

Article 14 Administration

Article 14 - Administration

Div. 14.1. Summary of Review Authority	14-3	Div. 14.6. Administrative Review	14-26
Div. 14.2. General Provisions	14-4	14.6.1. Administrative Review Required	14-26
14.2.1. State Statutes	14-4	14.6.2. Approval of Administrative Review.....	14-26
14.2.2. Review Authority	14-4	14.6.3. Eligible Applicants.....	14-26
Div. 14.3. Common Review Provisions	14-7	14.6.4. Submitting an Application	14-26
14.3.1. Applicability.....	14-7	14.6.5. Concurrent Review Allowed	14-26
14.3.2. Application Requirements	14-7	14.6.6. Public Notice	14-26
14.3.3. Development Review Committee Meeting	14-8	14.6.7. Additional Studies Required.....	14-26
14.3.4. Neighborhood Review Meeting.....	14-8	14.6.8. Applicable Conditions.....	14-26
14.3.5. Public Notice Requirements.....	14-8	14.6.9. Site Plan Review	14-27
14.3.6. Public Hearing Requirements	14-9	14.6.10. Design Review.....	14-28
Div. 14.4. Legislative Review	14-10	14.6.11. Temporary Use Permits	14-29
14.4.1. Review Requirements.....	14-10	14.6.12. Application of Guidelines	14-33
14.4.2. Application Approval.....	14-10	14.6.13. Establishment of a Precedent	14-33
14.4.3. Eligible Applicants.....	14-10	14.6.14. Transferability of Administrative Approvals	14-33
14.4.4. General Application Submittal.....	14-10	14.6.15. Length an Administrative Approval is Valid	14-33
14.4.5. Public Hearing Notice	14-10	14.6.16. After Approval of Administrative Decision..	14-33
14.4.6. Application Review.....	14-10	14.6.17. Revocation of an Administrative Permit.....	14-33
14.4.7. Additional Studies	14-11	Div. 14.7. Quasi-Judicial Review	14-34
14.4.8. Approval Criteria	14-11	14.7.1. Quasi-Judicial Review Required	14-34
14.4.9. Establishment of a Precedent	14-12	14.7.2. Approval of Quasi-Judicial Review	14-34
14.4.10. Denial of Legislative Action.....	14-12	14.7.3. Eligible Applicants.....	14-34
Div. 14.5. Subdivision Review	14-13	14.7.4. Submitting an Application	14-34
14.5.1. Subdivision Review	14-13	14.7.5. Concurrent Review Allowed	14-34
14.5.2. Subdivision Review Required.....	14-13	14.7.6. Public Notice	14-35
14.5.3. Activities Not Considered a Subdivision	14-13	14.7.7. Additional Studies Required.....	14-35
14.5.4. Approval of the Subdivision Review.....	14-13	14.7.8. Applicable Conditions.....	14-35
14.5.5. Development Tallied.....	14-13	14.7.9. Development Agreements.....	14-35
14.5.6. Eligible Applicant	14-13	14.7.10. Conditional Use Permit Application Review	14-35
14.5.7. Public Notice Provided.....	14-13	14.7.11. Rezone Map Amend. Application Review..	14-36
14.5.8. Lot Splits.....	14-14	14.7.12. Variance Application Review.....	14-39
14.5.9. Land Divisions.....	14-15	14.7.13. Application of Guidelines	14-39
14.5.10. Short Plat.....	14-17	14.7.14. Establishment of a Precedent	14-40
14.5.11. Full Plat.....	14-19	14.7.15. Transferability of Quasi-Judicial Approvals	14-40
		14.7.16. Quasi-Judicial Reapplication after Denial..	14-40
		14.7.17. After Approval of Quasi-Judicial Decision .	14-40
		14.7.18. Revocation of Quasi-Judicial Approval	14-40

The following table summarizes the review and approval authority of the various review bodies and officials that implement and administer the Land Use Development Code.

Div. 14.8. Administrative Appeal 14-41
 14.8.1. Eligible Applicants..... 14-41
 14.8.2. Appeal Submittal 14-41
 14.8.3. Administrative Appeal Review..... 14-41
 14.8.4. Pursuit of Other Approvals While Appeal is Pending 14-41
 14.8.5. Criteria for Appeal Review..... 14-41
 14.8.6. Denial of Appeal..... 14-41

Div. 14.9. Nonconformities 14-42
 14.9.1. Nonconforming Building or Structure..... 14-42
 14.9.2. Nonconforming Use 14-42
 14.9.3. Nonconforming Lot of Record 14-43
 14.9.4. Nonconforming Build-to Requirement..... 14-43
 14.9.5. Nonconforming Setback Deviation Reqs. 14-44

Div. 14.10. Modifications to Previous Approvals 14-45
 14.10.1. Approval of Modifications Needed..... 14-45
 14.10.2. Modification of Non-Subdivision Parcel 14-45
 14.10.3. Modification of a Plat (Short or Full) 14-47
 14.10.4. Modification of Administrative Approvals... 14-54
 14.10.5. Modification of Quasi-Judicial Approvals... 14-54
 14.10.6. Retroactive Approvals to Correct Unauthorized Land Splits..... 14-55
 14.10.7. Modification of Undefined Approvals..... 14-58

Approval Process	Cross-reference	Development Review Committee (DRC)	Review and Approval			Public Notice					
			Planning Administrator	Planning & Zoning Commission	City Council	Neighborhood Meeting	Web	Posted (On-Site)	Mailed	Published	Posted Notice (City Hall)
Legislative Review	14.4										
Comprehensive Plan Amendment	14.4	N	R	R-PH	D-PH	N	Y	N	N	Y	Y
Land Use Code Text Amendment	14.4	N	R	R-PH	D-PH	N	Y	N	N	Y	Y
Subdivision Review	14.5										
Lot Split	14.5.8	N	D	A-PM	--	N	N	N	N	N	N
Short Plat	14.5.9	Y	R	R-PH	D-PM	N	Y	Y	Y	Y	Y
Concept Plan	14.5.10	Y	R	D-PH	A-PH	P	Y	Y	Y	Y	Y
Preliminary Plat	14.5.10	Y	R	R-PH	D-PH	N	Y	Y	Y	Y	Y
Final Plat	14.5.10	Y	R	--	D-PM	N	Y	N	N	N	Y
Condominiumization	14.5.11	-	-	-	-	-	-	-	-	-	-
Administrative Review	14.6										
Site Plan Review	14.6.9	N	D	A-PM	--	N	N	N	N	N	N
Design Review	14.6.10	N	R	D-PM	A	N	Y	N	N	N	Y
Temporary Use Permit	14.6.11	P	D	A-PM	--	P	N	P	P	P	N
Quasi-Judicial Review	14.7										
Conditional Use Permit	14.7.10	Y	R	D-PH	A-PH	P	Y	Y	Y	Y	Y
Rezone Map Amendment (Project Specific)	14.7.11	Y	R	R-PH	D-PH	P	Y	Y	Y	Y	Y
Variance	14.7.12	Y	R	D-PH	A	N	Y	Y	Y	Y	Y
Annexation	14.7.13	Y	R	R-PH	D-PH	P	Y	Y	Y	Y	Y
De-Annexation	14.7.14	Y	R	R-PH	D-PH	N	Y	Y	Y	Y	Y
Administrative Appeals	14.8										
Appeal of an Administrative Decision	14.8	N	D	A-PM	A-PM	N	Y	N	N	N	Y
Modification to Previous Approvals	14.10										
Modification of a Non-Subdivision Parcel	14.10.2	N	D	A	--	N	N	N	N	N	N
Modification to a Plat	14.10.3	P	R	P	D	N	P	P	P	P	P
Modification of Administrative Approvals	14.10.4	N	D/R	A/D	A	N	P	N	N	N	P
Modification of Quasi-Judicial Approvals	14.10.5	P	D/R	P	P	P	P	P	P	P	P
Modification of Undefined Approvals	14.10.6	P									

KEY:

R = Review, Recommendation D = Decision A = Appeal PH = Public Hearing PM = Public Meeting
 Y = Required N = Not Required P = Possible Depending on the Scope of Project

14.2.1. State Statutes

- A. This Article is intended to comply with the provisions of:
 - 1. Idaho Constitution Article 12, Section 2;
 - 2. Idaho Statutes Title 67, Chapter 65, Local Land Use Planning;
 - 3. Idaho Statutes Title 50, Municipal Corporations, Chapter 13 Plats and Vacations;
- B. Where any provision of this Article is in conflict with any provision of State law, the State law controls. Where this Article is incomplete in having failed to incorporate a provision necessarily required for the implementation of State law, the provision of State law must be fully complied with.

