ARTICLE 8 – APPLICATIONS AND REVIEWS

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Chapter 15.304 - Lot of Record and Lot of Record Determination

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15.304.010 Purpose and Intent
The purpose of Chapter 15.304 is to establish criteria and a process for determining when a lot of record exists for the purpose of allowing a use or development. The City shall accept a legal lot determination for a non-conforming lot (e.g., substandard lot that does not meet current lot area, setback, or coverage regulations) as sufficient evidence of a hardship for purposes of approving a variance under Chapter 15.320.

15.304.020 Criteria
A lot of record is a unit of land that meets one or more of the following criteria, pursuant to ORS 92.010 through 92.190:

A. The unit of land was lawfully created through a subdivision or partition plat.

B. The unit of land was created through a deed or land sales contract recorded with Deschutes County before the City or County, as applicable, adopted planning, zoning, subdivision or partition regulations.

C. The unit of land is validated in accordance with requirements of ORS 92.176 or established via the procedures set forth in ORS 92.177.

15.304.030 What is not a lot of record?
A. A unit of land created soley by a tax lot segregation because of an assessor’s role change or for the convenience of the assessor;

B. A unit of land created by an intervening section or township line or right-of-way;

C. A unit of land created by the foreclosure of a security interest.

15.304.040 Remedy for Parcels Found Not to Be Lots of Record.
A. Consolidate the unit of land with a contiguous unit of land that is determined to be a lot of record. Both units of land must be held in the same ownership as shown on the records of Deschutes County Clerk.

B. Apply for and obtain approval for a single lot partition in conformance with ORS 92.177.

C. Apply for and obtain approval of a lot of record under ORS 92.176.
15.304.050 Legal Lot Determination Procedure
The City Planning Official, through a declaratory ruling under a Type II procedure, shall process requests to validate a lot of record.
Chapter 15.306 - Certificate of Use and Occupancy

Section
15.306.010 Applicability
15.306.030 Procedure Type
15.306.030 Submittal Requirements
15.306.040 Approval Criteria

15.306.010 Applicability
When a certificate of use and occupancy is required. It shall be unlawful to use and/or occupy any building, other structure, and/or land until a certificate of use and occupancy for such building, other structure and/or land has been issued by the City. The purpose of the certificate is to confirm that the work or development described in applicable land use approvals has been completed in compliance with this Code. The application for issuance of a certificate of use and occupancy may be issued at any time after the applicant has obtained all applicable land use approvals.

15.306.030 Procedure Type
Certificates of use and occupancy are subject to Type I Review in accordance with the procedures in Article 7.

15.306.030 Submittal Requirements
Unless waived by the City Planning Official, the following materials shall be submitted.

A. Forms of application. The application a certificate of use and occupancy shall be submitted in such form as the City may prescribe and shall be accompanied by the applicable fee.

B. Site plan diagram. All applications shall be accompanied by a site plan diagram. The site plan shall be drawn to a suitable scale and shall clearly and accurately show property lines, dimensions of buildings and lots, both existing and proposed, abutting streets and sidewalks, proposed uses of buildings and lots, north arrow and scale, and any other information which the City may require to make a decision. One copy shall be returned to the applicant indicating approval or disapproval; one copy shall be retained by the City.

C. Additional application requirements for uses specified. An application for a use specified shall be accompanied by additional information and drawings as appropriate to demonstrate how the proposed use and the design of that use will comply with the applicable conditions, criteria, and standards specified in this Code and/or applicable land use approvals. If such use is a conditional use, further information and drawings may be required by the City to address compliance with any other conditions imposed by the City.

15.306.040 Approval Criteria
Certificates of use and occupancy shall be evaluated for compliance with the zoning checklist or land use approvals authorizing the use, construction, or alteration of the site and/or building.
Chapter 15.308 - Zoning Checklist

Section
15.308.010 Applicability
15.308.030 Procedure Type
15.308.030 Submittal Requirements
15.308.040 Approval Criteria

15.308.010 Applicability
A zoning checklist shall be required for any of the following (except where otherwise indicated in this Code):

A. Commencing a use, changing a use or intensity of use, or extending or displacing the use of any building, structure, and/or land in the City.

B. Construction, erection, enlargement, reconstruction, or structural alteration of any single-family dwelling (including placement of a mobile or manufactured home on a property), Duplex, or accessory dwelling unit and any other structure accessory to a residential use that requires a building permit.

15.308.030 Procedure Type
Zoning checklists are subject to Type I Review in accordance with the procedures in Article 7. Notwithstanding anything in this Chapter to the contrary, the City Planning Official may require Site Plan Approval if the City Planning Official determines the proposal would require a greater number of parking spaces than presently provided on the site, require an upgrade in water or sewer infrastructure to serve the proposed use, or would require a new point of access.

15.308.030 Submittal Requirements
The following materials shall be submitted provided that the City Planning Official may waive one or more of these requirements upon finding that the building permit application provides sufficient information.

A. Forms of application. The application for a zoning checklist shall be submitted in such form as the City may prescribe and shall be accompanied by the applicable fee.

B. Site plan diagram. All applications shall be accompanied by a site plan diagram. The site plan shall be drawn to a suitable scale and shall clearly and accurately show property lines, dimensions of buildings and lots, both existing and proposed, abutting streets and sidewalks, proposed uses of buildings and lots, north arrow and scale, and any other information which the City may require to make a decision. One copy shall be returned to the applicant indicating approval or disapproval; one copy shall be retained by the City.

C. Additional application requirements for uses specified. An application for a use specified shall be accompanied by additional information and drawings as appropriate to demonstrate how the proposed use and the design of that use will comply with the applicable conditions, criteria, and standards specified in this Code and/or applicable land use approvals. If such use is a conditional use, further information and drawings may be required by the City to address compliance with any other conditions imposed by the City.
15.308.040 Approval Criteria
The review authority shall be governed by the criteria below as they evaluate and render a decision on a proposal.

A. The proposed use is a permitted use in the zone in which the site is located. If the proposed use is a conditional use, a conditional use application has been submitted and approved by the City.

B. The site provides the required number of bicycle and vehicle parking spaces.

C. The proposal complies with the standards and criteria applicable to the proposed use.

D. The proposal does not violate applicable set back or lot coverage requirements.

E. The proposal complies with any applicable conditions of approval in prior land use decisions concerning the site.
Chapter 15.312 - Site Plan Review

Section
15.312.010 Purpose
15.312.020 Applicability
15.312.030 Procedure Type
15.312.040 Submittal Requirements
15.312.050 Approval Criteria – All Residential and Non-Residential
15.312.060 Additional Approval Criteria – Non-Residential Development
15.312.070 Conditions of Approval
15.312.080 Revisions of Plans
15.312.090 Performance Assurance

15.312.010 Purpose

A. The purpose of the site plan review provisions of this section is to ensure that development within the City complies with standards and limitations set forth within the applicable zone, by other city standards and requirements and by applicable county, state and federal regulations.

B. This broad purpose is furthered by the following specific purposes of site plan review.

1. To implement the goals and policies of the Comprehensive Plan.

2. To foster development that is designed, arranged and constructed in a manner that provides a safe, efficient and aesthetically pleasing community asset.

3. To encourage originality and creativity in site design, architecture and landscape design.

4. To ensure that the arrangement of all functions, uses and improvements of a development reflect the natural amenities, capabilities and limitations of its site and adjacent areas.

5. To encourage development where the various structures, use areas and site elements are integrated in a manner that is visually harmonious within the development and the surrounding area.

6. To encourage development and landscape design that complements the natural landscape and setting, improves the general appearance of the community and enhances specific elements of the manmade environment, both presently and historically.

15.312.020 Applicability

The following uses and development shall be subject to the provisions of this section.

A. All new construction or new development except for: single-family residences (including manufactured dwellings, mobile homes, modular homes), duplexes, accessory dwelling units and related accessory structures unless provided otherwise in this chapter.
B. An exterior alteration or modification to an existing nonresidential use or structure, which is subject to site plan review and/or is subject to regulation under the provisions of this chapter, except for painting, replacement of roofing and siding, and other normal maintenance and upkeep requirements which are not subject to regulation under the provisions of this chapter or any other applicable city, county, state and/or federal regulations.

