

## **CHAPTER 2.2 ZONE CHANGES**

### **Section 2.2.10 - BACKGROUND**

The Official Zoning Map is consistent with the adopted Comprehensive Plan, as amended, and as such is a reflection of the City's land use planning goals. The map has also been adopted as part of this Code. Frequent and piecemeal amendments to the Official Zoning Map can threaten the integrity of the Comprehensive Plan and the likelihood of its successful implementation. Nevertheless, it may be necessary to amend the Official Zoning Map from time to time to correct errors or to respond to changing conditions or unforeseen circumstances, or to provide an incentive for the protection of Natural Resources and Natural Hazards.

When a zone 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 site's Comprehensive Plan designation. In these situations, the zone can be amended without a Comprehensive Plan Map Amendment. Table 2.2-1 - Comprehensive Plan and Corresponding Zoning Map Designations, below illustrates the relationship between the Comprehensive Plan and the Official Zoning Map designations in the City.

Zone Changes are classified as legislative or quasi-judicial, depending on the number of properties involved. While only the City Council makes legislative decisions regarding Zone Changes, quasi-judicial decisions may be made by the:

- a.** Community Development Director in the case of Administrative Zone Changes to:
  - 1. Remove a Historic Preservation Overlay in cases where a public hearing is not required. See Section 2.2.50;
  - 2. Apply a Conservation - Open Space Zone on lands that already have a Natural Resource or Natural Hazards Overlay. See Section 2.2.50; and
  - 3. Remove a residential Planned Development Overlay as mandated by the state. See Section 2.2.50.
- b.** Planning Commission;
- c.** Land Development Hearings Board;

- d. Historic Resources Commission in the case of Zone Changes that require a public hearing and involve the application or removal of a Historic Preservation Overlay; and
- e. Upon appeal, by the City Council, depending on the nature of the proposed Change.

When a Zone Change application is reviewed along with a Comprehensive Plan Map Amendment or other land use application, the Planning Commission approves or denies the request. However, when no other request is under consideration, the Zone Change request is reviewed and approved or denied by the Land Development Hearings Board, with the exception of Administrative Zone Changes described in “a,” above, and with the exception of Zone Change requests involving the application or removal of a Historic Preservation Overlay in cases where a public hearing is required. The City Council designates the Director as having the authority to make Administrative Zone Change decisions and designates the Historic Resources Commission as having the authority to make Zone Change decisions regarding the application or removal of a Historic Preservation Overlay in cases where a public hearing is required.

### **Section 2.2.20 - PURPOSES**

This Chapter describes review criteria and procedural requirements for legislative and quasi-judicial Official Zoning Map changes to accomplish the following:

- a. Maintain sound, stable, and desirable development within the City;
- b. Permit changes in zone boundaries where appropriate;
- c. Ensure Zone Changes are consistent with the community's land use policies and goals;
- d. Lessen the influence of individual economic interests in the land use decision-making process;
- e. Establish procedures and criteria for applying Historic Preservation Overlays to, or removing Historic Preservation Overlays from, Designated Historic Resources; and
- f. Establish procedures and criteria for reclassifying a Designated Historic Resource in a National Register of Historic Places Historic District.

**TABLE 2.2-1  
COMPREHENSIVE PLAN AND CORRESPONDING ZONING MAP  
DESIGNATIONS (not including zone overlays)**

IF THE COMPREHENSIVE PLAN DESIGNATION IS:	THE OFFICIAL ZONING MAP DESIGNATION SHALL BE:
<b>RESIDENTIAL</b>	<b>RESIDENTIAL</b>
Low Density (0.5 - 2 units/acre for RS-1 only) (2-6 units/acre for RS-3.5, RS-5, & RS-6)	RS-1 Extra Low <sup>1</sup> RS-3.5 Low RS-5 Low RS-6 Low <sup>2</sup> C-OS Conservation - Open Space
Medium Density (6-12 units/acre)	RS-9 Medium RS-9(U) Medium C-OS Conservation - Open Space
Medium-high Density (12-20 units/acre)	RS-12 Medium High RS-12(U) Medium High MUR Mixed Use Residential C-OS Conservation - Open Space
High Density (over 20 units/acre)	RS-20 High MUR Mixed Use Residential C-OS Conservation - Open Space
Mixed Use Residential (over 12 units/acre)	RS-12 Medium High RS-12(U) Medium High RS-20 High MUR Mixed Use Residential C-OS Conservation - Open Space
<b>OFFICE/COMMERCIAL</b>	<b>COMMERCIAL</b>
Professional Office	P-AO Professional and Administrative Office C-OS Conservation - Open Space
Mixed Use Commercial	NC-Major Major Neighborhood Center NC-Minor Minor Neighborhood Center MUCS Mixed Use Community Shopping MUGC Mixed Use General Commercial C-OS Conservation - Open Space

<sup>1</sup> At the time of or following annexation, the RS-1 (Extra-low Density) Residential Zone or the RS-6 (Low Density) Residential Zone may be applied to properties indicated on the Comprehensive Plan Map as being eligible for the RS-1 Zone, based on criteria contained in Section 2.2.40.05.