- Development Code amendments, official zoning map amendments.
- 2. Review and recommendation to the Council on short plats and final plats.
- 3. Final action on design review (unless appealed).
- 4. Final action on condition use permits (unless appealed).
- 5. Final Action on variances (unless appealed)

C. Planning Administrator

The Planning and Zoning Administrator (known in this Code as the “Administrator”) has those powers and duties identified in Idaho Statutes Title 67, Chapter 65, Local Land Use Planning, including, but not limited to:

- 1. Review and recommendation to the Council on all legislative decisions, including Comprehensive Plan amendments, Land Use Development Code amendments, official zoning map amendments, and conditional use permits.
- 2. Review and recommendation to the Council on short plats and final plats.
- 3. Review and recommendation to the Commission on all preliminary plats.
- 4. Final action on all site plans and temporary use permits (unless appealed).
- 5. Final action on Lot Split lot splits (unless appealed)

D. Development Review Committee

- 1. The Victor City Development Review Committee (DRC) meets for review of submitted Planning Commission application materials. Div. 14.1 identifies which submittal require meeting with the DRC. Projects should be scheduled on the DRC Agenda at the time the application is submitted.

- 2. The purpose of the DRC meeting is to review each project, answer questions, and identify any issues that may need to be addressed in more detail by an applicant for development or prior to going to the Planning Commission. The DRC meeting is intended for those proposing a subdivision, zone change, conditional use proposal or other approvals identified in Div. 14.1. Those scheduled for a DRC meeting must be prepared with appropriate plans, including maps or documents which demonstrate the existing- features and proposed-streets, lots, and development within the proposed project, along with the location of nearby streets, canals, and water features in relation to the proposed project. The following major points are discussed at DRC meetings
- 3. Standards reviewed at DRC:
 - a. Development application process
 - b. Comprehensive Plan: (Future land use, goals, and policies)
 - c. Land Use Development Code: (Lot size, Lot width, Land use, Setbacks, and Parking)
 - d. Development Feasibility: (slope, ground water, wetlands, flood zone, special service district commitments, etc.)
 - e. Design Criteria (where applicable): (Height, Width, Form, Mass, Style, Material, Color, Roof, Facades, Windows, Awnings, Signs, Storage, Garbage bins, Landscaping and trees, Pedestrian facilities, Other amenities)
 - f. Septic: (septic viability, sewer line size, capacity, and location)
 - g. Water: (well feasibility, fire protection, water line size, capacity, and location)
 - h. Transportation: (Street Master Plan, traffic studies, ITD, road alignments, road

condition, location, and requirements, shared parking and driveways)

- i. Storm Drainage: (Erosion plan, retention and detention requirements, Water Source Protection Area, Flood protection and Special Flood Hazard Area
- j. Park: (trails, parks, sidewalk, open space)
- k. Irrigation: (Irrigation lines, canals, ditches)
- l. Public Utilities: (Public Utilities, underground utility requirements, electrical lines, utility easement needs and locations, gas lines, telephone lines, street lights)
- 4. Entities invited to the DRC meeting may include the following:
 - a. City of Victor Planning & Building
 - b. City of Victor Public Works/Engineer
 - c. City of Victor Attorney
 - d. City of Victor Planning & Building
 - e. Teton County Public Works
 - f. Teton County Fire District
 - g. Neighboring Communities
 - h. State and Federal Agencies
 - i. Service/Utility Providers
 - i. Telephone
 - ii. Electricity
 - iii. Irrigation districts
 - iv. Water/Sewer
 - v. Waste/Recycling
 - vi. Trail agencies

14.2.2. Review Authority

A. City Council

The City Council (known in this Code as the “Council”) has those powers and duties expressly identified in Idaho Statutes and elsewhere in the City of Victor Land Use Development Code, including, but not limited to:

- 1. Final action on all legislative decisions, including Comprehensive Plan amendments, Land Use Development Code text amendments, official zoning map amendments, and subdivision plats.
- 2. Final action and acceptance of improvements on all final plats.
- 3. Final Appeal/Reconsideration authority

B. Planning and Zoning Commission

The Planning and Zoning Commission (known in this Code as the “Commission”) has those powers and duties identified in Idaho Statutes Title 67, Chapter 65, Local Land Use Planning, including but not limited to:

- 1. Review and recommendation to the Council on all legislative decisions, including Comprehensive Plan amendments, Land Use

E. Neighborhood Meeting

1. The purpose of the neighborhood meeting is to allow the developer to present the proposal to neighbors and other members of the public prior to the formal public hearing so that the parties can discuss and consider neighborhood impacts, mitigation, design, and construction elements, and the like.
2. A neighborhood meeting shall be required for each of the land use matters identified in Div. 14.1 that require the neighborhood meeting.
3. A neighborhood meeting shall be required as a prerequisite to filing of an application with the City for the following land use matters
 - a. Request to amend the Zoning District from a residential zone to a commercial or industrial zone.

14.3.1. Applicability

The following requirements apply to applications submitted under this Article and are common to all of these procedures.

14.3.2. Application Requirements

A. Application Submittal

1. All applications must be filed with the City of Victor Planning & Building Department and must be submitted on forms and in such numbers as required by the Administrator.
2. Application forms can be found on the City's website or hard copies can be obtained at City Hall.
3. All Applications must include the necessary portions of the Property Development Plan as identified in Article 13.

B. Fee Schedule

1. Filing fees have been established to help defray the cost of processing applications. The current fee schedule is available on-line on the City's website, which is updated and adopted by the Council.
2. Before review of an application, all filing fees must be paid in full.

C. Completeness Determination

1. All applications must be complete before the City is required to review the application.
2. An application is considered complete when it contains all of the information necessary to decide whether or not the application will comply with all of applicable requirements of this Code. The burden of proof to show that their application is complete and responsive to the requirements of this Code is on the applicant.

3. The presumption is that all of the information required in the City's application forms and Property Development Plan is necessary to satisfy the requirements of this Article. However, it is recognized that each application is unique, and more or less information may be required according to the specifics of a particular case. The applicant may rely on the Administrator to determine whether more or less information has to be submitted.

D. Application Deadline

Complete applications must be submitted in accordance with the submission schedule. Schedules indicating submittal dates are developed each year and made available on-line on the City's website and to the public at City Hall.

E. Revised Application Materials

1. All revised application materials must be submitted to the Administrator, who will route the materials to the appropriate review bodies. No plans may be sent directly to the Commission or Council.
2. No revised application materials, either hard copy or electronic, may be submitted to the Administrator less than ~~15~~ 7 days prior to a scheduled public meeting or public hearing.