C. Any alteration or modification of site improvements, such as the landscaping, parking and/or loading facilities and areas, in conjunction with an existing nonresidential use which is subject to site plan review and/or is subject to regulation under the provisions of this chapter.

15.312.025 Site Plan approval required
Site Plan review and approval, as specified by this chapter, shall be required prior to the following:

A. Site clearance activities such as grading, excavation or filling for any use or development requiring a permit pursuant to this Code.

B. The issuance of a building or development permit for any use or development requiring City approval pursuant to this Code.

15.312.030 Procedure Type

A. Site Plan Review applications are subject to Type II Review in accordance with the procedures in Article 7 unless elevated to a Type III review at the discretion of the Planning Official.

B. Pre-application conference. Prior to applying for site plan approval, applicants should and may meet with the City Planning Official, Building Official and Public Works Director, or designees thereof, and present a preliminary plan which shall contain, in an approximate manner, the information required on a site plan review application.

1. The purpose of the preliminary site plan review is to enable the applicant to obtain advice from the City as to the intent, standards, criteria and provisions of this Chapter, this Code, other city ordinances, standards and regulations, and state and federal rules and regulations which may be pertinent to the proposal.

2. Information presented for preliminary discussion shall be considered confidential if so requested by the applicant.

15.312.040 Submittal Requirements
A property owner or authorized representative thereof may initiate a request for site plan review by filing an application with the City using forms prescribed by the City together with the required filing fee in accordance with the Type II application requirements in Article 7. In addition to the information required for a Type II review (see Article 7), the applicant shall submit that which is listed below.

A. Requirements for information to be submitted. Information provided on the site plan shall conform to the following. The number of copies required shall be as specified on the application form.
1. Drawings depicting the proposal shall be presented on sheets not larger than 24 inches by 36 inches in the number of copies directed by the City.

2. To facilitate public reviews and notice, at least one copy of the proposal shall be provided on a sheet of paper not larger than 11 inches by 17 inches.

3. Drawings shall be at a scale sufficiently large enough to enable all features of the design to be clearly discerned and shall include a north arrow and scale.

4. The City may require that the drawing, development plan or other information be provided to the City on computer disk in a format adaptable to the city’s computer systems.

B. Site analysis diagram. If required by the City Planning Official, this element of the site plan, which may be in schematic or free hand form to scale, shall indicate the following site characteristics.

1. Location and species of existing trees greater than six inches in diameter when measured four feet above the natural grade, and an indication of which trees are proposed to be removed.

2. On sites that contain steep slopes, potential geological hazard or unique natural features that may affect the proposed development, the city may require contours mapped at two-foot intervals.

3. Natural drainage ways, depths of any ground water tables less than 12 feet, any areas of surface water accumulations and any other significant natural features.

4. The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site, and all buildings, utilities, retaining walls, and other manmade features, both existing and proposed.

5. Natural features, including trees, riparian habitat and stream channels and structures on-site or on adjoining properties that have or may have a visual or other significant relationship with the site and the proposed development thereon.

C. Site photographs. Photographs depicting the site and its relationship to adjoining sites and the general area are extremely valuable, should be provided, and may be required by the City Planning Official.

D. Site development plan. The site plan shall indicate the following.

1. Legal description of the property.

2. Boundary dimensions and site area.

3. Location and sizes of existing and proposed utilities, including water lines, sewer lines, hydrants, etc.

4. Location of all existing and proposed structures, including distances from the property lines.

5. Area of the site to be covered by structures, existing and proposed, and the percentage of site coverage thereby.

6. All external dimensions of existing and proposed buildings and structures.
7. Location of building entrances and exits.

8. Access drives, parking and circulation areas, including their dimensions.

9. Service areas and delivery circulation plan for such uses as the loading and delivery of goods.

10. Locations, descriptions and dimensions of easements as may be applicable.

11. Grading and drainage plans and calculations, including spot elevations and contours at intervals close enough to convey their meaning.

12. Location of areas to be landscaped, including designated landscape materials/plants types and sizes.

13. Outdoor recreation and/or play areas.

14. Pedestrian and bicycle circulation, including existing and proposed onsite and offsite sidewalks.

15. Location of mechanical equipment not enclosed within a building, garbage disposal areas, utility appurtenances and similar structures.


17. Location, size and method of illumination of signs.


19. Other site elements which will assist in the evaluation of site development.

20. Location, names, surface and right-of-way widths and improvement standards of all existing and proposed streets within or adjacent to the proposed development.

21. Location of areas designated for snow storage, in accordance with the requirements of Section 18.86.060, and calculations of the area required by the minimum standard and the proposed area.

22. Information necessary to demonstrate compliance with Fire Code including, but not limited to, fire flow, apparatus access, and hydrant spacing.

E. **Accompanying written summary.** In addition to the foregoing site development plan requirements, a written summary of the proposal should be provided and may be required showing the following, (unless such is shown on the site development plan).

1. Commercial and nonresidential development. For commercial and nonresidential development:
   a. The square footage contained in the site area to be developed.
   b. The percentage of the area to be covered by structures when developed.
   c. The percentage of the area to be covered by parking areas and the total number of parking spaces.
   d. The total square footage of all landscaped areas, including the percentage consisting of natural materials and the percentage of hard surfaced areas such as courtyards.
e. Trip generation letter, signed by a professional engineer registered by the State of Oregon (unless waived by the City Planning Official). A Traffic Impact Analysis may be required in accordance with Section 15.90.080.

2. Residential development. For residential development:
   a. The total square footage of the lot or parcel and in the structures in the development.
   b. The number of dwelling units in the development (include the units by the number of bedrooms in each unit, for example, ten one-bedroom, 25 two-bedroom and the like).
   c. Percentage of lot coverage by structures, way areas, recreation areas and landscaping.
   e. Trip generation letter, signed by a professional engineer registered by the State of Oregon (unless waived by the City Planning Official). A Traffic Impact Analysis may be required in accordance with Section 15.90.080.

F. Landscape plan. If required by the City Planning Official, a landscape plan shall be submitted and shall indicate the following.

   1. The size, species and locations of plant materials to be retained or placed on site.
   2. The layout of irrigation facilities.
   3. Location and design details of walkways, plazas, courtyards and similar areas.
   4. Location, type and intensity of outdoor lighting.
   5. Location and design details of proposed fencing, retaining walls and trash collection areas.
   6. Other information as deemed appropriate by the review authority. An arborist’s report may be required for sites with mature trees that are to be retained and protected.

G. Architectural drawings. This element of the site plan review, if required by the City Planning Official, shall indicate the following.

   1. A plan specifying the building footprint and dimensions, including all points of access. Floor plans of interior spaces to the extent required to clarify access functions and the relationship of the spaces to decks, porches, balconies and stairs or other features shown on the building elevations. The floor plans shall be provided for all building floors and shall include appropriate dimensions.
   2. Exterior elevations showing building heights, windows, doors, exterior light fixtures, stairways, balconies, decks and other architectural details. These elevations shall be provided for every exterior wall surface, including those which are completely or partially concealed from view by overlapping portions of the structure. Existing and finished grades at the center of all walls shall be shown with elevations of floors indicated and a dimension showing compliance with height limitations.
   3. Location and type of exterior light fixtures, including the lamp types and the levels of illumination that they provide.
4. Location, size and method of illumination of all exterior signs.

H. Property survey. A survey of the property by a licensed land surveyor may be required, and if required the survey shall clearly delineate property boundaries, and show the location of the corners of proposed buildings and other significant features proposed for the site. The requirement for a survey of the exterior boundaries of a site may be waived where it is found that there is a recent survey that can be used to clearly establish the applicant’s property boundaries.

I. Deed restrictions. Copies of all existing and proposed restrictions or covenants, including those for roadway access control.

J. Narrative. A written narrative addressing the applicable criteria listed Section 15.312.050 for residential development and Sections 15.312.050 and 15.312.060 for non-residential development.

K. Other information as determined by the City Planning Official. The City Planning Official may require studies or exhibits prepared by qualified professionals to address specific site features or project impacts (e.g., traffic, noise, environmental features, natural hazards, etc.), as necessary to determine a proposal’s conformance with this Code.