<sup>2</sup> With the exception of properties indicated on the Comprehensive Plan Map as being eligible for the RS-1 (Extra-low Density) Residential Zone, all Low Density lands shall be zoned RS-6 (Low Density) Residential upon their annexation.

**TABLE 2.2-1  
COMPREHENSIVE PLAN AND CORRESPONDING ZONING MAP  
DESIGNATIONS (not including zone overlays)**

IF THE COMPREHENSIVE PLAN DESIGNATION IS:	THE OFFICIAL ZONING MAP DESIGNATION SHALL BE:
Central Business	CB Central Business Zone CBF Central Business Fringe RF Riverfront C-OS Conservation - Open Space
<b>INDUSTRIAL</b>	<b>INDUSTRIAL</b>
Limited	RTC Research Technology Center LI Limited Industrial MUE Mixed Use Employment C-OS Conservation - Open Space
Limited Industrial - Office	RTC Research Technology Center LI-O Limited Industrial - Office C-OS Conservation - Open Space
Mixed Use Employment	MUE Mixed Use Employment C-OS Conservation - Open Space
General	RTC Research Technology Center MUE Mixed Use Employment GI General Industrial C-OS Conservation - Open Space
General Industrial - Office	RTC Research Technology Center MUE Mixed Use Employment GI General Industrial II Intensive Industrial C-OS Conservation - Open Space
Mixed Use Transitional	RTC Research Technology Center MUT Mixed Use Transitional C-OS Conservation - Open Space
Intensive	II Intensive Industrial MUE Mixed Use Employment C-OS Conservation - Open Space
<b>OTHERS</b>	<b>OTHERS</b>
Public-Institutional	OSU Oregon State University C-OS Conservation - Open Space And any other zone for government and public facility uses.
Open Space - Agriculture	AG-OS Agriculture - Open Space C-OS Conservation - Open Space
Open Space - Conservation	C-OS Conservation - Open Space
Natural Hazards Overlay	Any zone
Natural Resources Overlay	Any zone

## **Section 2.2.30 - LEGISLATIVE CHANGE PROCEDURES**

A Zone Change is considered a legislative act if the change applies uniformly to all properties in the City or to a sufficiently large number of properties as determined by contemporary legal principles.

### **2.2.30.01 - Initiation**

- a.** A legislative Zone Change may be initiated by a majority vote of the City Council or a majority vote of the Planning Commission upon finding sufficient cause to initiate a change.
- b.** Property owners may petition the Planning Commission for a hearing by submitting the following:
  - 1. A petition representing a majority (over 50 percent) of property owners within the area of the proposed Zone Change; and
  - 2. A description and map of the area to be affected and information as may be necessary for an adequate review.

If the Planning Commission determines that there is sufficient cause, it shall initiate the Zone Change in accordance with Chapter 2.0 - Public Hearings.

- c.** Where a motion by either the City Council or Planning Commission involves a Planned Development designation, the motion by either body need not include a Conceptual or Detailed Development Plan. However, residential Planned Development Overlays may not be unilaterally initiated by the City Council or the Planning Commission. See Chapter 3.33 - Residential Planned Development Overlays.

### **2.2.30.02 - Staff Evaluation**

City staff shall prepare a report that evaluates whether the proposal complies with the review criteria in Section 2.2.30.03 below. The report should include a recommendation for approval or denial.

### **2.2.30.03 - Review Criteria**

Legislative Zone Changes shall be reviewed to determine how they affect City facilities and services, and to ensure consistency with the purposes of this Chapter,

policies of the Comprehensive Plan, and any other applicable policies and standards adopted by the City Council.

#### **2.2.30.04 - Action by the Planning Commission**

The Planning Commission shall conduct a public hearing in accordance with the provisions of Chapter 2.0 - Public Hearings. Following the close of the public hearing, the Commission shall make a recommendation to the City Council concerning the proposed Zone Change. The Commission's recommendation shall include findings that specify how the proposal has or has not complied with the above review criteria.

#### **2.2.30.05 - Action by the City Council**

Upon receipt of the Planning Commission's recommendation, the City Council shall set a public hearing in accordance with Chapter 2.0 - Public Hearings. Following the close of the public hearing, the City Council shall either deny the petition or adopt an ordinance approving the proposed Zone Change or a modification thereof. The City Council's decision shall include findings that specify how the proposal has or has not complied with the above review criteria.

#### **2.2.30.06 - Notice of Disposition**

The Director shall provide a Notice of Disposition in accordance with Chapter 2.0 - Public Hearings that includes a written statement of the City Council's decision, a reference to findings leading to it, and the appeal period deadline. A Notice of Disposition shall also be mailed to persons who presented oral or written testimony at the public hearing.