F. Withdrawal of an Application

1. Any application may be withdrawn at any time at the discretion of the applicant by providing written notice to the Administrator.
2. No portion of a required application fee will be refunded on any application withdrawn.
3. For applications requiring a public hearing, if the public hearing has been advertised, the withdrawn application will be announced at the hearing.

G. Written Decision and Reasoned Statements

Within 65 days from a decision by the Commission or the Council, a written decision will be approved. The appeal period shall begin upon the day of the mailing, or if hand delivery, the day of delivery of the signed written decision.

H. Notice of Decision

Within 5 days after a written decision is approved, a copy of the decision must be sent to the applicant by the Administrator. In the case of permit issuance, the permit constitutes written notice of the decision.

14.3.3. Development Review Committee Meeting

All applications shall be scheduled for the next appropriate Development Review Committee meeting. This meeting is to ensure the reviewing agencies have an opportunity to sit down with the applicant and review the application, criteria for approval, and any other outstanding issues.

14.3.4. Neighborhood Review Meeting

Where a neighborhood meeting is required as a prerequisite to an application, the follow items must be provided with the application:

- A. Date/Time/Location of the meeting
- B. Sign-in sheet from the meeting
- C. Explanation of how notice was given to property owners that were identified in the pre-application meeting
- D. Summary of the discussion at the meeting
- E. Any findings and or changes to the application that resulted from the meeting.

14.3.5. Public Notice Requirements

For public notice and hearing requirements by application type, see Div. 14.1. The fact that notice is not received due to an error that was not the fault of the City

does not prevent the public hearing from happening, change any decision made at the public hearing, or prevent the application from continuing to move forward through the review process.

A. Published Notice

Where published notice is required, a notice must be published by the Administrator at least once in the official newspaper of the City at least 15 days, but not more than 45 days, prior to the date of the public hearing. When notice is required by 200 property owners or more, the published notice must be a display advertisement at least 4 inches by 2 columns in size.

B. Web Notice

Where web notice is required, notice of the public hearing or public meeting must be posted on the City's website at least 15 days, but not more than 45 days, prior to the date of the public hearing or meeting.

C. Posted Notice (On site)

Where posted notice on site is required, a sign must be posted on the property at a point visible from the nearest public street. In the case of multiple parcels, sufficient signs must be posted to provide reasonable notice to interested persons, as determined by the Administrator. Signs must be posted at least 15 days prior to the date of the public hearing.

D. Posted Notice (City Hall)

Where posted notice at the City Hall is required, a notice must be posted on the front windows and/or front door of CityHall. The notice must be posted at least 15 days prior to the date of the public hearing.

E. Mailed Notice

1. Where mailed notice is required, the City will notify by mail all owners of property included in the proposed application and all owners of property within 300 feet on all sides, as shown in the County tax records. Notice must be mailed

at least 15 days, but not more than 45 days, prior to the date of the public hearing.

2. When notice is required to 200 or more property owners or purchasers of record, sufficient notice is provided if the City provides published notice in addition to posted notice on all external boundaries of the site.

F. Content of Notice

Required notice of a public hearing must provide at least the following:

1. The address of the subject property (if available);
2. The general location of the land that is the subject of the application, which may include a location map;
3. A description of the action requested;
4. Where a map amendment is proposed, the current and proposed zoning districts;
5. The time, date and location of the public hearing or meeting;
6. A phone number and e-mail address to contact the Administrator;
7. The web address for the City; and
8. A statement that interested parties may appear at the public hearing or meeting.
9. (Mailed/Web)- The list of criteria the approving body will use to make the decision on the action.

14.3.6. Public Hearing Requirements

A. Intent Public Hearing Procedure

The public hearing process exists to provide an opportunity for citizens to present their views on an issue that may affect them, define the issue upon

which a decision is to be made, and obtain essential evidence upon which a decision can be made.

B. Public Hearing Procedure

1. The Administrator shall place a completed application for which a permit is proposed on the next Commission/Council agenda for which space is available and when all notice requirements can be met.
2. The presiding officer shall announce the purpose and subject of the hearing explaining the place and location.
3. The presiding officer shall determine whether proper notice of the hearing has been provided. That determination shall be based on the submission of affidavits of publication and posting and mail showing full compliance with the notice requirements of this ordinance. If proper notice has not been provided, the hearing shall be re-scheduled.
4. The presiding officer shall determine whether the application form required by this ordinance is complete and includes all required supporting materials. If the application is not complete, the hearing shall be re-scheduled.
5. The presiding officer shall ask if any commission member wishes to declare a conflict of interest, as defined by I.C. 67-6506, in the matter to be heard and excuse any member who declares such a conflict from participation in the hearing.
6. The presiding officer shall ask the administrator to present a report on the proposal being considered.
7. The presiding officer shall direct questions from commission members to the administrator. Questions asked at this time shall be solely for the purpose of clarifying the location and nature of the proposed development.

8. The presiding officer shall remind those present that all statements given must address the merits of the proposed development as measured by its compliance or lack of compliance with the comprehensive plan and this ordinance. Time limits may be imposed.
9. The presiding officer shall ask for a statement from the developer or his or her representative. Commission members may ask questions following this statement. All questions and replies shall be directed through the presiding officer.
10. Following the developer's statement, the presiding officer shall ask for statements from the public. Persons giving statements shall begin by stating their name and mailing address. Commission members may ask questions following any statement. All questions and replies shall be directed through the presiding officer.
11. When all statements have been given, the presiding officer shall ask if the representative who gave a statement wishes to speak in rebuttal to other statements or to clarify their statement. Neither new statements nor the introduction of new evidence shall be permitted at this time. Questions from commission members may follow each rebuttal or clarification.
12. The presiding officer shall close the public hearing and call for discussion by the commission. That discussion shall lead to action on the matter being considered.
13. Written statements, plans, drawings, photographs, or other materials offered in support of statements at a hearing are part of that hearing's record and shall be retained by the city. Supporting materials shall be left with the administrator after each statement is made.

C. Minutes

Minutes for all public hearings shall be taken and retained by the Planning Department.

D. Transcribable Record

A transcribable verbatim record shall be made and kept in accordance with Idaho State Code 67-6536.

14.4.1. Review Requirements

Legislative Review is required for the following.

- A. Comprehensive Plan Amendment
A request to amend the text of the Comprehensive Plan, including the Future Land Use Map.
- B. Text Amendment
A request to amend the text of this Land Use Development Code.

14.4.2. Application Approval

The Council approves applications for Legislative Review, following a public hearing and review by the Commission.

14.4.3. Eligible Applicants

- A. The City Council, the Planning and Zoning Commission or the Administrator may initiate an application for Legislative Review.
- B. Any affected person as outlined in Idaho State Code 67-6509(d) may initiate an application for Legislative Review.

14.4.4. General Application Submittal

- A. Applications can be found on the City website or from the Planning Department
- B. Scheduling a Pre-Application Conference
 1. Before submitting an application, you must schedule a pre-application conference with the Administrator to discuss the procedures and standards for approval.
 2. To schedule a pre-application conference, call the Administrator or go to City Hall.
- C. Submitting Your Application
 1. Following the pre-application conference, you may start the application process. To begin, submit a complete application form and

proposed site plan, along with the required application fees, to the Administrator.

2. The application form can be found on the City's website or paper copies may be obtained at City Hall.
3. The general submittal requirements for all development review applications are listed in this Code and must be followed.

14.4.5. Public Hearing Notice

Legislative Review requires a public hearing in front of the Commission and the Council. Notice requirements for public hearings are specified in Div. 14.1 and Div. 14.3.5.

14.4.6. Application Review

A. Initial Distribution of an Application

Upon determination of a complete application, the Administrator will promptly distribute the application for review by internal City departments and external agencies and schedule the DRC meeting.