15.312.050 Approval Criteria – All Residential and Non-Residential
To ensure that the stated purposes of the site plan review process are met, the review authority shall be governed by the criteria below as they evaluate and render a decision on a proposal.

A. Statement of intent.

1. The site plan review criteria are intended to provide a frame of reference for the applicant in the development of a site, building and landscape plans, as well as providing the City with a means of reviewing proposed plans.

2. These criteria provide a clear and objective means of evaluating residential development (and the residential components of a mixed use development) in accordance with ORS 197.

3. The review authority is not authorized as a part of the site plan review process to approve projects which exceed specific development standards set forth by the applicable zone unless the exceptions are approved in accordance with specific variance or other provisions set forth in this Code.

B. Site Plan Evaluation Criteria. The following criteria shall be used in evaluating all site development plans.

1. The application is complete, in accordance with the applicable procedures in Article 7;

2. The application complies with all applicable provisions of the underlying Zoning District in Article 3, including, but not limited to, setbacks, lot dimensions, density, lot coverage, building height, and other applicable standards;

3. The application complies with the provisions of the any applicable Overlay Zones in Article 4;

4. The proposal complies with all applicable Development and Design Standards of Article 5;
5. The application complies with all applicable Special Use standards in Article 6;

6. Adequate public facilities and utilities are available or can be made prior to occupancy to serve the proposed development;

7. The proposed Site Plan conforms to the standards within the adopted La Pine Transportation System Plan (TSP), as may be amended from time to time, unless other design standards are specifically approved by the City.

8. The proposed Site Plan conforms to the La Pine sewer and water standards, as may be amended from time to time, unless other design standards are specifically approved by the City. All sewer improvements must comply with Oregon Administrative Rules Chapter 340 Division 52 requirements, including Appendix A - Sewer Pipelines.

9. The proposed Site Plan conforms to the Central Oregon Stormwater Manual (COSM), as may be amended from time to time, unless other design standards are specifically approved by the City.

10. All utilities shall be installed underground, unless otherwise specifically approved by the City.

11. The proposal meets all existing conditions of approval for the site or use, as required by prior land use decision(s), as applicable.

Note: Compliance with other City codes and requirements, though not applicable land use criteria, may be required prior to issuance of building permits.

15.312.060 Additional Approval Criteria – Non-Residential Development

In addition to the approval criteria in Section 15.312.050, to ensure that the stated purposes of the site plan review process are met, the review authority shall also be governed by the criteria below as they evaluate and render a decision on a non-residential development proposal.

A. Statement of intent.

1. The site plan review criteria for non-residential development are intended to provide a frame of reference for the applicant in the development of a site, building and landscape plans, as well as providing the city with a means of reviewing proposed plans.

2. These criteria are not intended to be inflexible requirements, nor are they intended to discourage creativity. The specification of one or more architectural styles is not intended by these criteria.

3. The review authority is not authorized as a part of the design review process to approve projects which exceed specific development standards set forth by the applicable zone unless the exceptions are approved in accordance with specific variance or other provisions set forth in this chapter.

B. Site Plan evaluation criteria. In addition to the approval criteria in Section 15.312.050, the following criteria shall be used in evaluating non-residential site development plans.

1. The arrangement of all functions, uses and improvements has been designed so as to reflect and harmonize with the natural characteristics and limitations of the site and adjacent sites.
2. In terms of setback from streets or sidewalks, the design creates a visually interesting and compatible relationship between the proposed structures and/or adjacent structures.

3. The design incorporates existing features, such as streams, rocks, slopes, vegetation and the like, as part of the overall design.

4. Where appropriate, the design relates or integrates the proposed landscaping/open space to the adjoining landscape/open space in order to create a pedestrian/bike pathway and/or open system that connects several properties or uses.

5. The arrangement of the improvements on the site do not unreasonably degrade the scenic values of the community and the surrounding area in particular.

6. Where appropriate, the design includes a parking and circulation system that encourages a pedestrian and/or bicycle rather than vehicular orientation, including a separate service area for delivery of goods.

7. The design gives attention to the placement of storage, mechanical equipment, utilities or waste collection facilities so as to screen such from view, both from within and from outside the site.

C. **Landscape design evaluation criteria.** The following criteria shall be used in evaluating landscape plans.

1. The overall design substantially complements the natural environment of the city and the character of the site and the surrounding area.

2. The design acknowledges the growing conditions for this climatic zone, and the unique requirements that its specific site location makes upon plant selection.

3. Provision has been made for the survival and continuous maintenance of the landscape and its vegetation.

4. The design contributes to the stabilization of slopes and the protection of other natural features and resources where applicable.

**15.312.070 Conditions of Approval**

In addition to the standards and conditions set forth in a specific zone, (if found to be necessary and supported with adequate findings) additional conditions may be imposed by the City which are found to be necessary to avoid a detrimental impact on adjoining properties, the general area or the city as a whole, and to otherwise protect the general welfare and interests of the surrounding area. The conditions may include, but are not limited to, the following.

A. Limiting the manner in which the use is conducted, including restricting the time an activity may take place, and restrictions to minimize environmental impacts such as noise, vibration, air or water pollution, glare and odor.

B. Establishing a special setback or other open space requirements, and increasing the required lot size or other dimensional standards.

C. Limiting the height, size or location of a building or other structure or use.
D. Increasing street width and/or requiring improvements to public streets and other public facilities serving the proposed use, even including those off-site but necessary to serve the subject proposal.

E. Designating the size, number, improvements, location and nature of vehicle access points and routes, and requiring pedestrian and/or bicycle ways.

F. Limiting or otherwise designating the number, size, location, height and lighting of signs and outdoor or security lighting, and the intensity and/or direction thereof.

G. Requiring screening, fencing or other improvements or facilities deemed necessary to protect adjacent or nearby properties, and establishing requirements or standards for the installation and maintenance thereof.

H. Protecting and preserving existing trees, other vegetation and water, scenic, historic, archaeological, unique, landmark or other natural or manmade significant resources.

15.312.080 Revision of Plans
Construction documents (that is, plans, drawings and specifications) shall conform to all aspects of the approved design review plan. Where circumstances, unknown or unforeseen at the time the plans are approved, make it undesirable or unfeasible to comply with some particular aspect of the approved plan, the applicant shall request in writing that the city review needed and/or proposed modifications. The review authority that originally approved the plans shall review the proposed modifications to determine whether they constitute a major or minor revision of the approved plans.

A. Major modifications.

1. Major modifications are those which result in a significant change in the initial plans. The following are examples of major modifications: changes in the siting of a building; modification of areas to be landscaped; and modifications to a plan element that was the subject of a design review authority condition of approval.

2. If the review authority determines that the proposed change is a major modification, the proposed alteration shall be reviewed and processed in the same manner as the original application and as a new application, however the fee shall only be 50% of the original application fee.

B. Minor modifications.

1. Minor modifications are those which result in an insignificant change in the initial plans. Examples are: limited dimensional or locational changes to building elements such as doors; changes in building materials where only a limited area is affected; and substitution of landscape materials which do not affect the overall landscape design.

2. If the city determines that the proposed change is a minor modification, the review authority may proceed with the review of the plans; however, if the review authority is different than the original review authority, the original review authority shall be notified of the proposed change and given an opportunity to comment relative thereto prior to final approval of such change.
15.312.090 Performance Assurance

A. Landscaping and other site improvements required pursuant to an approved design review plan shall be installed prior to the issuance of a certificate of occupancy or final inspection, unless the property-owner and/or applicant submits a performance assurance device that is approved by the city committing the installation of landscaping and other site improvements within one year.

B. In no case shall the performance be delayed beyond the one-year period for more than six months unless approved otherwise by the City. Acceptable performance assurances shall be in compliance with the provisions of this chapter or as otherwise approved by the City.

