facilities that will be generated by the proposed change in zone designation. The applicant shall refer to the City's facility master plans to determine the methodology used to estimate public facility demands. Information related to an actual development proposal may be included for informational purposes. At minimum, the demand calculations associated with the full range of development potential (min. to max.) under current vs. proposed land use designations shall be addressed in the analysis.
  - 3) A statement of additional facilities required to meet the increased demand and phasing of such facilities in accordance with projected demand. The applicant shall review adopted public facility plans, master plans, and capital improvement programs, and state whether additional facilities are planned or programmed for the subject area. Information related to an actual development proposal may be included for informational purposes. At minimum, the demand calculations associated with the full range of development potential (min. to max.) under current vs. proposed land uses designations shall be addressed in the analysis.
  - 4) A traffic impact analysis in accordance with the requirements of Section 17.26.050.3. The City Engineer shall define the scope of the traffic impact analysis. Information related to an actual development proposal may be included for informational purposes. At minimum, the traffic calculations associated with the full range of development potential (min. to max.) under current vs. proposed land uses designations shall be addressed in the analysis.
  - 5) A statement outlining the method and source of financing required to provide those additional facilities identified in subsection 3) above.
6. APPROVAL CRITERIA. In order to approve an Official Zoning Map amendment, the following affirmative findings concerning the action must be able to be made by the decision authority.
- a. Legislative Amendments. The amendment is consistent with the goals and policies of the Comprehensive Plan including any relevant area plans.
  - b. Quasi-judicial Amendments.
    - 1) The proposed zone is consistent with the Comprehensive Plan map designation for the subject property unless a Comprehensive Plan Map amendment has also been applied for and is otherwise compatible with applicable provisions of the Comprehensive Plan.
    - 2) Existing or anticipated services (water, sanitary sewers, storm sewers, schools, police and fire protection) can accommodate potential development in the subject area without adverse impact on the affected service area.
    - 3) Existing or anticipated transportation facilities are adequate for uses permitted under the proposed zone designation and the proposed amendment is in conformance with the Oregon Transportation Planning Rule (OAR 660-012-0060).
    - 4) The purpose of the proposed zoning district satisfies the goals and policies of the Comprehensive Plan.
    - 5) Balance is maintained in the supply of vacant land in the zones affected by the zone change to meet the demand for projected development in the Comprehensive Plan. Vacant land in the proposed zone is not adequate in size, configuration or other characteristics to support the proposed use or development. A Zone Map Amendment shall not eliminate all available vacant land from any zoning designation.

- 6) The proposed zone amendment satisfies applicable provisions of Oregon Administrative Rules.
  - 7) The physical characteristics of the property proposed for rezoning are appropriate for the proposed zone and the potential uses allowed by the proposed zone will not have an adverse impact on the surrounding land uses. (Added Ord. 1005, February 2, 2017)
7. ZONING MAP. Whenever any premises are reclassified as to zone or a new zone established, or boundary lines of a zone changed, the Official Zoning Map shall be changed.

(All of Section 17.12.180 adopted Ord. 960, Sept. 3, 2013)

**17.12.190                    CONDITIONAL USES**

1. **DEFINITION.** A conditional use is an activity which is basically consistent with other uses permitted in the zone, but due to some of the characteristics of the activity which might not be entirely compatible with the zone, such use requires City review to determine and/or control potential adverse impacts.
2. **METHOD OF ADOPTION.** Conditional uses shall be adopted pursuant to the requirements of Sections 17.12.070 through 17.12.100. All decisions shall be made in accordance with this title.
3. **SUBMITTAL REQUIREMENTS.** In order to be accepted as complete and processed in a timely manner by the City, requests for approval of conditional uses shall include the following materials and information:
  - a. Completed application forms as supplied by the City Planner.
  - b. Three copies of a site plan, drawn to a scale of 1 inch equals not more than 50 feet of the property for which the conditional use is requested, surrounding properties, neighboring streets and roads, existing uses of the property, and proposed development and improvements of the property pursuant to the conditional use request. In addition, a reduced copy of the plan sized as 11 inches by 17 inches. (Ord. 898, August 20, 2007)
  - c. A narrative statement fully explaining the request and fully addressing the criteria for approval of a conditional use.
4. **APPROVAL CRITERIA.** In order to approve a conditional use request, the following affirmative findings concerning the action must be able to be made by the decision authority.
  - a. The proposed conditional use is compatible with the surrounding area as measured by factors such as noise, odors, appearance, traffic congestion, hazards to the public, generation of waste products, scale of development, excessive glare of lighting, and demand on public services and facilities.
  - b. The proposed conditional use is compatible with the purposes and standards of the zoning district in which it is proposed.
  - c. Identified adverse impacts may be mitigated or eliminated through the imposition of special conditions on the proposed use or by modifying the proposed use.
  - d. There will be no adverse affects on the normal flow or movement of traffic in the immediate area.
  - e. There are available urban services to the property.
  - f. Other property in the City that would allow the proposed use outright is not reasonably available.
5. **IMPOSITION OF RESTRICTIONS AND CONDITIONS.**
  - a. The decision authority may prescribe restrictions or limitations for the proposed conditional use as it deems necessary to fulfill the purpose and intent of the zoning district in which the use is being proposed and the requirements of this code. Such restrictions or limitations shall be based on evidence and analysis presented during the course of evaluation of the request and shall be made a part of the approval action. Conditions may limit the time or duration of the use.