B. DRC Meeting

This meeting is to begin the discussion about the proposal and is not a forum for final decisions or for accepting comments concerning public support or opposition. No minutes of the meeting are required to be taken or provided at future meetings or hearings. Planning and Zoning Administrator staff will take notes to summarize the findings from this meeting.

C. Administrator Review

1. If after the internal and external review, the Administrator finds that the application meets all applicable requirements of the Land Use Development Code, the application will be certified as complying with all applicable requirements of the Land Use Development Code and scheduled for the next available Commission hearing.

2. Upon certification by the Administrator that the application complies with all applicable requirements of the Land Use Development Code, no changes to the application are permitted prior to the Commission hearing.

D. Planning and Zoning Commission Public Hearing

1. The Commission will conduct a public hearing and provide a recommendation to the Council on the application.
2. The Commission has 65 days from the date of the public hearing to submit their recommendation to the Council. This time period may be extended if both the Applicant and the Commission agree on an extension.

E. City Council Action

1. After reviewing the recommendation of the Commission, the Council will take action on the application. The public hearing for the Council cannot be scheduled and/or noticed until a recommendation is made by the Commission.
2. The Council has 65 days from the date of the public hearing to approve, approve with conditions, deny, or send the application back to the Commission for additional consideration. This time period may be extended if both the applicant and the Council agree on an extension.
3. Amendment of this Code applicable to an owner's lands may be subject to the regulatory taking analysis provided for by Idaho Statutes Title 67, Section 67-8003, consistent with the requirements established in that section.

14.4.7. Additional Studies

Before granting legislative approval, studies may be required of the social, economic, fiscal, and environmental effects of the proposed amendments.

14.4.8. Approval Criteria

Different types of approvals have different review criteria. The following lists are not all-inclusive but provide guidance for making decisions on each type of approval.

A. For a Comprehensive Plan Amendment

1. The Comprehensive Plan Amendment corrects an error or meets the challenge of some changing condition, trend, or fact.
2. The Comprehensive Plan Amendment is in response to changes in State law, as established through amendments to the Idaho Statutes or by court decision.
3. The Comprehensive Plan Amendment constitutes a benefit to the City as a whole and is not solely for the good or benefit of a particular landowner or owners at a particular point in time.
4. The Comprehensive Plan Amendment will not significantly impact the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation.

B. For a Land Use Development Code Text Amendment

1. The Text Amendment corrects an error or meets the challenge of some changing condition, trend, or fact.
2. The Text Amendment is in response to changes in State law, as established through amendments to the Idaho Statutes or by court decision.
3. The Text Amendment substantially conforms to the Comprehensive Plan.
4. The Text Amendment substantially conforms to the stated purpose and intent of this Code.
5. The Text Amendment constitutes a benefit to the City as a whole and is not solely for the good or

benefit of a particular landowner or owners at a particular point in time.

6. The Text Amendment will not significantly impact the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation.
7. The Text Amendment will not significantly impact existing conforming development patterns, standards or zoning regulations.

14.4.9. Establishment of a Precedent

Legislative actions do not establish a binding precedent to grant other legislative changes.

14.4.10. Denial of Legislative Action

Decisions of the Council are final. Affected property owners unsatisfied with the Council's decision based on the identified criteria for approval, may submit in writing a request for reconsideration, identifying the specific criteria that were not met along with the associated fee no more than 14 days after the written decision is delivered. If still not satisfied with a decision of the Council after the reconsideration, one may pursue appeals to District Court within 28 days of the written decision being delivered.

14.5.1. Subdivision Review

Subdivision Review ensures that all subdivision and sale of land complies with the applicable requirements of the Land Use Development Code and Idaho Statutes.

14.5.2. Subdivision Review Required

Subdivision Review is required for any:

- A. Subdivision of land into 2 or more parcels.
- B. The dedication of any street or alley through or along any tract of land except where the dedication is initiated at the request of a public body.
- C. Condominium or townhouse projects as permitted by Idaho. Additionally, the Council may attach conditions for the provision and maintenance of open space
- D. Amendments of a previously-divided parcel if it is considered a significant amendment as defined in Div. 14.10.3.

14.5.3. Activities Not Considered Subdivision

- A. Insignificant Plat Amendment - A readjustment of lot lines in a recorded plat that does not reduce the area, frontage, width, depth, or building setback lines below the minimums required in the zoning district. See Div. 14.10.3.B.
- B. Boundary Line Adjustment - The exchange of land for the purpose of straightening property boundaries or adding land to existing parcels by trade or sale that does not result in a change of the present land use or in any way result in land parcels which do not meet existing zoning and other regulations. See Div. 14.10.2.A.
- C. An allocation of land in the settlement of an estate or a court decree for the distribution of property with the stipulation that the land may not be divided, only the interested in the land may be divided.

- D. Agricultural Split - A bona fide division or partition of agricultural land for agricultural purposes, which is the division of land into lots/parcels, all of which are twenty (20) acres or larger and maintained as agricultural lands. These parcels are not eligible for any building rights through this division process.
- E. The unwilling sale of land as a result of legal condemnation as defined and allowed in Idaho Code and when the dedication of a right-of-way for public purposes is initiated by a public body.

14.5.4. Approval of the Subdivision Review

There are three types of Subdivision Review –Lot Splits, Short Plats and Full Plats. Lot Splits are approved by the Administrator, Land Divisions are approved by the Commission, and Short Plats and Full Plats both receive final approval from the Council.

14.5.5. Development Tallied

Parcels of land eligible for a Lot Split are only eligible to be split once every five (5) years using the Lot Split procedure. Additional division requires a Short Plat or Full Plat procedure.

14.5.6. Eligible Applicant

Any person, firm, corporation, or agency may initiate an application for Subdivision Review, provided they are the owner or the owner’s representative of the property for which the application is being submitted.

14.5.7. Public Notice Provided

The noticing for Subdivision Review differs depending on the application. See Div. 14.1 for requirements by application type and Div. 14.3.5 for specific noticing requirements.

14.5.8. Lot Split

Lot Split is an alternative to the Subdivision process that allows the application to be processed administratively when all of the following conditions described in this section exist.

The purpose of the Lot Split is to provide for a division of larger, unplatted or platted parcels prior to January 1, 1990 parcels in the City into two (2) parcels through a simplified process meeting specific criteria.

A. Lot Split Review

1. Pre-Application Meeting

The applicant will meet with the Administrator to ensure the proper application is being submitted and identify which elements of the Property Development Plan (Article 13) shall be required.

2. Application/Property Development Plan

In addition to the application and required elements of the Property Development Plan (Article 13), the applicant shall provide two (2) copies of draft deeds (unrecorded) for each of the proposed new lots that shall be created providing the land split is approved and a survey created by a licensed land surveyor in the State of Idaho. The deeds shall contain a restriction clearly stating that these parcels cannot be split again under the Lot Split provisions of this title. The survey shall also clearly identify which parcel will be considered the new parcel and which parcel will be considered the existing parcel.

- 3. The Administrator will determine if the application is complete and then review the application.
- 4. The application and survey will be forwarded to outside agencies for comment.
- 5. The survey will be reviewed to ensure it is accurate and that it meets the standards set forth in Idaho State Code by the Teton County Surveyor or approved agent.
- 6. Comments for revisions will be forwarded to the applicant and/or the applicant’s representative.
- 7. Once the revisions are made and the documents reviewed again, the Planning and Zoning Administrator will inform the applicant that final documents can be prepared for recording.