C. Performance Guarantee Required for Infrastructure Improvements. The City at its discretion may allow a developer to delay installation of required public infrastructure improvements provided such infrastructure improvements must be complete and accepted by the City prior to the issuance of a certificate of occupancy, and provided that the applicant provides assurance for said improvements acceptable to the City. The applicant shall provide a bond issued by a surety authorized to do business in the state of Oregon, irrevocable letter of credit from a surety or financial institution acceptable to the City, cash, or other form of security acceptable to the City.
Chapter 15.316 - Conditional Uses

Section

15.316.010 Applicability
15.316.020 Procedure Type
15.316.030 Submittal Requirements
15.316.040 Approval Criteria
15.316.050 Permit and Improvements Assurance

15.316.010 Applicability
Conditional uses may be permitted, enlarged or otherwise altered when authorized in accordance with the standards and procedures set forth in this Chapter. In the case of a use listed as conditional existing prior to the effective date of this Code, a change in use, enlargement or alteration of such use shall conform with the provisions of a conditional use if so classified. Any new or transferred owner or assign is required to abide by the authorized permit. An application for a conditional use permit may be approved, modified, approved with conditions or denied by the City.

15.316.020 Procedure Type
Applications for Conditional Use approval are subject to Type II Review in accordance with the procedures in Article 7 unless elevated by the City Planning Official to a Type III Review.

15.316.030 Submittal Requirements
Applications for Conditional Use approval, if not submitted concurrently with an application for Site Plan Review, shall at a minimum, include the materials required for a Type II review as specified in Article 7 as well as a site analysis diagram (see 15.312.040(B)) and a site development plan (see 15.312.040(D)). An application for a Conditional Use Permit shall also contain a narrative report or letter responding to the applicable approval criteria in Section 15.316.040. The City may require studies or exhibits prepared by qualified professionals to address specific site features or project impacts (e.g., traffic, noise, environmental features, natural hazards, etc.), as necessary to determine a proposal’s conformance with this Code.

15.316.040 Approval Criteria
In determining whether or not a conditional use proposal shall be approved or denied, it shall be determined that the following criteria are either met or can be met through compliance with specific conditions of approval.

A. The proposal is in compliance with the requirements set forth by the applicable primary zone, by any applicable overlay zone, and other provisions set forth by this Code that are determined applicable to the subject use.

B. That, for a proposal requiring approvals or permits from other local, state and/or federal agencies, evidence of the approval or permit compliance is established or can be assured prior to final approval.

C. The proposal is in compliance with specific standards, conditions and limitations set forth for the subject use in the applicable zone, this section and this Code.
D. That no approval be granted for any use which is or expected to be found to exceed resource or public facility carrying capacities, including but not limited to: transportation water, sewer, and utility systems.

E. For any use which is found to require compliance with air, water, land, solid waste and/or noise pollution standards, that the compliance be a condition of approval and compliance therewith shall be a continuing condition.

15.316.050 Permit and Improvements Assurance
An applicant for a conditional use permit may be required to furnish the City with a performance bond or other form of assurance in an amount equal to the estimated value of required improvements and other aspects of a proposed use as deemed necessary to guarantee development in compliance with the standards and conditions set forth in the approval of a conditional use.
Chapter 15.318 - Mobile Food Unit Site Permit

Section
15.318.010 Purpose
15.318.020 Applicability
15.318.030 Procedure Type
15.318.040 Submittal Requirements
15.318.050 Approval Criteria
15.318.060 Conditions of Approval
15.318.070 Approval Period and Time Extension
15.318.080 Grounds for Revocation

15.318.010 Purpose
Mobile food units, which are defined in OAR 333-150-0000, can provide opportunities to enliven under-utilized parking lots, allow individual entrepreneurship at a small scale, and provide unique eating establishments for the public. The purpose of this section is to allow for mobile food unit sites or “cart pods” where mobile food units (carts) can be parked on a long-term basis. As with temporary uses, permanent site improvements may not be required; however, the standards of this section are intended to ensure that mobile food unit sites are conducted as lawful uses and in a manner that is not detrimental or disruptive in terms of appearance or operation to neighboring properties and residents.

15.318.020 Applicability
Mobile food unit site permits are required for the setup and operation of mobile food unit sites. The following uses do not require a mobile food unit site permit:

A. Locations where mobile food units are stored when not in operation; however, the storage of commercial vehicles may be subject to other requirements of this Code.

B. Mobile food units and other mobile vending units that are operated as part of a City-approved event.

15.318.030 Procedure Type
Mobile food unit site permits will be processed in accordance with the procedures in Article 7 as follows:

A. Type I. Up to two carts on one site with no accessory structures other than trashcans and portable accessory items, such as picnic tables, will be processed through a Type I Procedure, in accordance with Section 15.204.010.

B. Type II. Up to four carts on one site and/or new accessory structures constructed in accordance with Section 15.108.070(B)(2) will be processed through a Type II Procedure, in accordance with Section 15.204.020.

C. Type III. Five or more carts on one site and/or improvements or new accessory structures other than those permitted through Type I or Type II will be processed through a Type III Procedure, in accordance with Section 15.204.030. New structures greater than two hundred (200) square feet in size shall be subject to the Deschutes County Building Code.
15.318.040 Submittal Requirements
An application for a mobile food unit site permit shall include the following:

A. A completed application form on a form provided by the City Planning Official;

B. Information sufficient to address the special use regulations that apply to mobile food units, as specified in Section 15.108.020; and

C. A site plan of the subject property drawn to scale and including:
   1. The lot lines;
   2. The location of existing structures;
   3. The proposed boundaries of the mobile food unit site. Within the boundaries of the mobile food unit site, the location of all mobile food units, seating areas, and any accessory items or structures shall be shown;
   4. The proposed distance between the mobile vending unit site and adjacent lot lines, as well as the proposed separation distance between units and between units and other on-site structures;
   5. The type and location of any proposed on-site utility connections for mobile food units;
   6. The location of existing loading areas, driveways, on-site circulation drives, parking lot aisles, bicycle and automobile parking spaces, and walkways;
   7. The orientation of service windows and doors on the mobile food units and location of queuing areas;
   8. The location of existing landscaping; and
   9. The dimensions, height, and location of proposed A-Frame signs.

15.318.050 Approval Criteria
Application for a mobile food unit site permit must satisfy the following approval criteria.

A. The proposed mobile food unit site is designated as a permitted or conditional use in the applicable zone. If a conditional use, a conditional use application has been submitted and approved by the City.

B. The mobile food unit site meets the applicable standards of the base zone (Article 3), any overlay zones (Article 4), and general development standards (Article 5).

C. The mobile food unit site conforms to the special use regulations of Article 6, Section 15.108.020.

D. The mobile food unit site complies with any applicable conditions of approval in prior land use decisions concerning the site.

15.318.060 Conditions of Approval
The approval body may impose conditions upon the approval of a mobile food unit site permit to ensure
compliance with the requirements of this chapter. These conditions may include, but are not limited to, the following:

A. Further limiting the hours, days, place and manner of operation;

B. Requiring site and building design features which minimize environmental impacts such as noise, glare, and odor;

C. Requiring additional building setbacks;

D. Further limiting the building area and outdoor storage used by the mobile food unit site and restricting the location of the use on the site in relationship to adjoining uses;

E. Designating the size, number, location and design of vehicle access points;

F. Requiring landscaping, buffering and/or screening, of the mobile food unit site from adjoining uses and establishing standards for the continued maintenance of these improvements;

G. Requiring storm drainage improvements, and surfacing of parking and loading areas;

H. Limiting or setting standards for the location and intensity of outdoor lighting;

I. Requiring and designating the size, height and location of fences and materials used for their construction;

J. Requiring the protection and preservation of existing trees, and other vegetation, watercourses, slopes, wildlife habitat areas and drainage areas;

K. Limiting the type and number of vehicles or equipment to be parked or stored on the site;

L. Any other limitations which the staff considers to be necessary or desirable to make the use comply with this chapter; and

M. Any limitations or conditions imposed by the City’s service providers, including but not limited to State Fire Marshal, La Pine Fire District and Deschutes County.

15.318.070 Approval Period and Time Extension
A mobile food unit site approval is valid for four years from the date of the final written decision. If the City's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void. “Implemented” means all necessary development permits shall be obtained and maintained for the approved development. At the end of any four-year period, the applicant may apply for another four-year permit by filing a new, Type II application.