- b. Any request to not comply with the requirements of Chapters 16, 20, 24 or 26 of this Title must be considered as varying those regulations and processed as a variance pursuant to Section 17.12.200. (Ord. 898, August 20, 2007)

**17.12.200 VARIANCES**

1. **DEFINITION.** A variance is an approved modification to, or relief from a specific regulation or set of regulations imposed by provisions of this title. A variance approval is limited to the individual condition and/or instance for which the variance has been requested.
2. **METHOD OF ADOPTION.** Variances shall be adopted pursuant to the requirements of Sections 17.12.070 through 17.12.100. All decisions shall be made in accordance with this title.
3. **VARIANCES ALLOWED.** The decision authority shall have the power to vary or modify the strict application of only the regulations or provisions of this title governing:
  - a. Land Use Requirements.
    - 1) Lot area
    - 2) Lot width
    - 3) Percentage of lot coverage
    - 4) Height of structures
    - 5) Location of structures
    - 6) Setbacks
    - 7) Signs
    - 8) Parking and loading space
    - 9) Vision clearance
    - 10) Accessory uses
    - 11) Landscaping
    - 12) Expansion of non-conforming uses
  - b. Flood hazard management requirements.
4. **SUBMITTAL REQUIREMENTS.** In order to be accepted as complete and processed in a timely manner by the City, requests for approval of a variance shall include the following materials and information:
  - a. Completed application forms as supplied by the City Planner.
  - b. A narrative statement fully explaining the code regulation for which the variance is being sought, the nature of the variance request, and addressing all applicable criteria for approval of a variance.
  - c. Three copies of a site plan drawn to a scale of 1 inch equals not more than 50 feet and shown as a graphic scale of the property for which the variance is requested, surrounding properties, neighboring streets and roads, existing uses of the property, and, as appropriate, the condition to be varied. In addition, a reduced copy of the plan sized as 11 inches by 17 inches.
5. **LIMITATIONS.** The power of the decision authority to grant variances from the strict application of the provisions of this title shall be used sparingly, within the spirit and intent of this code, and applied reasonably to maintain and not abolish the distinctive zoning classifications and other land use regulations created by this title.

6. DECISION CRITERIA. A variance is subject to the following general and specific approval criteria. No variance shall be approved without affirmative findings being made that the request fully satisfies these approval criteria.
- a. General Criteria Applicable to All Requests.
    - 1) The granting of the variance would not be materially detrimental to the public health, safety, or welfare or the overall public interest of the citizens of the City as expressed within this title and the adopted Comprehensive Plan.
    - 2) The granting of the application complies with the applicable specific approval criteria as follows.
  - b. Specific Variance Criteria.
    - 1) Variance to Land Use Regulations.
      - a) The property is subject to exceptional or extraordinary circumstances such as lot size, shape, topography, or other similar circumstances over which the property owner has no control and which do not generally apply to other properties in the same zoning district and/or vicinity.
      - b) The variance is necessary for the reasonable preservation of a property right of the applicant which is the same as that enjoyed by other landowners in the zoning district.
      - c) The variance would conform to the purposes of the applicable zoning regulations and would not generate a significant adverse impact on other property in the same zoning district or vicinity.
      - d) Approval of the variance would not create an identifiable conflict with the provisions of the Comprehensive Plan or achieve the same conditions as a comprehensive plan amendment or zone change for the property.
      - e) The variance being requested is the minimum relief available to alleviate the difficulty giving rise to the application.
      - f) The variance would not have the effect of granting a special privilege not generally shared by other property in the same zoning district.
      - g) The request for the variance is not the result of an action taken by the applicant or a prior owner.
    - 2) Variance to Flood Hazard Regulations.
      - a) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.
      - b) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
      - c) Variances shall only be issued upon
        - i. A showing of good and sufficient cause
        - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant



- iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, ordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Sections 17.16.100, or conflict with existing local laws or ordinances.
  - iv. A determination that the technical factors identified in subsection e) of this section will be met.
- d) When evaluating applications for a flood control regulation variance, the decision authority shall examine: all technical evaluations, all relevant factors, standards specified in other sections of the flood control provisions (Section 17.16.100) and determine that:
- i. The danger that materials may be swept onto other lands to the injury of others will be minimized.
  - ii. The danger to life and property due to flooding or erosion damage will be minimized.
  - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner is not more susceptible to flood damage as a result of the variance.
  - iv. There are no available alternative locations for the proposed use which are not subject to flooding or erosion damage.
  - v. The proposed use will be compatible with existing and anticipated development
  - vi. The proposed use conforms to the Comprehensive Plan and flood plain management program for that area.
  - vii. There will be safe access to the property in times of flood for ordinary and emergency vehicles.
  - viii. The proposed use has been designed to withstand damage considering the heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
  - ix. There will be no increase in the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- e) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 6.b.2.a to 6.b.2.d of this section have been fully considered.
- f) Upon consideration of the factors 6.b.2.a to 6.b.2.d of this section, the decision authority may attach such conditions to the granting of variances as it deems necessary to further the purposes of this code section.
- g) The City Administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

- h) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

7. IMPOSITION OF RESTRICTIONS AND CONDITIONS.

- a. The decision authority may prescribe restrictions or limitations for the proposed variance as it deems necessary to fulfill the purpose and intent of the code provisions which are requested to be varied, and the requirements of this code. Such restrictions or limitations shall be based on evidence and analysis presented during the course of evaluation of the request and shall be made a part of the approval action. (Ord. 898, August 20, 2007)
- b. A violation of any such condition(s) or limitation(s) shall constitute a violation of this title.

**17.12.210 ANNEXATIONS (Amended Ord. 901, April 16, 2008; Ord. 918, March 18, 2010)**

1. DEFINITION. An annexation is an expansion of the City limits through the addition of territory to the jurisdictional boundaries of the City, including “contract annexation” agreements between applicants and the City.
2. METHOD OF ADOPTION.
  - a. Major Annexations.
    - 1) A Major Annexation is an annexation that meets one or more of the following characteristics.
      - i. Consists of two or more parcels, except proposed annexations that consist of contiguous parcels in the same ownership.
      - ii. The area proposed for annexation exceeds 1 acre, except a health hazard annexation. (Amended Ord. 918, March 18, 2010)
    - 2) Approval procedures. The following procedures shall be followed in the review and approval of an application for a Major Annexation:
      - i. Major Annexations are subject to referendum approval. The City Council may schedule a vote on an annexation proposal only in the May or November elections.
      - ii. Submission Deadlines. An application for a Major Annexation shall be filed with the City Planner before 5:00 p.m. on the last working day in September for a ballot election in May and the last working day in March for a ballot election in November.
      - iii. Planning Commission Proceedings. The Planning Commission shall hold a public hearing in accordance with the requirements of Section 17.12.090. Following the public hearing the Commission shall make findings of fact and conclusions as to whether the criteria of Section 17.12.210.4 below are met. Based on the findings of fact and conclusions, the Planning Commission shall make a recommendation to the City Council regarding the approval of the application.
      - iv. City Council Proceedings. The City Council shall hold a public hearing in accordance with the requirements of Section 17.12.100. Following the public hearing, the City Council shall make findings of fact and conclusions as to whether the criteria of Section 17.12.210.4 below are met. If the Council finds that the criteria of Section 17.12.210.4 have been or will be met, the Council shall enact a resolution scheduling a referendum vote at the next available scheduled election. A decision by the Council approving the annexation, and referring to the voters, shall be final upon adoption for appeal purposes, but shall not be effective until all applicable appeal periods have passed with no appeal having been filed.
      - v. Legal advertisement of pending election. After City Council review and approval, the City Administrator shall cause a legal advertisement describing the proposed annexation and pending election to be published in at least one newspaper of general circulation in the City in the manner provided by state election law. The advertisement shall be placed at least 14 days prior to the election. The advertisement shall contain: a description of the location of the property, size of

the property, its proposed zoning upon annexation, a general description of the potential land uses allowed, any required comprehensive plan text or map amendment or zoning ordinance text or map amendment, and where the City Council's evaluation of the proposed annexation may be found.

- vi. Election procedures. Pursuant to ORS 222.130(1), the ballot title for a proposal for annexation shall contain a general description of the boundaries of each territory proposed to be annexed. The description shall use streets and other generally recognized features. Notwithstanding ORS 250.035, the statement of chief purpose shall not exceed 150 words. The City Attorney shall prepare the ballot title wording.
  - (a) Pursuant to ORS 222.130(2), the notice of an annexation shall be given as provided in ORS 254.095 and 254.205, except that in addition the notice shall contain a map indicating the boundaries of each territory proposed to be annexed.
  - (b) Pursuant to ORS 222.111(7), two or more proposals for annexation of territory may be voted upon simultaneously; however, each proposal shall be stated separately on the ballot and voted on separately.
- vii. Setting of boundaries and proclamation of annexation. Upon approval by the voters of the proposed annexation, the City Council shall proclaim the results of the election and by ordinance set the boundaries of the area to be annexed by a legal description.

b. Minor Annexations.