B. Approval Criteria Used for a Lot Split

When reviewing or approving a Lot Split, the Administrator will consider the following:

- 1. The proposed division does not exceed 2 lots;
- 2. The division does not require the extension of public utilities (other than individual service lines) or other municipal facilities and no substantial alteration of existing utility installations is involved;
- 3. The division does not require the dedication of public right-of-way;
- 4. The division does not require new public streets and each proposed lot has approved access from an existing public street, or approved easement that contains the necessary right-of-way width; and
- 5. Each proposed lot meets all applicable requirements of this Code. If a variance is needed, it must be obtained prior to the approval of the Lot Split.

C. Length Lot Split Approval is Valid

After a Lot Split is approved by the Administrator, a Mylar copy of the Map of Survey and all other required materials outlined above shall be submitted to the Planning Department prior to recording with the Teton County Clerk/Recorder. An application that is approved and not recorded within six (6) months of the date of approval shall be considered expired and a new application shall be required.

D. Lot Split Appeal

- 1. Applicants or affected property owners unsatisfied with the Administrator’s decision based on the identified criteria for approval, may submit in writing an appeal identifying the specific criteria that were not met along with the

associated fee no more than 14 days after a final decision of the Administrator. The appeal will be heard by the Commission. Decisions of the Commission are final, unless appealed.

2. If still not satisfied with a decision of the Commission, one may submit in writing an appeal to the Council identifying the specific criteria that were not met along with the associated fee no more than 14 days after the written decision is delivered. If still not satisfied, applicants or affected property owners shall have no more than 14 days after the written decision is delivered to request reconsideration by the Council. If still not satisfied with a decision of the Council one may pursue appeals to District Court within 28 days of the written decision being delivered.

14.5.9. Short Plat

A Short Plat procedure can be utilized to create up to five (5) lots in a small scale subdivision. The minimum lot size of the newly created parcels must relate to the underlying zoning designation in which it is being created in. The required information/dedication for this procedure is less than what is required for a full subdivision.

The purpose of the short plat procedure is to provide an alternative subdivision process that allows the application to be processed as both a preliminary plat and a final plat in a single process.

A. Short Plat Review

1. Pre-Application Meeting

The applicant will meet with the Administrator to ensure the proper application is being submitted and identify which elements of the Property Development Plan (Article 13) shall be required.

2. Application/Property Development Plan

The applicant shall provide:

- a. A completed application form,

- b. Required fees,
- c. Two (2) draft deeds (unrecorded) for each of the proposed new lots that shall be created providing the land split is approved (The deeds shall contain a restriction clearly stating that these parcels cannot be split again under the provisions of this Article
- d. A plat created by a licensed land surveyor in the State of Idaho. The deeds shall contain a restriction clearly stating that these parcels cannot be split again under the provisions of this title.
- e. Any additional items required based on the property's zoning designation.
- f. All required items for a complete Property Development Plan as identified in Article 13.

3. Initial Distribution of Application

Upon determination of a complete application, the Administrator will promptly distribute the materials for review by internal City departments and external agencies and schedule the DRC meeting.

4. DRC Meeting

This meeting is to begin the discussion about the proposal and is not a forum for final decisions or for accepting comments concerning public support or opposition. No minutes of the meeting are required to be taken or provided at future meetings or hearings. Planning and Zoning Administrator staff will take notes to summarize the findings from this meeting.

5. Administrator Review

If after the internal and external review, the Administrator finds that the application meets all applicable requirements of the Land Use Development Code, the application will be certified as complying with all applicable requirements of the

Land Use Development Code and scheduled for the next available Commission public hearing.

Upon certification by the Administrator that the application complies with all applicable requirements of the Land Use Development Code, no changes to the application are permitted prior to the Commission hearing.

6. Review by the Planning and Zoning Commission

The Commission will conduct a public hearing and provide a recommendation to the Council on the application.

The Commission has 65 days after submission of the completed Short Plat application to recommend approval, recommend approval subject to listed modifications, or recommend denial of the Short Plat. This time period may be extended if both the applicant and the Commission agree on an extension.

7. Review by the City Council

The Council will conduct a public meeting on the Short Plat. The Council has 65 days after the recommendation from the Commission to approve, approve subject to listed modifications, deny, or send the application back to the Commission for additional consideration. This time period may be extended if both the applicant and the Council agree on an extension.

Once approved, the Administrator will notify the applicant of the approval in writing and detail the conditions of the approval, as well as any changes made.

8. Recording the Final Documents

The Applicant will provide the Administrator final signed documents. The Administrator will then record the Final Plat with the Teton County Clerk/Recorder's office.

B. Approval Criteria Used for a Short Plat

When reviewing or approving a Short Plat, the Commission and Council shall consider the following:

1. The proposed subdivision does not exceed 5 total lots;
2. The subdivision does not require the extension of public utilities (other than individual service lines) or other municipal facilities and no substantial alteration of existing utility installations is involved;
3. The subdivision does not require the dedication of public right-of-way.
4. The subdivision does not require new public streets and each proposed lot fronts on an existing public street that contains the necessary right-of-way width.
5. Each proposed lot meets all applicable requirements of this Code and no variance or waiver from a standard is requested.
6. Recommendations of the Administrator, including recommendations from internal City departments and external agencies;
7. Each proposed lot meets all applicable requirements of this Code, including Articles 9-13, applicable adopted plans, and policies.

C. Length Short Plat Approval is Valid

After a Short Plat is approved by the Council, a Mylar copy of the Plat and all other required materials outlined above shall be submitted to the Planning Department prior to recording with the Teton County Clerk/Recorder. An application that is approved and not recorded within six (6) months of the date of approval shall be considered expired and a new application shall be required.

D. Short Plat Appeal

Decisions of the Council are final. Applicants or affected property owners shall have no more than 14 days after the written decision is delivered to request a reconsideration by the Council. If still not satisfied with a decision of the Council, one may pursue appeals to District Court within 28 days of the written decision being delivered.

14.5.10. Full Plat

A subdivision not considered a Short Plat in 14.5.9 above is considered a Full Plat, additional requirements for Condominiums and townhouses are found in Div. 14.5.11 and 14.5.12.

A. Full Plat Review

1. Full Plat approval is a three-step process. The first step is Concept Plan approval from the Commission. Preliminary Plat approval comes from the Council, after a recommendation from the Commission. Finally, Final Plat approval is granted from the Council, after construction and inspection of the project.
2. Anything regulated in the Land Use Development Code will be reviewed for compliance by the Administrator, with additional review by internal City departments and external agencies.
3. The Application/Property Development Plan will also be reviewed by the Commission & Council for substantial conformance with the City's adopted plans and policies.
4. Components of an Application/Property Development Plan that have been determined to meet the requirements of the Land Use Development Code by the Administrator may not be used as a basis for denial, or be modified by the Commission, except to comply with an adopted plan or policy.

B. Concept Plan Approval

1. Pre-application Meeting

The applicant will meet with the Administrator to ensure the proper application is being submitted and identify which elements of the Property Development Plan (Article 13) shall be required.

2. Application

The applicant shall provide:

- a. A completed application form,
- b. Required fees,
- c. Summary of the neighborhood meeting (if required)
- d. Concept Plan that depict:
 - i. Lots
 - ii. Infrastructure
 - iii. Open Space
 - iv. Public Improvements

3. Initial Distribution of Application

Upon determination of a complete application, the Administrator will promptly distribute the materials for review by internal City departments and external agencies and schedule the DRC meeting.

4. DRC Meeting

This meeting is to begin the discussion about the proposal and is not a forum for final decisions or for accepting comments concerning public support or opposition. No minutes of the meeting are required to be taken or provided at future meetings or hearings. Planning and Zoning Administrator staff will take notes to summarize the findings from this meeting.