15.318.080 Grounds for Revocation
The City Planning Official may:

A. Revoke a mobile food unit site permit approval if the conditions of approval have not been or are not being complied with and the mobile food unit site is otherwise being conducted in a manner contrary to this code.
B. The City Planning Official shall approve the use as it exists, revoke the mobile food unit site permit, or compel measures to be taken to ensure compatibility with the neighborhood and conformance with this section after reviewing a complaint. Complaints may be originated by the City of La Pine or the public. Complaints from the public shall clearly state the objection to the mobile food unit site, such as:

1. Generation of excessive traffic;

2. Generation of excessive noise or litter;

3. Other offensive activities not compatible with the surrounding area.

C. Waiting Period for Reapplication. When a mobile food unit site permit has been revoked due to violation of these standards, a minimum period of one year shall elapse before another application for a mobile food unit site on the subject parcel will be considered.
Chapter 15.320 - Variances

Section
15.320.010 Applicability
15.320.020 Procedure Type
15.320.030 Submittal Requirements
15.320.040 Approval Criteria (except for Riparian Variances)
15.320.050 Approval Criteria for Riparian Variances

15.320.010 Applicability

A. Variance. Variances from the provisions and requirements of this chapter may be approved in accordance with the provisions of this section.

B. Minor Variance. A minor variance is a variance to an area or dimensional standard of this Code that meets one of the following conditions. Only one such variance may be granted for any one lot, parcel or tract of land.

1. Involves a deviation from a minimum lot size requirement of not more than 10%.

2. Involves a deviation from a yard or setback requirement of not more than 25%.

3. Involves a request for the expansion of a nonconforming use by not more than 10%.

C. Riparian Variance. In cases where the limitations on activities within the significant riparian corridor unduly restricts the development of a lot or parcel legally created before the effective date of this Code, a property owner may request a Riparian Variance.

15.320.020 Procedure Type

A. Minor Variance. An application for a minor variance is subject to Type II review in accordance with the procedures in Article 7.

B. Variance. All variance applications (other than for minor variances) are subject to Type III review in accordance with the procedures in Article 7.

C. Riparian Variance. All riparian variance applications are subject to Type III review in accordance with the procedures in Article 7.

15.320.030 Submittal Requirements

A. Minor Variance. An application for a minor variance shall include the materials required for a Type II review as specified in Article 7.

B. Variance. All variance applications (other than for minor variances) shall include the materials required for a Type III review as specified in Article 7.
C. **Riparian Variance.** All riparian variance applications shall include the materials required for a Type III review as specified in Article 7.

D. **Additional information required.** The City may require studies or exhibits prepared by qualified professionals to address specific site features or project impacts (e.g., traffic, noise, environmental features, natural hazards, etc.), as necessary to determine a proposal’s conformance with this Code.

15.320.040 **Approval Criteria (except for Riparian Variances)**
A variance may be granted unqualifiedly, or may be granted subject to prescribed conditions and limitations, provided that the following findings are evident.

A. That the literal application of specific provisions of the Code would create practical difficulties for the applicant resulting in greater private expense than public benefit. However, a variance is not to be granted simply because it would afford the owner a higher profit or prevent a mere inconvenience.

B. That the condition creating the difficulty is not general throughout the surrounding area, but is unique to the applicant’s site or property; therefore, the granting of the requested variance will not set a precedent for future applications.

C. That the condition was not created by the applicant. A self-created difficulty will be found if the applicant knew or should have known of the specific restriction or provision at the time the site was purchased. Self-created hardship also results when an owner and/or developer negligently or knowingly violates a provision of this Code.

D. No variance shall be granted that would allow the use of property for a purpose not authorized within the zone in which the proposed use or development is located.

E. In granting a variance, conditions may be attached that are found necessary to protect the best interests of the adjoining or surrounding properties or the vicinity, and to otherwise achieve the purposes of this Code, including the specific applicable zone, and the objectives and policies of the City's Comprehensive Plan.

15.320.050 **Approval Criteria for Riparian Variances**
A riparian variance may be granted unqualifiedly, or may be granted subject to prescribed conditions and limitations, provided that the following findings are evident.

A. The proposed development represents a reasonable and legal use of the lot or parcel, considering the zoning;

B. Strict adherence to the applicable standards of the significant Riparian Corridor overlay would effectively preclude a use of the parcel that could be reasonably expected to occur in similarly zoned parcels; and

C. The property owner would be precluded a substantial property right enjoyed by the majority of landowners in the vicinity.

D. The variance is the minimum necessary to retain a use of the property.
E. Granting the variance will not be materially detrimental to the public welfare or be injurious to property or improvements in the neighborhood of the premises.

F. The variance will be in general harmony with the intent and purpose of this Code, and will not adversely affect any officially adopted comprehensive plan provision.
Chapter 15.324 - Exceptions

Sections
15.324.010 Applicability
15.324.020 Procedure Type
15.324.030 Submittal Requirements
15.324.040 Approval Criteria
15.324.050 Conditions, guarantees and validity period

15.324.010 Applicability
Where authorized by this Code, exceptions may be allowed by the City for a use or structure that may not be appropriate generally or without restriction throughout a zone but which, if controlled as to number, area, location or relation to neighborhood, would promote the public health, safety, welfare, comfort, convenience or the general welfare.

15.324.020 Procedure Type
The Planning Official shall refer all applications and accompanying materials to the Planning Commission for review and consideration consistent with Type III Review in accordance with Article 7.

15.324.030 Submittal Requirements
All applications for an exception shall be submitted to the City. A site plan may be required for an exception and it shall be submitted with the application. The application may also be accompanied by any other material or information necessary to demonstrate that the grant of an exception will be in harmony with the general intent and purpose of these zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public interest.

15.324.040 Approval Criteria
Exceptions may be approved when all of the following conditions can be met:

A. The establishment, maintenance, or operation of the exception will not be detrimental to, or endanger the public health, safety, or general welfare of the community.

B. The exception will not significantly affect the uses of other property in the immediate vicinity for the purposes already permitted.

C. The proposed use will not create a look of clutter, garishness, glare or creates an obnoxious noise level, or would generate any other incompatibility with surrounding neighborhood.

D. The use furthers the purposes of this Code which implements the Comprehensive Plan.

E. The establishment of the exception will not impede the normal and orderly development and improvement of the surrounding property.

F. Adequate facilities, access roads, drainage and/or necessary services will be provided.
G. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

H. If the exception involves a public use or a use providing public utility service, that such use or service shall meet a demonstrable public need and provide a public benefit.

I. Lot area, lot width and setbacks meet or exceed minimum requirements and are adequate for the proposed use. When there is an existing nonconforming structure, this provision may be waived by the City.

15.324.050 Conditions, guarantees and validity period

A. Prior to the granting of any exception, the City may place conditions and restrictions upon the establishment, location, construction, maintenance and method or hours of operation of the exception as is deemed necessary for the protection of the public interest and to secure compliance with the standards specified in paragraph 5(a). In all cases in which exceptions are subject to conditions, the City may require evidence and guarantees as it may deem necessary (as proof that the stipulated conditions are being and will be complied with).

B. Exceptions shall expire if the use is discontinued for a period of eight (8) months. If a building permit is required, and has not been obtained within twelve (12) months of the issuance of the exception permit, the applicant must request in writing and the Planning Commission may approve an extension if it finds there is no significant change to warrant a new special use permit application.

C. Exceptions shall become effective upon approval by the City. A record of the exception shall be kept in the City’s files.

D. Failure to comply with all provisions or conditions placed on an exception permit shall render the permit void and require reapplication or in some cases be deemed a violation of this Code and enforceable under the provisions of this Code.