- 1) A Minor Annexation is any annexation that meets all of the following characteristics.
  - i. Consists of only one parcel, except proposed annexations that consist of contiguous parcels in the same ownership.
  - ii. The area proposed for annexation is 1 acre or less. (Amended Ord. 918, March 18, 2010)
- 2) Approval procedures. The following procedures shall be followed in the review and approval of an application for a Minor Annexation:
  - i. An application for a Minor Annexation shall be filed with the City Planning Department.
  - ii. Planning Commission Proceedings. The Planning Commission shall hold a public hearing in accordance with the requirements of Section 17.12.090. Following the public hearing the Commission shall make findings of fact and conclusions as to whether the criteria of Section 17.12.210.4 below are met. Based on the findings of fact and conclusions the Planning Commission shall make a recommendation to the City Council regarding the approval of the application.
  - iii. City Council Proceedings. The City Council shall hold a public hearing in accordance with the requirements of Section 17.12.100. Following the public hearing, the City Council shall make findings of fact and conclusions as to whether the criteria of Section 17.12.210.4 below are met. If the Council finds that the criteria of Section 17.12.210.4 have been or will be met, the Council shall, by ordinance, shall set the boundaries of the area to be annexed by a legal description.

- c. Health Hazard Annexation

The City may annex those areas constituting a health hazard in accordance with Oregon Revised Statutes, taking into consideration the ability of the City to provide necessary services. Annexation of areas constituting a health hazard is not subject to voter approval.
3. SUBMITTAL REQUIREMENTS. In order to be accepted as complete and be processed in a timely manner by the City, requests for annexation of territory shall include the following materials and information:
  - a. Completed application forms as supplied by the City Planner.
  - b. Three copies of a site plan, drawn to a scale of 1 inch equals not more than 50 feet, shown as a graphic scale, of the property for which the annexation is requested. The site plan shall depict the surrounding properties, neighboring streets and roads, and existing uses of the property. If the application for annexation is not accompanied by a concurrent application for site plan, subdivision, or other land use approval, three copies of a conceptual plan of proposed uses of the property subsequent to annexation. In addition, 18 reduced copies of the plan sized as 11 inches by 17 inches shall be submitted.
  - c. A plan showing the boundary lines of the properties, certified by a professional land surveyor, and the approximate area of the properties in acres or square feet.
  - d. A legal description of the property, meeting the requirements of ORS 308.225.
  - e. A narrative statement fully explaining the request and fully addressing the criteria for approval of an annexation.
4. APPROVAL CRITERIA. In order to approve an application for annexation, the following affirmative findings concerning the action must be made by the decision authority:
  - a. Need exists in the community for the land proposed to be annexed.
  - b. The site is or is capable of being serviced by adequate City public services including such services as may be provided subject to the terms of a contract annexation agreement between the applicant and the City.
  - c. The proposed annexation is property contiguous to the existing City limits.
  - d. The proposed annexation is compatible with the character of the surrounding area and complies with the urban growth program and policies of the City of Stayton.
  - e. The annexation request complies, or can be made to comply, with all applicable provisions of state and local law.
  - f. If a proposed contract annexation, within the terms and conditions of the contract the cost of City facility and service extensions to the annexed area shall be calculated by the Public Works Director.
5. ZONING OF ANNEXED TERRITORY. All lands that are annexed to the City shall be zoned in accordance with the designation of the property in the Comprehensive Plan. The specific zone assigned to the land being annexed shall be determined by the City Council in accordance with the proposed uses of the land and the needs identified by the buildable lands analysis in the Comprehensive Plan. This requirement does not prohibit an application to amend the Comprehensive Plan Map concurrent with the application for annexation. (Amended Ord. 949, April 17, 2013)

6. CONFORMANCE WITH CONCEPTUAL PLAN. Development of the property after annexation shall be in substantial conformance with any conceptual plan submitted with the application for annexation. For the purposes of this section, development is in substantial conformance with a conceptual plan if:
  - a. The development is generally consistent with the character and intent of the conceptual plan;
  - b. The number and types of housing units are generally consistent with those presented in the conceptual plan;
  - c. The impacts from the development, including but not limited to, noise, vibration, dust, odor, or fumes, detectable at the property line will not exceed the maximums typical for the categories of uses proposed in the conceptual plan;
  - d. The number and types of vehicular trips to and from the site will not exceed the maximums typical for the categories of uses proposed in the conceptual plan; and
  - e. The amount and types of outside storage, loading, and parking will not exceed the maximums typical for the categories of uses proposed in the conceptual plan.
7. NOTICE TO COUNTY AND STATE.
  - a. Within 10 working days after enactment of the ordinance approving the annexation, the City Recorder shall provide by certified mail to all public utilities, electric cooperatives and telecommunications carriers operating within the City each site address to be annexed as recorded on county assessment and tax rolls, a legal description and map of the proposed boundary change, and a copy of the ordinance approving the annexation.
  - b. Within 10 days from the effective date the ordinance approving the annexation, the City Recorder shall provide to the Marion County Clerk and County Assessor a report containing a detailed legal description of the new boundaries established by the City.
  - c. Within 14 days of enactment of the ordinance approving the annexation, the City Recorder shall transmit to the Oregon Secretary of State:
    - 1) A copy of the ordinance proclaiming the annexation, including a legal description of the territory to be annexed.
    - 2) An abstract of the vote, if a major annexation. The abstract of the vote shall show the whole number of electors voting on the annexation, the number of votes cast for annexation, and the number of votes cast against annexation.
    - 3) A copy of the statement of consent by electors or landowners in the territory annexed.
  - d. Within 30 days of enactment of an ordinance annexing territory into the City, the City Recorder shall transmit to the Marion County Assessor and the Oregon Department of Revenue the legal description of the boundary change or proposed change and an accurate map conforming to the requirements of ORS 308.225(2). (Amended Ord. 901, April 16, 2008)