### **Section 2.2.40 - QUASI-JUDICIAL CHANGE PROCEDURES FOR ZONE CHANGES SUBJECT TO A PUBLIC HEARING**

- a. Quasi-judicial Zone Changes** - All Zone Changes not deemed legislative shall be quasi-judicial. Administrative Zone Changes are quasi-judicial Zone Changes that are not subject to a public hearing and are defined by and subject to the provisions of Section 2.2.50. All other quasi-judicial Zone Changes are subject to a public hearing and the provisions below.
- b. Adding a Historic Preservation Overlay** - A Zone Change process involving a public hearing is required to add a Historic Preservation Overlay to a historic resource. Establishment of a Historic Preservation Overlay requires property owner concurrence and approval by the Historic Resources Commission. Once a Historic

Preservation Overlay is applied, the Historic Resource is listed in the Local Register, is defined as a Designated Historic Resource, and is subject to the City's Historic Preservation Provisions in Chapter 2.9 - Historic Preservation Provisions.

Historic Resources are listed in the National Register of Historic Places consistent with state and federal processes and criteria. Official action at the local level is not required as part of the National Register of Historic Places designation process. However, if a property owner wishes to list a Nationally-designated Historic Resource in the Local Register, a Zone Change to add a Historic Preservation Overlay is required. In all cases, a Nationally-designated Historic Resource also is defined as a Designated Historic Resource and is subject to the City's Historic Preservation Provisions in Chapter 2.9 - Historic Preservation Provisions, unless as otherwise specified under state and federal law.

- c. **Removing a Historic Preservation Overlay** - A Zone Change process involving a public hearing is required to remove a Historic Preservation Overlay from a Designated Historic Resource, with the single exception that an Administrative Zone Change process shall be used to remove a Historic Preservation Overlay under the circumstances outlined in Section 2.2.50.

Once a Historic Preservation Overlay is removed, the historic resource is automatically removed from the Local Register, is no longer defined as a Designated Historic Resource, and is no longer subject to the Historic Preservation Provisions in Chapter 2.9 - Historic Preservation Provisions, unless it is still Nationally-designated. If the Designated Historic Resource remains Nationally-designated, it is still subject to Chapter 2.9 - Historic Preservation Provisions, but is not listed in the Local Register and does not show a Historic Preservation Overlay.

- d. **Decisions Regarding National Register of Historic Places De-listings** - Official action at the local level to de-list a National Register of Historic Places Designated Historic Resource is not required. National Register of Historic Places de-listings are state and federal issues. If a National Register of Historic Places Designated Historic Resource is de-listed, and that Resource is not also listed in the Local Register, the Resource shall no longer be defined as a Designated Historic Resource and shall no longer be subject to the Historic Preservation Provisions in Chapter 2.9 - Historic Preservation Provisions. If a National Register of Historic Places Designated Historic Resource is de-listed per state and federal procedures, but that Resource also has a Historic Preservation Overlay and is, therefore, listed in the Local Register, the Resource shall continue to be defined as a Designated Historic Resource and shall continue to be subject to the Historic Preservation Provisions in Chapter 2.9 - Historic Preservation Provisions, unless an Administrative Zone Change removing the Historic Preservation Overlay is approved per Section 2.2.50.

### **2.2.40.01 - Initiation**

- a.** Initiation of a District Change that is quasi-judicial in nature may be accomplished by one of the following ways:
  - 1. Filing of an application by the owner(s) of the subject property(ies);
  - 2. A majority vote of the City Council or Planning Commission. However, for District Changes involving the application or removal of a Historic Preservation Overlay, property owner consent shall be required in accordance with state law. If the historic resource is owned by more than one property owner, the consent of all owners shall be required; or
  - 3. District Changes involving the application or removal of a Historic Preservation Overlay may also be initiated by the Director. Property owner consent shall be required in accordance with state law. If the historic resource is owned by more than one property owner, the consent of all owners shall be required.
  
- b.** Where a motion by either the City Council or Planning Commission involves a Planned Development designation, the motion need not include a Conceptual or Detailed Development Plan. However, residential Planned Development Overlays may not be unilaterally initiated by the City Council or the Planning Commission. See Chapter 3.33 - Residential Planned Development Overlays.

### **2.2.40.02 - Application Requirements**

When the Director deems any requirement below unnecessary for the proper evaluation of a proposed application, it may be waived.

**Prior to formal submittal of an application, the applicant is encouraged to participate in an informal pre-application conference with Community Development Department staff to discuss the proposal, the applicant's requirements, and the applicant's materials developed in response to this Code's applicable requirements.**

Applications for Zone Changes shall be made on forms provided by the Director and shall be accompanied by:

- a. General Requirements**

1. Location and description of the subject property(ies), including all of the following, as relevant: address; tax assessor map and tax lot number; parcel number; written description of the boundaries of the proposal, including the boundaries of any proposed Historic Preservation Overlay; and one set of assessor's maps of the subject site and surrounding area, with the subject site outlined in red;
2. Signed consent by the subject property's owner(s) and/or the owner's legal representative(s). If a legal representative is used as a signatory, written proof of ability to be a signatory shall be furnished to the City. The owner's name(s) and address(es), and the applicant's name, address, and signature shall also be provided;
3. Fifteen copies of the narrative, on 8.5 by 11in. sheets, and 15 copies of graphics at an 8.5 by 11 in. size. The Director may request additional copies of the narrative and/or graphics for routing purposes, if needed. Related names/numbers must be legible on the graphics. The Director may also require some or all graphics at an 11 by 17in. size if, for legibility purposes, such a size would be helpful;
4. Six sets of full-scaled black line or blueprint drawings of the graphic(s), with sheet size not to exceed 24 by 36 in. Where necessary, an overall plan with additional detail sheets may be submitted;
5. An electronic version of these documents if an applicant has produced part or all of an application in an electronic format. The applicant shall coordinate with the City regarding compatible electronic formats, to the greatest extent practicable;
6. Graphic Requirements -