E. Any requested changes to an exception shall be reviewed in the same manner as the original request. In some cases, such changes may require a determination of a more appropriate process such as Variance or Similar Use authorization.
Chapter 15.328 – Declaratory Rulings

Sections
15.328.010 Availability of Declaratory Ruling
15.328.020 Persons who May Apply
15.328.030 Procedures
15.328.040 Effect of Declaratory Ruling

15.328.010 Availability of Declaratory Ruling

A. Subject to the other provisions of this section, there shall be available for the City's Comprehensive Plan and this Code a process for:

1. Interpreting a provision of the Comprehensive Plan, this Code and other land use regulations in which there is a doubt or dispute as to its meaning or application;

2. Interpreting a provision or limitation of a development approval issued by the City in which there is doubt or a dispute as to its meaning or application;

3. Determining whether an approval has been initiated or considering the revocation of a previously issued development approval;

4. Determining the validity and scope of a non-conforming use; and

5. Lot of record.

Such a determination or interpretation shall be known as a “declaratory ruling” and shall be processed in accordance with this chapter. In all cases, as part of making a determination or interpretation the Development Services Director (where appropriate) or Hearings Body (where appropriate) shall have the authority to declare the rights and obligations of persons affected by the ruling.

B. A declaratory ruling shall be available only in instances involving a fact-specific controversy and to resolve and determine the particular rights and obligations of particular parties to the controversy. Declaratory proceedings shall not be used to grant an advisory opinion. Declaratory proceedings shall not be used as a substitute for seeking an amendment of general applicability to a legislative enactment.

C. Declaratory rulings shall not be used as a substitute for an appeal of a decision or for a modification of an approval. In the case of a ruling on a City development approval, a declaratory ruling shall not be available until 60 days after a decision is final.

D. The City Planning Official may refuse to accept and the Hearings Body may deny an application for a declaratory ruling if:

1. The Development Services Director or Hearings Body determines that the question presented can be decided in conjunction with approving or denying a pending application or if the requested determination should be made as part of a decision on a development application not yet filed; or
2. The Development Services Director or Hearings Body determines that there is a proceeding in which the same issue necessarily will be decided as to the applicant.

**15.328.020** Persons Who May Apply.

A. The following persons may initiate a declaratory ruling under this chapter:

1. The owner of a property requesting a declaratory ruling relating to the use of the owner’s property;

2. In cases where the request is to interpret a previously issued development approval, the holder of the approval; or

3. The City Planning Official.

No other person shall be entitled to initiate a declaratory ruling.

B. A request for a declaratory ruling shall be initiated by filing an application with the City Planning Official and, except for applications initiated by the City Planning Official, shall be accompanied by the applicable fee. Each application for a declaratory ruling shall include the precise question on which a ruling is sought. The application shall set forth whatever facts are relevant and necessary for making the determination and such other information as may be required by the City Planning Official.

**15.328.030** Procedures

Declaratory rulings shall be processed as either a Type II or Type III application.

**15.328.040** Effect of a Declaratory Ruling

A. A declaratory ruling shall be conclusive on the subject of the ruling and bind the parties thereto as to the determination made.

B. Parties to a declaratory ruling shall not be entitled to reapply for a declaratory ruling on the same question.

C. Except when a declaratory ruling is made by the City Council, the ruling shall not constitute a final policy of the City of La Pine.

D. Appeals of a declaratory ruling are governed by Article 7.
Chapter 15.330 - Street Vacations

Sections
15.330.010 Procedures
15.330.020 Plat Must Be Filed
15.330.030 Approval Criteria for Vacating Streets
15.330.040 Preliminary Consideration of Petition
15.330.050 Hearing Required
15.330.060 Fees
15.330.070 Bond or Cash Deposit
15.330.080 Consent to Vacation for City as Owner
15.330.090 Vacation on Council’s Own Motion; Notification
15.330.100 Satisfaction of Conditions
15.330.110 Recordation
15.330.120 Relationship to State Law

15.330.010 Procedures
In addition to the procedures outlined in this chapter, the provisions applicable to a vacation, set forth in ORS 271, shall apply to each vacation. Alternative procedures therein allowed may be followed.

A. Any person may file a petition with the City Recorder for vacation of any property dedicated to or owned by the public. The petition must include a description of the property proposed to be vacated, the purpose for which the vacated property ground is proposed to be used and the reason for the vacation.

B. The person petitioning to vacate a public right-of-way shall deposit with the City the amount set by City Council resolution for the cost of publishing and posting notices of the proposed vacation and other expenses. If the actual cost exceeds the amount of the deposit, the petitioner shall pay the deficiency before the vacation is completed. If the actual costs are less than the amount deposited, the excess shall be refunded.

C. The petition shall contain the information required by State law, and:

1. A title report showing ownership of the property abutting the area proposed to be vacated and in the affected area; and

2. A tax map showing the area proposed to be vacated and the affected area.

15.330.020 Plat Must Be Filed
No vacation of a street, public place or plat shall become effective until the ordinance providing for the vacation and where applicable, a plat, has been recorded with the office of the County Clerk of Deschutes County. The cost of the filing and the preparation of the plat shall be paid by the person petitioning for the vacation.
15.330.030 Approval Criteria for Vacating Streets

A. In considering whether the vacation will prejudice the public interest, the City Council will consider the following factors, as relevant:

1. The area proposed to be vacated is not needed presently, and is not identified in any adopted plan, for public services or amenities, transportation functions, utility functions, stormwater functions, tree planting/retention, pedestrian amenities, or community or commercial uses.

2. The vacation does not prevent the extension of, or the retention of public services or amenities, transportation functions, utility functions, and stormwater functions.

3. Public services, transportation functions, or utilities can be extended in an orderly and efficient manner in an alternate location or through an easement within the subject property;

4. The vacation does not impede the future best use, development of, or access to abutting property;

5. The area of the vacation is not presently, or will not in the future be, needed as part of an interconnected system of public streets that is generally consistent with the street connection and bicycle/pedestrian spacing requirements in this Code and the La Pine Transportation System Plan.

B. When approving, or approving in part, a petition to vacate a street the City Council may make reservations or conditions. Reservations or conditions may pertain to:

1. The maintenance and use of underground public utilities or service facilities in the portion vacated;

2. Limitations on use of the area above and adjacent to underground utilities or service facilities;

3. Moving at petitioner’s expense the utility or service facilities either below, on or above the surface;

4. Construction, extension or relocation of sidewalks and curbs, multi-use paths, trails, or other similar pedestrian or bicycle facilities;

5. Grading or pavement extensions;

6. Dedication for street use or other area in lieu of the area to be vacated;

7. Replat; and

8. Any other matter of like or different nature relating to the vacated area and remaining or relocated street area adjacent to petitioner’s property, or area dedicated in lieu of the vacation area.

15.330.040 Preliminary Consideration of Petition

A. Pursuant to ORS 271.080 through 271.100, when a petition for the vacation of a street or public place is presented to the City, the City Manager or other City designee shall review the petition as provided by the statutes and shall submit the petition to the other City departments for review. The City Manager shall place the matter on the City Council agenda for initial consideration. The City Manager may include a
recommendation as to whether the Council should reject or deny the petition. If the recommendation is to reject the petition, notice to the petitioner shall be provided prior to Council’s consideration of the matter. On initial consideration, the Council may accept the petition and require staff to process the petition, or reject the petition without consideration. Rejection may occur only after notice to the petitioner.

B. If Council accepts the petition, it shall be reviewed by City staff for a determination of whether payment is appropriate to service the public interest and, if so, the amount of the payment. Staff shall notify all affected public utility companies of the petition. Any responses from the utility companies shall be included in the materials provided to Council at or prior to the hearing.

15.330.050 Hearing Required

A. The City Council shall conduct a public hearing. At the hearing, the affected property owner(s) and any other person may present evidence regarding any aspect of the vacation. The Council may approve the vacation in whole or in part if it finds it in the public interest to do so, and must deny the vacation if it finds that the vacation is not in the public interest. Approval of a vacation is by ordinance, denial may be by resolution. Any approval may include conditions or reservations to protect the public interest.

B. The City Council, upon hearing the petition, may grant the same in whole or in part or deny it in whole or in part, and may make reservations or conditions as appear to be in the public interest. The reservations or conditions may pertain to:

1. The maintenance and use of underground public utilities or service facilities in the portion vacated;
2. Limitations on use of the area above and adjacent to underground utilities or service facilities;
3. Moving at petitioner’s expense of utility or service facilities either below, on or above the surface;
4. Construction, extension or relocation of sidewalks and curbs;
5. Grading or pavement extensions;
6. Dedication for street use or other area in lieu of the area to be vacated;
7. Easements;
8. Replat;
9. Payment of fair compensation for the value of the land vacated; and
10. Any other matter of like or different nature relating to the vacated area and remaining or relocated street area adjacent to petitioner’s property, or area dedicated in lieu of the vacation area.