**17.12.220 SITE PLAN REVIEW**

1. **DEFINITION.** A site plan review is a detailed examination of the physical characteristics of a proposed development or improvement to property prior to any site preparation, tree removal, or development, with special attention given to the design of the development or improvement and the potential impacts on adjoining properties or land uses. A site plan review requires the evaluation of specific criteria as cited herein.
2. **METHOD OF ADOPTION.**
  - a. Site plans shall be adopted pursuant to the requirements of Sections 17.12.070 through 17.12.100. The decision shall be made in accordance with this Title. (Amended Ord. 1032, June 19, 2019)
3. **REQUIREMENTS FOR SITE PLAN REVIEW.** Site plan review approval is required when:
  - a. A site plan review overlay district is imposed by the City Council as a condition of rezoning the parent or principal zone of a given property or properties.
  - b. Made a condition of approval of a conditional use.
  - c. Otherwise required by specific provisions of this Title. (Amended Ord. 1032, June 19, 2019)
  - d. (Repealed, Ord. 898, August 20, 2007)
  - e. Improvements to existing development causing more than a 15% increase in traffic or parking needs.
  - f. Improvements exceeding 15% of existing development by area, not including the area of internal roadways, parking and loading areas, and landscaping.
4. **SUBMITTAL REQUIREMENTS.** In order to be accepted as complete and processed in a timely manner by the City, requests for approval of site reviews shall include the following materials and information:
  - a. Completed application forms as supplied by the City Planner.
  - b. A site plan, drawn to a scale of 1 inch equals not more than 50 feet, showing the property for which the site plan review is requested. The site plan shall show, or be accompanied by, the following: (Ord. 898, August 20, 2007; Amended Ord. 1032, June 19, 2019)
    - 1) The name of the person who prepared the plan.
    - 2) A north point, graphic scale, and date of the proposed site plan.
    - 3) Topography of the site with contour intervals of not more than 2 feet.
    - 4) The names and addresses of the landowners, applicant, and the engineer, surveyor, land planner, landscape architect, or any other person responsible for designing the proposed site plan.
    - 5) The tax map number (township, range and section) and lot number of all properties included in the proposed site plan.
    - 6) The boundary lines of the properties as certified by a professional land surveyor and approximate area of the properties in acres or square feet.

- 7) The location, widths, and names of existing or platted streets or other public ways (including easements) within or adjacent to the tract, existing permanent buildings and any addresses for the buildings.
- 8) The location of existing sewage systems, storm water systems and water mains, culverts, drainage ways, or other underground utilities or structures within, or immediately adjacent to the property.
- 9) A preliminary storm water management plan for the development, prepared in accordance with the Public Works Design Standards. (Amended Ord. 1032, June 19, 2019)
- 10) The locations of proposed sewer disposal and water supply systems in accordance with the City's Wastewater and Water Master Plans.
- 11) The locations of any prominent natural features such as: water courses (including direction of their flow), wetlands, rock outcroppings, and areas subject to flooding or other natural hazards.
- 12) A landscaping plan prepared in accordance with Section 17.20.090.3
- 13) The location of parking facilities for the site including any parking areas shared with adjacent uses by reciprocal access agreement.
- 14) A Traffic Impact Analysis (TIA) or Transportation Assessment Letter as required by Section 17.26.050
- 15) The location of any proposed structures including the ground coverage, floor area and proposed use. Building elevations drawings shall be submitted to the extent necessary to show compliance with the requirements of Sections 17.20.190, 17.20.200, 17.20.220, and 17.20.230. (Amended Ord. 913, September 2, 2009; Amended Ord. 1032, June 19, 2019)
- 16) The location and dimensions of open storage areas or outdoor storage yards.
- 17) The size location, direction and intensity of illumination of all signs and a lighting plan that includes.
  - a) The location of all existing and proposed exterior lighting fixtures.
  - b) Specifications for all proposed lighting fixtures including photometric data, color-rendering index of all lamps, and other descriptive information of the fixtures.
  - c) Proposed mounting height of all exterior lighting fixtures
  - d) Analyses and illuminance level diagrams showing that the proposed installation conforms to the light level standards of Section 17.20.170.
  - e) Drawings of all relevant building elevations showing the fixtures, the portions of the walls to be illuminated, the illuminance levels of the walls, and the aiming points for any remote light fixtures.
- 18) The location of any free standing signage and the proposed size(s) and dimension(s).
- 19) The location of any proposed screening including fences, walls, hedges and berms.
- 20) When any development activity is proposed on a location a slope of 20% or steeper, a geotechnical study, prepared by a licensed geologist or registered engineer with experience in geotechnics, determining the suitability of the site for construction considering the possibility of increased erosion potential, slope stability, slippage and other concerns. (Added Ord. 949, April 17, 2013)