Graphics shall include the following information where applicable:

- a) Public Notice Map - Typically a street map at one in. = 800 ft. as per City's public notice format;
- b) Zoning Maps - Existing and proposed Zoning Maps. Typically one in. = 400 ft., but up to one in. = 800 ft., depending on the size of the site, with a key that identifies each zone on the site and within 1,000 ft. of the site as per City format;

- c) Comprehensive Plan Map - Typically one in. = 800 ft. with a key that identifies each land use designation on the site and within 1,000 ft. of the site as per City format;
- d) Existing Land Use Map - Typically a topographic map that extends at least a 1,000 ft. beyond the site. The map shall include building footprints and distinguish between single-family, multi-family, Commercial, and Industrial uses, as well as other significant features such as roads, parks, schools, and significant natural features identified by Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions;
- e) Significant Natural Features Map(s) - Maps shall identify significant natural features of the site, including but not limited to:
  - 1) All information and preservation plans required by Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions, as applicable;
  - 2) All Jurisdictional Wetlands not already shown as part of "a," above. While not all Jurisdictional Wetlands are locally regulated by Chapter 4.13 - Riparian Corridor and Wetland Provisions, they need to be shown so that the City can route the application to the appropriate state and federal agencies for comment; and
  - 3) Archaeological sites recorded by the State Historic Preservation Office (SHPO).

- 7. A legible vicinity map identifying the area to be amended and identifying adjacent City and County territory at least 300 ft. beyond the boundaries of the subject site. The map shall include features such as existing streets and parcel boundaries; existing structures; driveways; utilities; Significant Natural Features regulated by Chapter

4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions; Minimum Assured Development Area information from Chapter 4.11 - Minimum Assured Development Area (MADA), if applicable; and any other information that, in the Director's opinion, would assist in providing a context for the proposed Zone Change. The Director may require that an applicant's graphics include information on lands in excess of 300 ft. from the subject site, such as in cases where an adjacent property is large and a view of the whole parcel would be helpful, or when existing infrastructure is far away from the site.

8. Statement of availability, capacity, and status of existing water, sewer, storm drainage, transportation, park, and school facilities. The applicant shall obtain this information using GIS base maps where available;
9. Statement of increased demand for the 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, available via the City Engineer, 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 uses designations shall be addressed in the analysis;
10. 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;
11. Traffic impact study, if required by the City Engineer. The City Engineer shall define the scope of the traffic impact study based on established procedures. 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. See also Section 4.0.60.a. Statement outlining the method and source of financing required to provide additional facilities; and

12. Statement of the reasons for the Change, and how the proposal meets the review criteria in Section 2.2.40.05.

**b. Requirements for District Change Applications to Add a Historic Preservation Overlay**

1. All requirements of “a,” above;
2. Map illustrating the location and bounds of the historic resource(s) proposed to receive the Historic Preservation Overlay;
3. Statements explaining the following:
  - a) How the proposed Historic Preservation Overlay is consistent with the review criteria for such designation in Section 2.2.40.05.b;
  - b) If a Historic Preservation Overlay is proposed to add a historic resource to the Local Register, why the boundaries of the proposed Historic Preservation Overlay are appropriate, given the historic resources located in the proposed Historic Preservation Overlay; and
4. Two sets of black and white photographs of, and inventory information for, each of the historic resource(s) proposed to be subject to a Historic Preservation Overlay. The photographs shall be four by six in., five by seven in., or eight by 10 in. Digital images meeting federal National Park Service photo policy standards, as amended, for National Register of Historic Places resources, are acceptable.

**c. Requirements for District Change Applications to Remove a Historic Preservation Overlay**

1. All requirements of “a,” above;
2. Map illustrating the location and bounds of the Historic Preservation Overlay proposed to be removed and any Designated Historic Resource(s) within that area;
3. Statements explaining the following:
  - a) How removal of the proposed Historic Preservation Overlay is consistent with the review criteria in Section 2.2.40.05.c;
  - b) Why the applicant is requesting removal of the existing Historic Preservation Overlay;
4. Two sets of black and white photographs of, and inventory information for, each of the Designated Historic Resource(s) within the Historic Preservation Overlay area proposed for removal. The photographs shall be four by six in., five by seven in., or eight by 10 in. Digital images meeting federal National Park Service photo policy standards, as amended, for National Register of Historic Places Designated Historic Resources, are acceptable.