15.330.060 Fees

A. Whenever a request for a petition for the vacation of a street, public place or plat, or any part thereof is presented to the City Manager, the person making the request shall pay to the City Manager a fee for
preparation of the petition for vacation. The fee for this service shall be established annually by the City Manager and shall recover full costs including all applicable overhead charges.

B. When a completed petition is presented to the City for filing and consideration by the Council, the person presenting the petition for the vacation shall pay to the City a fee, established by the City Manager, to cover the estimated costs of processing the petition. All departments involved in processing a vacation shall keep records of the costs incurred on each individual vacation proceeding and shall submit such costs to the City Manager prior to passage of the vacating ordinance. If the actual cost of advertising and expenses, and all processing costs, including employee salaries and applicable overheads, related to the vacation exceed the fee collected, a sum sufficient to cover all such costs shall be collected before the vacation is completed, and payment thereof shall be a condition of the vacating ordinance.

C. If the petition is wholly denied, the City may retain from the deposit only the cost of publishing and posting.

15.330.070 Bond or Cash Deposit

A. When the City Council is petitioned to vacate any street, public place or plat or part thereof, in which water mains, fire hydrants, police or fire alarm system, gas mains, steam heating mains, conduits, sewer mains or laterals, manhole structures, poles, wires or other utility or public service facilities are constructed and maintained, and the proposed vacation will require the removal of the utility or public service facilities or any portion of them, or if curbs or sidewalks are required to be extended or relocated, or if grading or additional paving is required, the ordinance vacating the street or part thereof may provide that the vacation shall not be effective unless the petitioner shall file with the City their acceptance of the terms and provisions of the ordinance together with a surety bond or cash deposit, in such sum as shall be fixed by the City Council.

B. The surety bond or cash deposit shall be to the effect that, in the event the vacation is granted, the petitioner will, within 90 days or such other time as the City Council may fix after the vacation ordinance is effective, remove or have removed by the owner, all or any part of the utility or public service facilities as required by the vacation ordinance and reconstruct and relay the facilities or have them reconstructed and relaid by the owner in the places as may be required by the City, and obtain other work permits as required by the ordinance in the manner directed by the City, all at the expense of the petitioner.

15.330.080 Consent to Vacation for City as Owner

Whenever City owned property abuts area of a street or plat sought to be vacated by petition, or is located within "affected area" fixed by statute, the Mayor may sign consent to the vacation as an owner for the purpose of City Council jurisdiction and consideration.

15.330.090 Vacation on Council’s Own Motion; Notification

Whenever the City Council shall initiate vacation proceedings on its own motion, the City shall give notice of the proposed action and hearing to all owners of real property affected thereby. The real property affected thereby shall be deemed to be the land lying on either side of the street or portion thereof proposed to be vacated and extending laterally to the next street that serves as a parallel street, but in any case, not to exceed 200 feet, and the land for a like lateral distance on either side of the street for 400 feet along its course beyond each terminus.
of the part proposed to be vacated. When a street is proposed to be vacated to its termini, the land embraced in an extension of the street for a distance of 400 feet beyond each terminus shall also be counted. Whenever the Council shall initiate proceedings to vacate a plat or portion thereof, the City shall notify all property owners within such plat or part thereof proposed to be vacated of the proposed action and hearing.

The notification required by this Section shall be given not less than 28 days before the hearings on the proposed action.

15.330.100 Satisfaction of Conditions
A vacation ordinance that contains conditions of approval shall not be effective and may not be recorded until the conditions are fully complied with.

15.330.110 Recordation
A. A certified copy of a vacation ordinance shall be filed for record with the County Clerk by the City Recorder after all conditions are met. The Recorder shall also provide a copy of the ordinance after it is recorded with the County Assessor, County Surveyor and each affected public utility.

B. No vacation shall be effective until the ordinance vacating the property is recorded by the City Recorder with the County Clerk.

15.330.120 Relationship to State Law
The provisions in this chapter are in addition to the provisions of ORS 271.080 through 271.230, but do not supersede them.
Chapter 15.332 - Dedications Not Part of Development

Section:
15.332.010  Dedications Not Part of Development

15.332.010  Dedications Not Part of Development

A. Application. Any person desiring to create a street or road not part of a subdivision, PUD, partition or other land development shall make written application to the City Planning Official. The application shall be made on prescribed forms and shall be accompanied by the required information and applicable filing fee.

B. Minimum Design Standards. The minimum standards of design and improvement for the dedication of a street or road not part of a land development shall be the same as set forth in this Code for streets or roads within a land development unless approved otherwise by the City. The street or road shall also be in compliance with other applicable street standard regulations of the city, county or state.

C. Procedures.

1. Upon receipt of a written application, together with other required information and the appropriate filing fee, the City Planning Official shall refer the proposal to the City Street Superintendent for review and recommendation. A copy of the application shall also be referred to the Planning Commission for review and recommendation at the first regularly scheduled meeting following receipt of the application; referral to the Commission shall be accomplished at least five working days prior to a meeting.

2. Where the proposed road or street provides access to a county road and/or a state highway, the necessary permits for such access from the appropriate agency (ies) shall be obtained prior to City approval of the road or street.

3. The Planning Commission and City Public Works Director shall report their findings to the City Planning Official, and shall give their recommendations concerning the proposed dedication and the improvements. The Planning Commission shall also recommend a functional classification for the proposed street or road.

4. Upon receipt of written findings and recommendations from the Planning Commission and Public Works Director, the City Planning Official shall submit the proposal to the City Council for review and decision.

5. Upon preliminary approval by the City Council, the engineering and improvements design of the street or roadway shall be prepared and submitted to the City Public Works Director for review and approval. The engineering and improvements design shall be prepared and signed by a licensed engineer, and shall be in compliance with applicable City standards and regulations.

6. Following approval of the roadway engineering and design, the applicant shall prepare a warranty deed dedicating the street or road to the public and an improvement guarantee. The documents shall be submitted to the City Attorney for review and approval.
7. Following receipt of the approvals set forth in divisions (5) and (6) of this Section, the deed and improvements guarantee shall be submitted to the City Council for final approval.
Chapter 15.334 - Text and Map Amendments

Sections
15.334.010 Purpose
15.334.020 Applicability
15.334.030 Procedure Type
15.334.040 Criteria
15.334.050 Transportation Planning Rule Compliance

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

15.334.020 Applicability
A. Legislative amendments generally involve broad public policy decisions that apply to other than an individual property owner. These include, without limitation, amendments to the text of the comprehensive plans, development code, or changes in zoning maps not directed at a small number of property owners. The following amendments are considered generally considered legislative.

1. All text amendments to Development Code or Comprehensive Plan (except for corrections).
2. Amendments to the Comprehensive Plan Map and/or Zoning Map that affect more than a limited group of property owners.

B. Amendments to the Comprehensive Plan and/or Zoning Map (Zone Change) that do not meet the criteria under subsection A may be processed as Quasi-Judicial amendments. However, the distinction between legislative and quasi-judicial changes must ultimately be made on a case-by-case basis with reference to case law on the subject.

C. Requests for Text and Map amendments may be initiated by an applicant, the Planning Commission, or the City Council. The City Planning Official may request the Planning Commission to initiate an amendment. Initiations by a review body are made without prejudice towards the outcome.

15.334.030 Procedure Type
A. Legislative amendments are subject to Type IV review in accordance with the procedures in Article 7.