- c. A narrative statement fully explaining the request and fully addressing the criteria for approval of site plan review.
5. APPROVAL CRITERIA. The following criteria must be demonstrated as being satisfied by the application:
- a. The existence of, or ability to obtain, adequate utility systems (including water, sewer, surface water drainage, power, and communications) and connections, including easements, to properly serve development in accordance with the City's Master Plans and Public Works Design Standards. Where an adopted Master Plan calls for facilities larger than necessary for service to the proposed use, the developer shall install the size facilities called for in the Master Plan, and shall be provided credit for the excess costs in accordance with SMC 13.12.245. (Amended Ord. 913, September 2, 2009; Amended Ord. 1032, June 19, 2019)
  - b. Provisions have been made for safe and efficient internal traffic circulation, including both pedestrian and motor vehicle traffic, and for safe access to the property for vehicles, as well as bicycle and pedestrians, from those public streets which serve the property in accordance with the City's Transportation System Plan and Public Works Design Standards. (Ord. 898, August 20, 2007; Amended Ord. 1032, June 19, 2019; Amended Ord. 1034, July 17, 2019)
  - c. Provision has been made for all necessary improvements to local streets and roads, including the dedication of additional right-of-way to the City and/or the actual improvement of traffic facilities to accommodate the additional traffic load generated by the proposed development of the site in accordance with Chapter 17.26, the City's Transportation System Plan, and Public Works Design Standards. Improvements required as a condition of approval shall be roughly proportional to the impact of the development on transportation facilities. Approval findings shall indicate how the required improvements are directly related to and are roughly proportional to the impact of development. (Amended Ord. 1032, June 19, 2019; Amended Ord. 1034, July 17, 2019)
  - d. Provision has been made for parking and loading facilities as required by Section 17.20.060.
  - e. Open storage areas or outdoor storage yards shall meet the standards of Section 17.20.070.
  - f. Site design shall minimize off site impacts of noise, odors, fumes or impacts.
  - g. The proposed improvements shall meet all applicable criteria of either Section 17.20.190 Multi-family Residential Design Standards, Section 17.20.200 Commercial Design Standards, Section 17.20.220 Downtown Development Design Standards, or Section 17.20.230 Industrial Design Standards. (Amended Ord. 902, May 7, 2008; Amended Ord. 1032, June 19, 2019)
  - h. (Repealed Ord. 913, September 2, 2009)
  - i. (Repealed Ord. 913, September 2, 2009)
  - j. Landscaping of the site shall prevent unnecessary destruction of major vegetation, preserve unique or unusual natural or historic features, provide for vegetative ground cover and dust control, present an attractive interface with adjacent land uses and be consistent with the requirements for landscaping and screening in Section 17.20.090. (Ord. 898, August 20, 2007)
  - k. The design of any visual, sound, or physical barriers around the property such as fences, walls, vegetative screening, or hedges, shall allow them to perform their intended function and comply with the requirements in Sections 17.20.050 and 17.20.090. (Ord. 898, August 20, 2007)

- l. The lighting plan satisfies the requirements of Section 17.20.170.
  - m. The applicant has established continuing provisions for maintenance and upkeep of all improvements and facilities.
  - n. When any portion of an application is within 100 feet of North Santiam River or Mill Creek or within 25 feet of Salem Ditch, the proposed project will not have adverse impact on fish habitat. (Added Ord. 949, April 17, 2013)
  - o. Notwithstanding the above requirements the decision authority may approve a site plan for a property on the National Register of Historic Places that does not meet all of the development and improvement standards of Chapter 17.20 and the access spacing standards of Chapter 17.26 provided the decision authority finds that improvements proposed are in conformance with Secretary of the Interior's Standards for Treatment of Historic Properties, the site will provide safe ingress and egress to the public street system, and that adequate stormwater management will be provided. (Added Ord. 1032, June 19, 2019)
6. IMPOSITION OF RESTRICTIONS AND CONDITIONS.
- a. The decision authority may prescribe restrictions or limitations for the proposed site plan review approval as it deems necessary to fulfill the purpose and intent of the code. Such restrictions or limitations shall be based on evidence and analysis presented to or generated by the decision authority during the course of its evaluation of the request, and shall be made a part of the approval action. Conditions may limit the time or duration of the use. (Ord. 898, August 20, 2007)
  - b. To ensure that required public improvements are made in a timely and acceptable manner, the applicant(s) may be required by the City to provide acceptable financial assurance to the City consistent with the requirements of Section 17.20.120.
  - c. A violation of any such condition(s) or limitation(s) shall constitute a violation of this Title. (Amended Ord. 1032, June 19, 2019)