**2.2.40.03 - Acceptance of Application**

- a. The Director shall review the application in accordance with Chapter 2.0 - Public Hearings.
- b. After accepting a complete application, the Director shall schedule a public hearing. The public hearing will be conducted by:
  1. The Planning Commission, if the Zone Change is requested in conjunction with an Amendment to the Comprehensive Plan and is not a request to apply or remove a Historic Preservation Overlay;
  2. The Land Development Hearings Board, if no Comprehensive Plan Amendment is required to approve the Zone Change and the application is not a request to apply or remove a Historic Preservation Overlay;

3. The Historic Resources Commission, if the request is to apply or remove a Historic Preservation Overlay and does not meet the definition for an Administrative Zone Change outlined in Section 2.2.50.b.
- c.** After an application is accepted as complete, any revisions to it that result in the need for an additional public notice to be mailed shall be regarded as a new application. Such new application shall require additional filing fees and rescheduling of the required public hearing.

#### **2.2.40.04 - Staff Evaluation**

The Director shall prepare a report that evaluates whether the proposal complies with the review criteria below. The report shall also include a recommendation for approval or denial.

#### **2.2.40.05 - Review Criteria**

**a. Review Criteria for Zone Changes, Except Those Requesting to Apply or Remove a Historic Preservation Overlay**

Quasi-judicial Zone Changes shall be reviewed to determine how they affect City facilities and services, and to ensure consistency with the purposes of this Chapter, policies of the Comprehensive Plan, and any other applicable policies and standards adopted by the City Council. The application shall demonstrate compatibility in the following areas, as applicable:

1. Basic site design (e.g., the organization of uses on a site and the uses' relationships to neighboring properties);
2. Visual elements (scale, structural design and form, materials, etc.);
3. Noise attenuation;
4. Odors and emissions;
5. Lighting;
6. Signage;
7. Landscaping for buffering and screening;
8. Transportation facilities;

9. Traffic and off-site parking impacts;
10. Utility infrastructure;
11. Effects on air and water quality (note: a DEQ permit is not sufficient to meet this criterion);
12. Consistency with the applicable development standards, including the applicable Pedestrian Oriented Design Standards;
13. Preservation and/or protection of Significant Natural Features, consistent with Chapter 4.2 - Landscaping, Buffering, Screening, and Lighting, Chapter 4.5 - Natural Hazard and Hillside Development Provisions, Chapter 4.11 - Minimum Assured Development Area (MADA), Chapter 4.12 - Significant Vegetation Protection Provisions, and Chapter 4.13 - Riparian Corridor and Wetland Provisions. Streets shall also be designed along contours, and structures shall be designed to fit the topography of the site to ensure compliance with these Code standards.

**b. Review Criteria for Zone Changes to Apply a Historic Preservation Overlay**

1. Historic Integrity of setting, location, materials or workmanship -

To meet this criteria, the applicant shall demonstrate that the application fulfills at least two of the following criteria:

- a) The historic resource is in its original location or is in the location in which it made a historical contribution;
- b) The historic resource remains essentially as originally constructed;
- c) Sufficient original workmanship and material remain to show the construction technique and stylistic character of a given Period of Significance;
- d) The immediate setting of the historic resource retains land uses, or landscaping and relationship with associated structures, consistent with the Period of Significance;
- e) The historic resource contributes to the architectural continuity of the street or neighborhood;

- f) The site is likely to contain artifacts related to prehistory or early history of the community; or
- g) The historic resource is now one of few remaining prime examples of an architectural style or design, or a type of construction that was once common.

2. Historic Significance or contribution to historic and cultural resources of the community -

To meet this criteria, the applicant shall demonstrate that the resource is 50 years old or older and that at least one of the additional criteria listed below applies to it. Resources that are less than 50 years old may be considered eligible for historic designation if they are of exceptional importance, based on National Register of Historic Places Criteria for Evaluation (36 CFR 60).

- a) It is associated with events that have made a significant contribution to the broad patterns of political, economic, cultural, or industrial history of the City, County, State or nation;
- b) The resource is fundamentally related to the work, achievements, or life story of a person, group, organization, or institution that has made a significant contribution to the City, County, State or nation;
- c) It embodies distinctive characteristics of a type, Period of Significance, or method of construction;
- d) It may be a prime example of an architectural style or design, or may represent a type of construction that was once common and is now one of few remaining examples;
- e) It represents the work of a master. For example, it is a noteworthy example of the work of a craftsman, builder, architect or engineer significant in City, County, State, or national history;
- f) It demonstrates high artistic values in its workmanship or materials;

- g) It yields or is likely to yield information important in prehistory or history;
- h) It is a visual landmark; or
- i) It contributes to the continuity or the historic character of the street, neighborhood, and/or community, or contributes to the Historic Integrity of the Period of Significance represented.

**c. Review Criteria for Public Hearing Zone Changes to Remove a Historic Preservation Overlay**

- 1. Removal of the Historic Preservation Overlay shall not adversely impact properties in the surrounding area or the Historic Integrity of the affected Local Register Historic District, if applicable.
- 2. At least one of the following has occurred since the Historic Preservation Overlay was established -
  - a) A re-evaluation of the original Designated Historic Resource determination, with the results being that, under current criteria, the Resource is no longer considered Historically Significant, and the change in the Historic Significance of the Resource was not the result of action or inaction by the property owner. The determination of Historic Significance in this case shall be based on National Register of Historic Places Criteria for Evaluation (36 CFR 60);
  - b) The Historic Integrity of the Resource has been substantially reduced or diminished due to unavoidable circumstances that were not a result of action or inaction by the property owner; and/or
  - c) An evaluation of maintaining or removing the Historic Preservation Overlay demonstrates that removing the Overlay substantially outweighs maintaining the Overlay.