5. Review by the Administrator

If after the internal and external review and DRC, the Administrator finds that the Concept Plan meets all applicable requirements of the Land Use Development Code, the application will be certified as complying with all applicable requirements of the Land Use Development Code and scheduled for the next available Commission hearing.

Upon certification by the Administrator that the Concept Plan complies with applicable requirements of the Land Use Development Code, no changes to the application are permitted prior to the Commission hearing.

6. Review by the Planning and Zoning Commission

- a. The Commission will conduct a public hearing on the Concept Plan.
- b. The Commission has 65 days after submission of the completed Concept Plan application to approve, approve subject to listed modifications, or deny the Concept Plan. This time period may be extended if both the applicant and the Commission agree on an extension.
- c. Approval of a Concept Plan does not constitute approval of a Final Plat.

7. Approval Criteria Used for a Concept Plan

When reviewing or approving a Concept Plan, the Commission considers the following:

- a. Recommendations of the Administrator, including recommendations from internal City departments and external agencies;
- b. The conformance of the plan with the comprehensive plan.
- c. The availability of public services to accommodate the proposed development.

- d. The conformity of the proposed development with the capital improvements plan.
- e. Other health, safety, or general welfare concerns that may be brought to the City's attention.

8. Length a Concept Plan is Valid

An approved Concept Plan expires 2 year after the approval date, unless the applicant has filed a complete application for a Preliminary Plat.

9. After Concept Approval

Following approval of a Concept Plan, detailed plans, the plat, required studies and specifications for the installation of improvements required may be prepared and submitted.

C. Preliminary Plat Approval

1. Pre-application Meeting

The applicant will meet with the Administrator to ensure the proper application is being submitted and identify which elements of the Property Development Plan (Article 13) shall be required.

2. Application

The applicant shall provide:

- a. A completed application form,
- b. Required fees,
- c. Required portions of the Property Development Plan (Article 13),
- d. Plat created by a licensed land surveyor in the State of Idaho (All plats must include the minimum requirements set out in Idaho

Statutes Section 50-1304, Essentials of Plats.

- e. The Construction Drawings (Improvement Plans), with proposed phasing, for public improvements in final and complete form, stamped by a licensed engineer in the State of Idaho in conformance with Article 12.
- f. The Master Plan (if there will be multiple phases): The master plan of the subdivision, with necessary attachments, in accordance with the definition and requirements (see Article 15), shall be recorded and shall be binding on the applicant and subsequent owners of the property;
- g. The Development Agreement including phasing timeline;
- h. The Conditions, Covenants, and Restrictions Document(s) and, if applicable, a Design Standards Document;

3. Initial Distribution of Application

Upon determination of a complete application, the Administrator will promptly distribute the materials for review by internal City departments and external agencies and schedule the DRC meeting.

4. DRC Meeting

This meeting is to begin the discussion about the proposal and is not a forum for final decisions or for accepting comments concerning public support or opposition. No minutes of the meeting are required to be taken or provided at future meetings or hearings. Planning and Zoning Administrator staff will take notes to summarize the findings from this meeting.

5. Review by the Administrator

If after the internal and external review and DRC, the Administrator finds that the Preliminary Plat does not meet all the applicable requirements of the Land Use Development Code, the Administrator will notify the applicant of the specific provisions that have not been met and offer the applicant the opportunity to make changes to the Preliminary Plat.

If after the internal and external review and DRC, the Administrator finds that the Preliminary Plat submission meets all applicable requirements of the Land Use Development Code, the application will be certified as complying with all applicable requirements of the Land Use Development Code and scheduled for the next available Commission hearing.

Upon certification by the Administrator that the Preliminary Plat complies with applicable requirements of the Land Use Development Code, no changes to the application are permitted prior to the Commission hearing.

6. Review by the Planning and Zoning Commission

- a. The Commission will conduct a public hearing on the Preliminary Plat.
- b. The Commission has 65 days after submission of the completed Preliminary Plat application to recommend approval, recommend approval subject to listed modifications, or recommend denial of the Preliminary Plat. This time period may be extended if both the applicant and the Commission agree on an extension.
- c. A positive recommendation by the Commission does not constitute approval of a Preliminary Plat.

7. Review by the City Council

- a. The Council will conduct a public hearing on the Preliminary Plat. The Council has

45 days after receiving a completed Preliminary Plat recommendation from the Commission to approve, approve subject to listed modifications, deny, or send the application back to the Commission for additional consideration. This time period may be extended if both the applicant and the Council agree on an extension.

- b. The Preliminary Plat will be reviewed for substantial conformance with the approved Concept Plan.
- c. As a condition of approval of Preliminary Plat, a Development Agreement shall be required to ensure the timeline, obligations and approvals are clear.

8. Approval Criteria Used for Preliminary Plat

When reviewing or approving a Preliminary Plat, the Commission and Council shall consider the following:

- a. Recommendations of the Administrator, including recommendations from internal City departments and external agencies;
- b. Compliance with the applicable requirements of the Land Use Development Code. Substantial conformance with the City's applicable adopted plans and policies.

9. Length Preliminary Plat is Valid

An approved Preliminary Plat expires 3 years after the approval date, unless the applicant has filed a complete application for a Final Plat.

10. Phasing Development

The Master Plan of future phases must be submitted with the first phase. Each phase must obtain Preliminary approval independently.

11. Preliminary Plat Revisions (Post Approval)

- a. Minor revisions to an approved Preliminary Plat that reflect the same basic street and lot configurations as used for the original approval may be approved by the Administrator.
- b. Any request for a revision to an approved Preliminary Plat that increases the number of building lots, decreases the amount of common open space or alters a street or block pattern must be initiated and processed as a new application.

12. Preliminary Plat Appeal

Decisions of the Council are final. Applicants or affected property owners shall have no more than 14 days after the written decision is delivered to request a reconsideration by the Council. If still not satisfied with a decision of the Council, one may pursue appeals to District Court within 28 days of the written decision being delivered.

13. After Preliminary Approval

Following approval of a Preliminary Plat from the Council, the applicant will work with staff to ensure the following items are resolved prior to receiving a letter of Preliminary Plat Approval, which allows construction to start.

- a. Recordation of the Development Agreement;
- b. No buildings, structures, lot or sites in whole or in part, may be erected, constructed, moved, enlarged, developed or structurally altered until all required plans, profiles and specifications have been reviewed and approved by the City of Victor or other governmental approving agency.
 - i. Upon approval of the improvement plans and where required, recording

- of the Development Agreement with the Teton County Recorder's Office, the Developer or his or her authorized representative or engineer may schedule a Pre-Construction meeting with the City Engineer, appropriate City staff, and the Developer's contractor. No construction of public improvements may begin until after the Pre-Construction Meeting is held.
- ii. Upon completion of the Pre-Construction Meeting the Developer and contractor shall receive a "Construction Permit" from the City.
- c. The applicant will be provided with a copy of the improvement plans stamped "Approved". The approved set of plans must be on site at all times that improvements are being installed or constructed.
- d. The applicant must file with the City of Victor Treasurer a surety bond in the form of a performance bond, letter of credit from a bank or other financial institution, cash, or other acceptable guarantee, to ensure actual construction of such improvements and their completion according to plans as submitted to and approved by the City.
- e. The improvements, when covered by a surety bond, shall be constructed within 2 years from the date of the Preliminary Plat Approval Letter; provided, however, the City may extend the period 1 year upon a showing of just cause by the Developer, and resubmission of the surety bond in an adjusted amount approved by the City. The financial sureties must be guaranteed for 6 months after the expiration date of the Preliminary Plat approval.