**17.12.230 HISTORIC PRESERVATION PROCEDURE**

1. **PURPOSE.** This procedure shall apply to historic resources listed in the City of Stayton Historic Structures Inventory of sites designated within the Comprehensive Plan. The intent of this procedure is to provide a means of designating and protecting historic resources in a manner complying with state land use planning requirements.
2. **INCLUSION OR REMOVAL OF HISTORIC SITES OR STRUCTURES.** The addition or removal of sites or structures to those currently designated in the Comprehensive Plan shall be by plan amendment and shall follow the procedures specified in Section 17.12.170. (Ord. 898, August 20, 2007)

Proceedings for the inclusion or removal of a property within the Historic Structures Inventory may be initiated by motion of the Planning Commission, resolution of the City Council, or a property owner, including contract purchaser, of the site or structure as follows:

- a. The applicant or City may initiate proceedings for designation or withdrawal by submitting an application to the City Planner.
- b. The application shall contain the following minimum information:
  - 1) The owner's name and address.
  - 2) The address and/or the assessor map number and tax lot number of property proposed for designation.
  - 3) A statement explaining the following:
    - a) Reasons why the proposed landmark should be designated, based on the criteria set forth under Section 17.12.230.2.d.
    - b) The potential positive and negative effects and financial impacts, if any, which designation of the proposed landmark would have on the property owner, residents or other land owners in the neighborhood.
- c. The decision authority shall hold a public hearing on any proposed inclusion in or removal from the Comprehensive Plan's designation of historic inventory sites pursuant to the procedures and notification requirements of this title. The City shall take into account the desires of the owners of property with respect to its designation as an historic landmark. However, it is not the intent, under this provision, to require owner consent in the designation of properties as historic landmarks.
- d. The decision authority may designate a building, structure, or site as an historic landmark upon findings that the proposed historic landmark meets one of the following criteria:
  - 1) It is included in the National Register of Historic Places; or
  - 2) It retains physical integrity in original design, condition, setting and is characterized by any one of the following:
    - a) It exemplifies or reflects special elements of the City's cultural, social, economic, political, aesthetic, engineering, or architectural history.
    - b) It is identified with persons or events significant in local, state, or national history.
    - c) It embodies distinctive characteristics of a style, type, or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship.

- d) It is representative of the notable work of a builder, designer, or architect.
  - e) It is an open waterway of historical interest and significance to the community.
  - e. The decision authority may remove a building, structure, or site from the historic landmarks inventory upon findings that the building, structure, or site meets any one of the following criteria: (Ord. 898, August 20, 2007)
    - 1) The building or portion thereof is in such condition that it is unfeasible to preserve or restore it, taking into consideration building code requirements and the economic feasibility of preserving the structure.
    - 2) The structure has been damaged in excess of 70 percent of its assessed value due to fire, flood, wind, or other natural or man-caused disaster.
    - 3) The resource no longer meets any of the criteria for designation as an historic landmark set forth in Section 17.12.170.2.d.
  - f. The age of the proposed landmark alone shall not be sufficient grounds for designation on or not removing it from the inventory. (Ord. 898, August 20, 2007)
3. **ORDINARY MAINTENANCE AND REPAIR.** Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature on any property covered by this section that does not involve a change in design, material, or external appearance thereof. Nor does this article prevent the construction, reconstruction, alteration, restoration, demolition, or removal of any such feature when the building official determines that such emergency action is required for the public safety due to an unsafe or dangerous condition. Prior to such emergency action, notification shall be provided to the Planning Commission.
4. **DUTY TO KEEP IN GOOD REPAIR.** The owner of a designated historic resource shall keep such resource in good repair.
5. **PERMITS.** An historic modification permit is required for alteration, demolition, or relocation of a structure or site which is a designated historic resource. Actual physical modification of the structure or site may not take place without the issuance of a construction or demolition permit subsequent to approval of the historic modification permit.
- Alteration as governed by this section means any addition to, removal from, or change in the appearance of any part or portion of a designated historic resource.
6. **REVIEW PROCEDURE.** The decision shall be made pursuant to the procedures of this chapter.
7. **DECISION CRITERIA.** Decisions on applications for modification of an historic site or structure shall be based on applicable state and local codes and ordinances related to building, fire, and life and safety and the following standards:
- a. **Alteration.**
    - 1) The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
    - 2) All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.