**d. Buildable Land Supply Factor**

For Zone Change requests to a Conservation - Open Space (C-OS) Zone on lands that are **not** located on lands already designated with a Natural Resource and/or Natural Hazard Overlay, the applicant shall demonstrate the following:

1. That the area requested for the Zone Change to C-OS is part of a larger development site;
2. What the development potential is for the proposed C-OS land. This development potential shall be calculated using the same development per acre calculations specified in Tables 4.11-1 and 4.11-2 of Chapter 4.11 - Minimum Assured Development Area (MADA); and
3. That the development potential associated with the proposed C-OS land is transferred to other land that:
  - a) Will not be zoned C-OS;
  - b) Is located on the same development site; and
  - c) Is proposed for development concurrent with the Zone Change request so that it can be verified that the transfer of development potential is feasible.

#### **2.2.40.06 - Action by the Hearing Authority**

The hearing authority shall conduct a public hearing in accordance with the provisions of Chapter 2.0 - Public Hearings. Following the close of the public hearing, the hearing authority shall by motion either approve the proposed Zone Change, or deny the petition. The hearing authority's decision shall include findings that specify how the application has or has not complied with the above review criteria. If the request is to apply a Historic Preservation Overlay to a property, the Historic Resources Commission also shall identify in its findings the specific historic resource(s) that is Historically Significant and subject to future regulation under Chapter 2.9 - Historic Preservation Provisions.

#### **2.2.40.07 - Notice of Disposition**

The Director shall provide the applicant with a Notice of Disposition in accordance with Chapter 2.0 - Public Hearings that includes a written statement of the hearing authority's decision, a reference to findings leading to it, and the appeal period deadline. A Notice of Disposition shall also be mailed to persons who presented oral or written testimony at the public hearing. For all Zone Changes associated with historic preservation, the Notice of Disposition shall also be mailed to the Historic Resources Commission.

#### **2.2.40.08 - Appeals**

The decision of the Land Development Hearings Board, Planning Commission, or Historic Resources Commission may be appealed in accordance with Chapter 2.19 - Appeals.

#### **2.2.40.09 - Effective Date**

- a. Unless an appeal has been filed, decisions of the Land Development Hearings Board and the Historic Resources Commission shall become effective 12 days after the Notice of Disposition is signed. Once a Zone Change to add or remove a Historic Preservation Overlay is in effect, the Historic Preservation Overlay shall be added to, or removed from, the Official Zoning Map, as appropriate.
- b. Unless an appeal has been filed, or a Zone Change involves a Comprehensive Plan Amendment, decisions of the Planning Commission and/or Historic Resources Commission, as applicable, shall become effective 12 days after the Notice of Disposition is signed.
- c. Unless an appeal has been filed, decisions of the Planning Commission made in conjunction with a Comprehensive Plan Amendment shall become final 12 days after the Notice of Disposition is signed. The Zone Changes will not take effect, however, until and unless the necessary Comprehensive Plan Amendment has been implemented by the City Council.

### **Section 2.2.50 - QUASI-JUDICIAL CHANGE PROCEDURES FOR ADMINISTRATIVE ZONE CHANGES**

- a. **Quasi-judicial Zone Changes** - As stated in Section 2.2.40.a, all Zone Changes not deemed legislative shall be quasi-judicial. Administrative Zone Changes are quasi-judicial Zone Changes that are not subject to a public hearing and are defined by and subject to the provisions below. All other quasi-judicial Zone Changes are subject to a public hearing and the provisions of Section 2.2.40.
- b. **Administrative Zone Change Defined** - A Zone Change is considered an Administrative Zone Change if the Change applies to one or more of the situations in "1," through "3," below.

1. Establishment of a Conservation - Open Space Zone - A Zone Change is requested to establish a Conservation - Open Space Zone on property(ies) with a Natural Hazard Overlay or Natural Resource Overlay designation.
2. Removal of a Residential Planned Development Overlay - A Zone Change is requested to remove a residential Planned Development Overlay and both “a,” and “b,” below are true:
  - a) The underlying Zone designation is RS-1, RS-3.5, RS-5, RS-6, RS-9, RS-9(U), RS-12, RS-12(U), RS-20, or MUR; and
  - b) The request is limited to the removal of the Planned Development Overlay and there is no active Detailed Development Plan on the site. See Section 2.2.50.06.b.3.
3. Removal of Historic Preservation Overlay - A Zone Change is requested to remove a Historic Preservation Overlay and the criteria in either “a,” or “b,” below, are met:
  - a) Property Owner Consent - “1,” though “3,” below are all true:
    - 1) The Historic Preservation Overlay was placed on the Designated Historic Resource before September 9, 1995 through a legislative action initiated by the City under circumstances outlined in ORS 197.772(3), as amended; and
    - 2) The applicant requesting the removal of the Historic Preservation Overlay (and, thus, removal from the Local Register) was the owner of the property at the time the property was listed in the Local Register and has continued to own said property since this listing; and
    - 3) The applicant requesting the removal of the Historic Preservation Overlay (and, thus, removal from the Local Register) presented written or documented oral testimony in opposition to the property's being listed in the Local Register during the public hearing at which the property was so listed; or
  - b) Demolition of the Designated Historic Resource - Either “1,” or “2,” below is true:

- 1) Local Register Designated Historic Resources -
  - a. Approval has been granted for the Demolition of a Local Register Designated Historic Resource;
  - b. The date of the approved Historic Preservation Permit for Demolition is effective; and
  - c. The Designated Historic Resource has been demolished; or
  
- 2) Historic Resources Listed in the National Register of Historic Places -
  - a. The affected Designated Historic Resource is also listed in the Local Register;
  - b. The City has notified the State Historic Preservation Office that a Historic Preservation Permit authorizing the Demolition of a Designated Historic Resource listed in the National Register of Historic Places is effective;
  - c. The Designated Historic Resource has been demolished; and
  - d. SHPO has provided the City with official notification that a de-listing of the Designated Historic Resource from the National Register of Historic Places has occurred in accordance with state and federal procedures, and that such de-listing is in effect.

#### **2.2.50.01 - Initiation**

An Administrative Zone Change may be initiated by the filing of an application by the owner of the subject property. If the resource is owned by more than one property owner, the consent of all owners shall be required.

#### **2.2.50.02 - Application Requirements**

An application for an Administrative Zone Change shall be made on forms provided by the Director and shall include the following:

- a. Applicant's name, address, and signature;
- b. Owner's name(s), address(es), and signature(s), if different from applicant's. If a proposed Zone Change includes land in more than one ownership, the application must be submitted jointly by all of the owners and/or their legal representative(s). If a legal representative is used as a signatory, written proof of ability to be a signatory shall be furnished to the City;
- c. Location and description of the land associated with the proposed Zone Change, including all of the following, as relevant: address; tax assessor map and tax lot number; parcel number; and written description of the boundaries of the subject property(ies) and area proposed to be changed;
- d. Narrative and documentation addressing how the application meets the review criteria in Section 2.2.50.06 below;
- e. Maps, drawings, and such other information as may be needed for an adequate review of the application; and
- f. For requests to remove a residential Planned Development Overlay, copies of any applicable Notices of Disposition and documents that explain the background regarding the establishment of the Planned Development Overlay on the site and the status of any land use approvals on the site.

### **2.2.50.03 - Acceptance of Application**

- a. The Director shall review the application to determine whether it is complete per the requirements in Section 2.2.50.02. If the application is incomplete, the Director shall notify the applicant and state what information is needed to make the application complete. The applicant shall have up to ten days from the date of the Director's notification to submit additional information.
- b. After an application is accepted as complete, any revisions to it that result in the need for an additional public notice to be mailed shall be regarded as a new application. Such new application shall require additional filing fees and rescheduling of the required public hearing.

### **2.2.50.04 - Public Notice**

Public notice for an Administrative Zone Change shall be provided in accordance with Section 2.12.30.04. The notice for applications to remove a Historic

Preservation Overlay in accordance with Section 2.2.50.b.3 also shall be sent to the Historic Resources Commission and State Historic Preservation Office.

#### **2.2.50.05 - Staff Evaluation**

The Director shall evaluate whether the proposal complies with the review criteria in Section 2.2.50.06, below.

#### **2.2.50.06 - Review Criteria**

- a. Establishment of a Conservation - Open Space Zone** - The following criteria shall be utilized to evaluate an Administrative Zone Change application that meets the definition criteria in Section 2.2.50.b.1. Either “1,” or “2,” below, must be true:
1. The areas requested to be designated with the Conservation - Open Space Zone must already be designated as Open Space - Conservation on the Comprehensive Plan Map; or
  2. The areas requested to be designated with the Conservation - Open Space Zone must already be designated with a Natural Hazard or Natural Resource Overlay on the Comprehensive Plan Map or Official Zoning Map.
- b. Removal of a Residential Planned Development Overlay** - The following criteria shall be utilized to evaluate an Administrative Zone Change application that meets the definition criteria in Section 2.2.50.b.2. All of the criteria in “1,” through “3,” below, must be true.
1. The underlying zone designation must be RS-1, RS-3.5, RS-5, RS-6, RS-9, RS-9(U), RS-12, RS-12(U), RS-20, or MUR;
  2. The request must be limited to the removal of the Planned Development Overlay; and
  3. There must be no active Detailed Development Plan on any part of the site. An active Detailed Development Plan includes one which has:
    - a) Not expired or been nullified;

- b) A final Subdivision or Partition plat filed and recorded;
- c) A Property Line Adjustment filed;
- d) Any Building or Construction Permits issued; or
- e) Any activities associated with Development as defined in Chapter 1.6 - Definitions.

**c. Removal of a Historic Preservation Overlay** - The following criteria shall be utilized to evaluate an Administrative Zone Change application that meets the definition criteria in Section 2.2.50.b.3.a. All criteria in "1" through "3", below must be true.