- f. The surety bond or other guarantee shall be in the amount of 125% of the estimated cost of the improvements as determined by the City.
- g. Financial assurances will be returned upon satisfactory completion of work as determined by the City. This determination is made with an inspection and the approval of the Final Plat.
- h. In the event construction is not completed or in the event construction is completed but not in substantial conformity with the approved plans for the project, the financial assurances will be forfeit to the City. Forfeiture of the financial assurances does not in any way require the City to complete the project nor does forfeiture preclude the City from seeking other redress or remedy for failure to comply with the approved plans or for failure to complete the project, including, but not limited to, refusal to grant final plat approval or any other remedy at law or in equity, through judicial action or through any other action as may be determined by the Council.
- i. The applicant will be provided with a copy of the plans stamped "Approved". The approved set of plans must be on site at all times that improvements are being installed or constructed.
- j. The applicant shall provide to the Planning Department copies of approvals or permits for any activity of the installation of improvements issued by any governmental agency, municipal corporation, or utility that has authority over these improvements or will take ownership thereof upon completion. Work shall conform to the conditions and requirements of these approvals or permits, and shall be completed and accepted prior to the recording of the record plat. Should

work in accordance with these approvals necessitate changes to the final plat, those changes shall be completed, and approved by the Council, prior to recording the Final Plat.

- k. Final Plat approval shall be contingent in part upon completion and acceptance by the City of all public improvements. Streets and public improvements will not be officially accepted until the following conditions are satisfied:
 - i. Improvements have been inspected by the City and other applicable political subdivisions and utility providers including but not limited to the Teton County Fire District and Eastern Idaho Public Health District 7;
 - ii. Any necessary corrections are made in the field and on the approved construction drawings;
 - iii. Three reproducible copies of the asbuilt drawings, certified, stamped and signed by the design professional are provided to the City Engineer; and
 - iv. The warranty required in the following
 - v. section is provided to the City of Victor.
- l. Warranty
 - i. All streets and public improvements must have a warranty guaranteeing the work against defects for a period of 2 years from the date of final acceptance.
 - ii. If the improvements are constructed at different times due to phasing, then the guarantee must continue until 2 years from the date of final acceptance of the improvement last completed.

- iii. The warranty must list the City of Victor as a beneficiary.
- iv. A warranty surety must be provided in an amount of 10% of the estimated value of the warranted improvements. The surety must expire 6 months after the expiration of the warranty period.

D. Final Plat Approval

1. A Pre-Application Meeting

- a. The applicant will meet with the Administrator to ensure the proper application is being submitted.
- b. Before applying for Final Plat approval, the requirements of Div. 14.5.11.C must be met.

2. Application

The applicant shall provide:

- a. A completed application form;
- b. Required fees;
- c. Inspection reports from the Applicant's/ Developer's Engineer.
- d. The final plat(s) in accordance with Title 50 of the Idaho Code and this Article;

3. Initial Distribution of Application

Upon determination of a complete application, the Administrator will promptly distribute the materials for review by internal City departments and external agencies and schedule the DRC meeting.

4. DRC Meeting

This meeting is to discuss the construction of the project and whether the conditions from interested parties have been met. No minutes of the meeting are required to be taken or provided at

future meetings or hearings. Planning and Zoning Administrator staff will take notes to summarize the findings from this meeting.

5. Review by the Administrator

- a. If after internal review, external review and DRC, the Administrator finds that the construction does not meet all the applicable requirements of the Land Use Development Code or substantially conform to the Preliminary Plat approval, the Administrator will notify the applicant of the specific provisions that have not been met and offer the applicant the opportunity to make changes.
- b. If after the internal review, external review, and DRC, the Administrator finds that the construction meets all applicable requirements of the Land Use Development Code and substantially conforms to the Preliminary Plat approval, the application will be certified as complying with all applicable requirements of the Land Use Development Code and then scheduled for the next available Council meeting.
- c. Upon certification by the Administrator that the application complies with all applicable requirements of the Land Use Development Code, no changes to the application are permitted prior to the Council meeting.

6. Review by the City Council

- a. The Council will, at a public meeting, review the application for Final Plat approval. The Council has 45 days after receiving a completed Final Plat application to approve, approve subject to listed modifications, or deny the application. This time period may be extended if both the applicant and the Council agree on an extension.

- b. The Final Plat will be reviewed for substantial conformance with the approved Preliminary Plat by the Council. The Council will also accept any dedication of land or public improvements as part of approving a Final Plat. The Final Plat must be signed by the Mayor.

7. Submittal of Final Documents

The developer submits two (2) copies of the Final Plat, Final Improvement Plans, and Final Covenants and Restrictions to the Administrator for review. If the administrative review concludes that the submitted documents/plans meet all the conditions and requirements of the Council's approval, then said documents can be recorded in the Teton County Clerk/Recorder's office.

8. Length of Approval:

An application that is approved and not recorded within six (6) months of the date of approval shall be considered expired and a new application shall be required.

9. Approval Criteria Used for Final Plat

When reviewing or approving a Final Plat, the City Council shall consider the following:

- a. Recommendations of the Administrator, including recommendations from internal City departments and external agencies;
- b. Compliance with the applicable requirements of the Land Use Development Code;
- c. Substantial conformance with the City's applicable adopted plans and policies;
- d. Substantial conformance with the Preliminary Approval; and
- e. The City of Victor Planning & Building Department, City Public Works Director,

Teton County Fire District and any other agencies inspection reports.

10. Construction Drawings

Upon acceptance of the improvements, the applicant or design professional shall submit two (2) copies of "as-built" plans certified, stamped, and signed by the design professional

11. Recording Final Plat:

Once the Council approved the Final plat and "as-built" plans are submitted, a Mylar copy of the Plat and all other required materials outlined above shall be submitted to the Planning Department prior to recording with the Teton County Clerk/Recorder.

12. Final Plat Appeal

Decisions of the Council are final. Applicants or affected property owners shall have no more than 14 days after the written decision is delivered to request a reconsideration by the Council. If still not satisfied with a decision of the Council, one may pursue appeals to District Court within 28 days of the written decision being delivered.

13. Sale of Lots After Final Plat Approval

Only after Final Plat approval and recording of the Final Plat can lots be sold.

14.5.11. Condominiumization

The purpose of this section is to set forth special provisions for property created or converted pursuant to the Condominium Property Act, Title 55, Chapter 15, Idaho Code.

A. Definition - The purpose of this section is to set forth special provisions for property created or converted pursuant to the Condominium Property Act, Title 55, Chapter 15, Idaho Code.

B. Process for approval

1. Scheduling a Pre-Application Conference

- a. Before submitting an application, you must schedule a pre-application conference with the Administrator to discuss the procedures and standards required for approval.
- b. To schedule a pre-application conference call the City or go to City Hall.

2. Submitting Your Application

- a. Following the pre-application conference, you can start the application process. To begin, submit a complete application form, along with the required application fees, to the City.
- b. Condominiumization application forms can be found on the City's website or paper copies can be obtained from City Hall.
- c. The general submittal requirements for all development review applications are listed in 14.3 and must be followed.
- d. The application for a Condominium Plat shall include:
 - i. A property Development Plan in accordance with Div. 13.1.3;
 - ii. Condominium Plat;
 - iii. Pre-recorded deeds;
 - iv. By-laws: a copy of the proposed by-laws and condominium declarations of the proposed condominium development. Said documents shall adequately provide for the control (including billing where applicable) and maintenance of all common utilities, common area, recreational facilities, and open space. Prior to final plat

- approval, the developer shall submit to the City a copy of the final by-laws and condominium declarations which shall be approved by the Council and filed with the Teton County Recorder, including the instruments number(s) under which each document was recorded;
- v. Certificate of Occupancy: a copy of the Certificate of Occupancy for when the building was constructed, and/or construction inspection records;
 - vi. Proposed Condominium Declaration in conformance with Idaho Code 55-1505;
 - vii. Approval letter from Teton County Fire District;
 - viii. Acceptance letter from city for water and sewer hookups;
 - ix. Fees for this process shall be in accordance with the current fee schedule and are due at the time of submission of the application for review by the Planning Department. The fees for this process are nonrefundable after the Planning Department reviews the proposed application.