B. Quasi-judicial amendments are subject to Type III review in accordance with the procedures in Article 7 except that quasi-judicial Comprehensive Plan amendments and Zone changes which must be adopted by the City Council before becoming effective.
15.334.040 Approval Criteria
Planning Commission review and recommendation, and City Council approval, of an ordinance amending the Zoning Map, Development Code, or Comprehensive Plan shall be based on all of the following criteria:

A. The proposal must be consistent with the Comprehensive Plan (the Comprehensive Plan may be amended concurrently with proposed changes in zoning). If the proposal involves an amendment to the Comprehensive Plan, the amendment must be consistent with the Statewide Planning Goals and relevant Oregon Administrative Rules; and

B. The proposal must be found to:
   1. Be in the public interest with regard to community conditions; or
   2. Respond to changes in the community, or
   3. Correct a mistake or inconsistency in the subject plan or code; and

C. The amendment must conform to Section 15.344.060, Transportation Planning Rule Compliance; and

D. For a Quasi-Judicial Zone Change the applicant must also provide evidence substantiating that the following criteria are met:
   1. Approval of the request is consistent with applicable Statewide Planning Goals;
   2. Approval of the request is consistent with the relevant policies of the Comprehensive Plan;
   3. Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property;
   4. For nonresidential changes, the proposed zone, if it allows uses more intensive than other zones appropriate for the land use designation, will not allow uses that would destabilize the land use pattern of the area or significantly adversely affect adjacent properties.

15.334.050 Transportation Planning Rule Compliance
Proposals to amend the Comprehensive Plan or Zoning Map shall be reviewed to determine whether they significantly affect a transportation facility pursuant to Oregon Administrative Rule (OAR) 660-012-0060 (Transportation Planning Rule - TPR). Where the City, 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 and applicant to modify the request or mitigate the impacts in accordance with the TPR and applicable law.
Chapter 15.338 - Annexation

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15.338.010 Purpose
The purpose of this chapter is to establish procedures and criteria for annexation under the provisions of the Oregon Revised Statutes including, but not limited to, ORS Chapter 222. This chapter is intended to achieve orderly and efficient annexation of land to the City that will result in providing a complete range of public services and public facilities, as defined in this code, for the annexed territory and to ensure consistency with the La Pine Comprehensive Plan.

15.338.020 Applicability
Land to be annexed must be contiguous to the existing City limits.

15.338.030 Review Processes
The following general processes apply to all annexation proposals:

A. Annexations are reviewed using the Type III or Type IV process as determined by the City, based on a consideration of the factors for treating an application as quasi-judicial or legislative. Since annexations are a jurisdictional transfer, the City Council is the sole review authority.

B. City Council approval of annexations will be by ordinance.

C. Notice of the City Council hearing to consider the annexation proposal must follow the notification process required for the Type III or Type IV application, except a notice of the hearing must be published in a newspaper of general circulation in the City once each week for two successive weeks prior to the day of hearing, and notices of the hearing must be posted in four public places in the City for a like period.

15.338.040 Initiation Procedures

A. An annexation proposal may be initiated by petition in compliance with one of the following initiation procedures:

1. All of the owners of land proposed to be annexed and not less than 50 percent of the electors, if any, residing in the territory, consent in writing to the annexation of their land in the territory and file a
statement of their consent with the City;

2. A majority of the electors registered in the contiguous territory proposed to be annexed consent in writing to the annexation and the owners of more than half of the land in that territory consent in writing to the annexation of their land and those owners and electors file a statement of their consent with the City; or

3. More than half the owners of land proposed to be annexed, who also own more than half of the land therein and represent more than half of the assessed value of all real property therein, consent in writing to the annexation of their land in the territory and file a statement of their consent with the City.

B. Statements of consent to annexation which are filed within any one-year period are effective and are deemed to be submitted with the petition required in subsection (A) of this section, unless a separate written agreement waiving the one-year period or prescribing some other period of time has been entered into between an owner of land or an elector and the City.

C. An annexation proposal may be initiated by City Council resolution. The Council may terminate proceedings under this section at any time.

D. An annexation proposal may be initiated pursuant to the State law health hazard abatement annexation process.

15.338.050 Submittal Requirements
In addition to the submittal requirements for a Type III application, the application must include:

A. A completed and signed annexation application packet on forms provided by the City.

B. A petition including the statement of consent, on City forms, completed by property owners and/or electors residing in the territory that meets the requirements of 15.338.040, Initiation Procedures.

C. Legal description of the territory including abutting right-of-way to be annexed and a boundary survey certified by a registered engineer or surveyor.

D. A map showing the territory including abutting right-of-way to be annexed and properties within 300 feet of the territory.

E. A narrative which addresses the approval criteria in 15.338.060.

F. A letter or other written documentation from the La Pine Park and Recreation District which indicates that the applicant has met with the District to discuss the proposed annexation, and provided the District an opportunity to review the annexation area for options to enhance existing parks and trails, and develop new parks and trails.

G. A completed and signed La Pine Park and Recreation District annexation agreement, unless the property(s) to be annexed is already located within the La Pine Park and Recreation District.

H. A letter or other written documentation from the Bend-La Pine School District which indicates that the
applicant has met with the District to discuss the proposed annexation and provided the District an opportunity to review and comment on the proposed annexation.

I. If the City has not yet amended its public facilities and transportation plans for the affected expansion area, inclusion of an applicant initiated amendment to the relevant plan(s) or other evidence that the necessary infrastructure planning under Statewide Planning Goals 11 and 12 will take place prior to or concurrently with annexation.

15.338.060 Approval Criteria
The City Council may approve, or approve with conditions, the proposed annexation application if all of the following criteria are met:

A. The annexation proposal is consistent with the La Pine Comprehensive Plan policies and plan designations applicable to the territory as determined by the City Planning Official.

B. The annexation proposal is consistent with applicable approved area plans and/or master plans.

C. The proposal demonstrates how the annexed territory is capable of being served by public facilities and services with adequate capacity as determined by the City, including sanitary sewer collection, domestic water, transportation, schools, and parks, consistent with the City’s adopted public facility plans, transportation system plan, and applicable district plans, either as provided in an applicable area or master plan or by demonstrating how such public facilities and services will be provided in an orderly, efficient and timely manner.

D. The proposal demonstrates how public facility and service impacts, including as applicable: on- and off-site improvements, construction and modernization of existing infrastructure (water, sewer, stormwater, transportation) to City standards and specifications, and impacts to existing infrastructure inside the City’s current city limits, will be adequately mitigated through an annexation agreement or other funding mechanism approved by the City Council prior to annexation. The City will use the standards and criteria of 15.90.080, Traffic Impact Analysis, for analysis and mitigation of transportation impacts.

E. The proposal demonstrates that approval of the annexation and zoning districts that implement the underlying La Pine Comprehensive Plan map designations is consistent with the provisions of the Transportation Planning Rule.

F. The proposal demonstrates how rights-of-way will be improved to urban standards as determined by the City, including rights-of-way in cherry stem annexations.

15.338.070 Zone Designation of Annexed Property
The City Council shall establish the appropriate zoning, in conformance to the comprehensive plan, effective upon the effective date of the annexation of property to the city.

15.338.080 Effective Date and Notice of Approved Annexation
A. The effective date of an approved annexation must be set in accordance with ORS 222.040 or 222.180.
B. Notice of Approved Annexation.

1. Not later than 10 working days after the passage of an ordinance approving an annexation, the Planning Director will:
   
a. Send by certified mail a notice to public utilities (as defined in ORS 757.005), electric cooperatives and telecommunications carriers (as defined in ORS 133.721) operating within the City.

b. Mail a notice of the annexation to the Secretary of State, Department of Revenue, Deschutes County Clerk, Deschutes County Assessor, affected districts, and owners and electors in the annexed territory. The notice must include:
   
i. A copy of the ordinance approving the annexation;
   
ii. A legal description and map of the annexed territory;
   
iii. The findings; and
   
iv. Each site address to be annexed as recorded on Deschutes County assessment and taxation rolls.

c. The notice to the Secretary of State will also include a copy of the statement of consent as required in 15.338.040, Initiation Procedures.

2. If the effective date of an annexation is more than one year after the City Council passes the ordinance approving it, the Planning Director will mail a notice of the annexation to the Deschutes County Clerk not sooner than 120 days and not later than 90 days prior to the effective date of the annexation.

15.338.090 Extraterritorial Extension and/or Connection of Water and Sewer Service

The City Council may approve an extraterritorial extension and/or connection of water and sewer services consistent with the requirements of Goal 11, Public Facilities, and OAR 660-011-0060 and 660-011-0065 and may require an annexation contract. The review is a Type III process in accordance with Article III, with the City Council as the sole review authority.