- 1. Evidence demonstrates that the Historic Preservation Overlay was placed on the historic resource before September 9, 1995, through a legislative action initiated by the City, under circumstances outlined in ORS 197.772(3), as amended; and
- 2. Evidence demonstrates that the owner(s) requesting the removal of the Historic Preservation Overlay (and, thus, removal from the Local Register) was the owner(s) of the property at the time the property was listed in the Local Register and has continued to own said property since its listing; and
- 3. Evidence demonstrates that the owner(s) requesting the removal of the Historic Preservation Overlay (and, thus, removal from the Local Register) presented written or oral testimony in opposition to the property's being listed in the Local Register during the public hearing at which the property was so listed.

**d. Removal of a Historic Preservation Overlay** - The following criteria shall be utilized to evaluate an Administrative Zone Change application that meets the definition criteria in Section 2.2.50.b.3.b, involving Demolition of a Designated Historic Resource. Either "1" or "2," below, must be true:

- 1. Local Register Designated Historic Resources - Evidence demonstrates that:
  - a) Approval has been granted for the Demolition of a Local Register Designated Historic Resource;

- b) The date of the approved Historic Preservation Demolition Permit is effective; and
  - c) The Designated Historic Resource has been demolished; or
2. Historic Resources Listed in the National Register of Historic Places - Evidence demonstrates that:
- a) The affected Designated Historic Resource is also listed in the Local Register;
  - b) The City has notified the State Historic Preservation Office that a Historic Preservation Permit authorizing the Demolition of a Designated Historic Resource listed in the National Register of Historic Places is effective;
  - c) The Designated Historic Resource has been demolished; and
  - d) SHPO has provided the City with official notification that a de-listing of the Designated Historic Resource from the National Register of Historic Places has occurred in accordance with state and federal procedures, and that such de-listing is in effect.

**2.2.50.07 - Action by the Director**

On the basis of the review criteria in Section 2.2.50.06 above, the Director shall review the proposed Administrative Zone Change application submittal and either approve or deny the request. The Director's decision shall include findings that specify how the proposal has or has not complied with all the applicable review criteria in Section 2.2.50.06. If all the review criteria have not been met, the Director shall deny the Administrative Zone Change application.

**2.2.50.08 - Notice of Disposition**

- a. **The Director shall provide the following parties with a Notice of Disposition:**
  - 1. Applicant;

2. Owners of record of property on the most recent property tax assessment roll where such property is located within 100 ft. of the subject property;
3. Any neighborhood or community organization recognized by the governing body and whose boundaries include the subject site; and
4. Persons who provided written comment on the application; and
5. The Historic Resources Commission, in cases of Administrative Zone Changes to remove of a Historic Preservation Overlay per Section 2.2.50.b.3.

**b. The Notice of Disposition shall include the following information:**

1. Written statement of the decision and a reference to the findings leading to it;
2. Nature of the application and the proposed Use or Uses which could be authorized;
3. Street address or other easily understood geographical reference to the subject property;
4. Name and phone number for staff contact person;
5. Appeal period deadline; and
6. A statement that a copy of the application, all documents and evidence submitted by or on the behalf of the applicant, and applicable criteria are available for inspection at no cost and copies can be provided at a reasonable cost.

**2.2.50.09 - Appeals**

The Director's decision may be appealed in accordance with Chapter 2.19 - Appeals.

### **2.2.50.10 - Effective Date**

The Director's decision shall become effective 12 days from the date that the Notice of Disposition is signed, unless an appeal has been filed. Once an Administrative Zone Change is approved and is in effect, the Official Zoning Map shall be amended accordingly.

### **Section 2.2.60 - PROCEDURES FOR RECLASSIFYING A DESIGNATED HISTORIC RESOURCE IN A NATIONAL REGISTER OF HISTORIC PLACES HISTORIC DISTRICT**

Reclassification of a Designated Historic Resource in a National Register of Historic Places Historic District is accomplished per state and federal procedures. Upon notification from the State Historic Preservation Office that a reclassification of a Nationally-designated Historic Resource has been approved, the City shall amend its files accordingly. All future Historic Preservation Permit applications relating to this Nationally-designated Historic Resource shall be evaluated per the revised reclassification. If a property owner believes that an error was made in the nomination papers for a Designated Historic Resource, the property owner may petition the Director to help correct it. The owner should explain the nature of the mistake, using sources of information in Section 2.9.60.c. The Director shall forward the property owner's request for the correction, along with the property owner's documentation, to the State Historic Preservation Office (SHPO) for consideration.

### **Section 2.2.70 - Map Errors**

If the Land Development Hearings Board, Planning Commission, or City Council approves a Zone Change, but the Director discovers that the Official Zoning Map was not altered to accurately reflect the Zone Change, the Director shall correct the Official Zoning Map to comply with the Zone Change without any additional public review.

The amendment shall not be corrected if the City Council subsequently approves a Zone Change affecting the initial approval. If the Director discovers an inconsistency between the Official Zoning Map and the Comprehensive Plan Map, the Director shall correct the Official Zoning Map to make it consistent with the Comprehensive Plan Map, without any additional public review. Map corrections made by the Director shall be reported to the Council and owner of the property receiving the correction by noting the correction as a consent item on a Council agenda following the correction, and by mailing the property owner notification of the correction.