- 3) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right and this significance shall be recognized and respected.
  - 4) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.
  - 5) Deteriorated architectural features shall be repaired rather than replaced whenever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
  - 6) Every reasonable effort shall be made to protect and preserve archaeological resources affected by or adjacent to any project.
  - 7) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.
  - 8) Whenever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be repaired.
  - 9) If an historical ditch, alterations shall not be permitted which would significantly impact the historical character of the site, including waterway and shore lands.
- b. Demolition. Decisions on applications for permits to demolish a designated historic structure shall be based on the following criteria:
- 1) The state of repair of the building and reasonableness of the cost of repair.
  - 2) Whether a program or project may exist that could result in preservation of the structure.
  - 3) Unnecessary and substantial hardship to the applicant that may result from denial or conditions of approval.
  - 4) Effects on the public welfare if the structure were demolished considering the significance of the structure and the economic, cultural, and energy consequences of demolition.
  - 5) Whether any other reasonable alternative exists.
- c. Relocation. Decisions on applications for permits to relocate a designated historic resource shall be based on the following:
- 1) Effects of the relocation on the historic and architectural integrity of the structure.
  - 2) Compatibility with the designated historic resource of the surrounding of the proposed location.
  - 3) Other factors considered appropriate by the decision authority.

8. LAND USE ACTION IMPACTS ON HISTORIC RESOURCES. Potential impacts to historic resources resulting from proposed land use actions shall be considered as part of the review on conditional uses, variances, and zone changes. Review and decision on such applications shall be based on:
  - a. The state of repair of the building.
  - b. The reasonableness of the cost of restoration and repair.
  - c. The purpose of preserving such designated historical buildings or sites.
  - d. The character of the neighborhood.
  - e. Other factors considered appropriate by the decision authority.
9. EXEMPTION TO DEMOLITION PERMIT REQUIREMENTS. If the structure for which the demolition permit request has been filed has been damaged in excess of 70% of its assessed value due to fire, flood, wind, or other natural or man-caused disaster, a demolition permit may be approved by staff without processing the request as set forth in this chapter.

**17.12.240 HISTORIC OVERLAY DISTRICT PROCEDURES**

1. **PURPOSE.** The review process for the historic downtown overlay districts shall serve not only as a reference for preserving the historic character of the downtown area, but are also a guide for new development. The objective in identifying historic districts is to retain and maintain buildings and to support development that will result in a compact town center that is economically healthy and promotes a wide variety of uses.
2. **DESIGN REVIEW CRITERIA - STATEMENT OF INTENT.** The design review criteria are intended to provide a frame of reference for the applicant in the development of site, building and landscape plans, as well as providing the City with a means of reviewing proposed plans. These criteria are intended to be flexible requirements that allow creativity. The specification of one or more architectural styles is not intended by these criteria.
  - a. It is not the intent, as part of the design review process, to approve projects which exceed specific developmental standards provided for by Stayton Municipal Code (SMC) Title 17.
  - b. Potential full development of a site, based solely on the standards of the zoning ordinance (e.g., building height, building setback) may be inappropriate for a given site. It is for this reason that discretion, through the application of the design review criteria may require that the building or site may not realize the potential for full build out as authorized by this title. The basic components of this section are:
    - 1) Site design. Only the exterior façade.
    - 2) Architectural design. Only the exterior façade.
    - 3) Streetscape/landscape design.
3. **DECISION AUTHORITY**
  - a. The decision authority shall be as follows:
    - 1) Staff Decisions: City staff shall be empowered to review, evaluate and render decisions on structural and or façade alterations affecting less than 10% of the exterior of any given wall of a building.
    - 2) Planning Commission decisions: The Planning Commission shall be empowered to review, evaluate and render decisions on the following applications:
      - a) Alterations. Alterations that exceed 10% of the exterior of a building.
      - b) New construction. Any structure that requires a building permit. The Planning Commission shall hold a public hearing on any proposed request, pursuant to procedures and notification requirements of this title.
    - 3) City Council decisions. The Council shall be empowered to review and render final decisions on all Planning Commission and City staff decisions. The Council shall hold a public hearing on any proposed request and pursuant to procedures and notification requirements of this title.
4. **ORDINARY MAINTENANCE AND REPAIR.** Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature on any property covered by this section that does not involve a change in design, material, or external appearance thereof. Nor does this article prevent the construction, reconstruction, alteration, restoration, demolition, or removal of any such feature when the building official determines

that such emergency action is required for the public safety due to an unsafe or dangerous condition. Prior to such emergency action, notification shall be provided to the Planning Commission and City Council.