C. Administrator Review

1. The Administrator will determine the application is complete, and then review the application.
2. Anything regulated in the Land Development Code will be reviewed for compliance by the Administrator, with additional review by internal City departments and external agencies, as necessary. Comments for revisions will be forwarded to the applicant.

3. Once the revisions are made and the documents reviewed again, the Planning and Zoning Administrator will recommend approval or denial of the application to the City Council. A recommendation will be made within 20 days of receiving a complete application (or revised application). This time period may be extended if both the applicant and the Administrator agree on an extension.
4. If the Administrator finds that the application does not meet all the applicable requirements of the Land Development Code, the Administrator will notify the applicant of the specific provisions that have not been met and offer the applicant the opportunity to make changes to the application.
5. The recommendation of approval or denial of the application is based on whether or not the submittal meets or fails to meet the applicable requirements of the Land Development Code. The Administrator may not modify a standard in the Land Development Code unless the requested modification is allowed.
6. The Planning Administrator shall recommend to the City Council approval, approval with conditions, or denial of the application pursuant to the criteria and standards in the City regulations

D. Council Review:

1. The Council may review the recommendation and proposed insignificant changes at a regularly scheduled public meeting.
2. The criteria they will use in making their decision is found in 14.10.A.1.

E. Criteria for Approval

1. Any proposed condominium shall comply with all applicable criteria and standards of the City

regulations, conditions of approval established in the previous approval, and the development agreement approved as part of the previous approval.

2. Condominiums shall not increase the number of lots, only create separate units.
3. Condominiums shall not change the uses approved, or the location of where certain uses are approved.
4. Condominiums shall not increase or create new and potentially substantial direct or indirect impacts on the neighborhood, vicinity of the subdivision or overall community.
5. The structure must have a certificate of occupancy, or the approval of the Condominiumization can be conditioned on obtaining the Certificate of Occupancy

F. Recording:

- a. After a Condominium Plat is approved by the City Council, a Mylar copy of the Plat and all other required materials outlined above for the amendment shall be submitted to the Planning Department prior to recording with the County Clerk.

G. Length of Approval

1. An application that is approved and not recorded within six (6) months of the date of approval shall be considered expired and a new application shall be required.

H. Standards

1. Garages: All garages shall be designated on the preliminary and final plats and on all deeds as part of the particular condominium units. Detached garages may be platted on separate sub-units, provided that the ownership of detached garages is tied to specific

condominium units on the condominium plat and in any owner's documents and that the detached garage(s) may not be sold and/or owned separate from any dwelling unit(s) within the condominium project.

2. Storage/Parking Areas: Condominium projects shall provide parking spaces per residential unit as required in Div. 11 and one guest parking space per residential unit, of no less than 10' x 20' dimension. These spaces shall be designated as either overflow parking or vehicle storage for the residents of the development.
3. Design Standards: All buildings will meet the building standards in Article 8, associated with the type of building it is.

14.5.12. Townhouses

A. Definition - The purpose of this section is to set forth special provisions for the creation of a Townhouse Development.

B. Process for approval

Townhouse (or Attached House) Developments where each unit is located on a separate lot (even with a shared wall) shall follow the full plat subdivision process outlined in Div. 14.5.10.

C. Additional Standards

1. Agreements. The developer of the townhouse development shall submit with the preliminary plat application and all other information required herein a copy of the proposed party wall agreement and the proposed document(s) creating an association of owners of the proposed townhouse sub-lots, which shall adequately provide for the control (including billing where applicable) and maintenance of all common utilities, commonly held facilities, garages, parking and/or open spaces. Prior to final plat approval, the developer shall submit to the City a final copy of said party wall agreement

and any other such documents and shall record said documents prior to recordation of the plat, which plat shall reflect the recording instrument numbers thereupon.

2. **Garage:** All garages shall be designated on the preliminary and final plats and on all deeds as part of the particular townhouse units. Detached garages may be platted on separate sub-lots, provided that the ownership of detached garages is tied to specific townhouse units on the townhouse plat and in any owner's documents and that the detached garage(s) may not be sold and/or owned separate from any dwelling unit(s) within the townhouse development.
 3. **Storage/Parking Areas:** Residential townhouse developments shall provide parking spaces per residential unit as required in Div. 11 of this code, and one guest parking space per residential unit, of no less than 10' x 20' dimension. These spaces shall be designated as either overflow parking or vehicle storage for the residents of the development.
 4. **Construction standards:** All townhouse development construction shall be in accordance with the International Building Code and International Fire Code as adopted. Each townhouse unit must have separate utility services, which do not pass through another building or unit.
- D. **Expiration:** Townhouse developments which have received final plat approval shall have a period of three calendar years from the date of final plat approval by the Victor City Council to obtain a building permit. Developments which have not received a building permit, shall be null and void and the plats associated therewith shall be vacated by the Victor City Council. If a development is to be phased, construction of the second and succeeding phases shall be contingent upon completion of

the preceding phase unless the requirement is waived by the City Council. Further, if construction on any townhouse development or phase of any development ceases or is not diligently pursued for a period of three years without the prior consent of the City Council, that portion of the plat pertinent to the undeveloped portion of the development shall be vacated.

Administrative Review occurs for applications that are site specific. It ensures applications are being reviewed against a previously approved standard to ensure the applicant's due process rights are being protected. Generally the site plan review is done in conjunction with a building permit.

14.6.1. Administrative Review Required

A. Administrative Review is required for:

1. Site Plan Review
2. Design Review

14.6.2. Approval of Administrative Review

For Site Plan Review and Temporary Use Permits, the Administrator provides approval except when, at the Administrator's discretion, Site Plans for projects over 5,000 square feet or that disturb more than 5,000 square feet of ground are forwarded to the Planning and Zoning Commission for approval during a public meeting. The Planning and Zoning Commission approves a Design Review application after a recommendation from the Administrator. and the Commission approves a Design Review application after a recommendation from the Administrator.

14.6.3. Eligible Applicants

Any person, firm, corporation, or agency can submit an application for Administrative Review, provided they are the legal property owner or the owner's representative of the subject property.

14.6.4. Submitting an Application

A. Scheduling a Pre-Application Conference

1. Before submitting an application, you must schedule a pre-application conference with the Administrator to discuss the procedures and standards as well as what items of the Property Development Plan will be required for approval.

2. To schedule a pre-application conference call the City or go to City Hall.

B. Submitting an Application

1. Following the pre-application conference, you can start the application process. To begin, submit a complete application form, the required elements of the Property Development Plan, along with the required application fees, to the City.
2. Administrative Review application forms can be found on the City's website or paper copies can be obtained from City Hall.
3. The general submittal requirements for all development review applications are listed in Div. 14.3 and must be followed.

14.6.5. Concurrent Review Allowed

Multiple applications by one applicant may occur at the same time, including- rezones, condition use permits and/or building permits. However, if a public hearing is required for a separate approval, noticing for that public hearing shall not be made prior to receiving recommendations from the recommending approving body, as outlined in Idaho Code 67-6509 (b) regarding the noticing for public hearings.

14.6.6. Public Notice

Administrative Review applications do not require a public hearing in front of the Commission, therefore there are not public noticing requirements. They are required to be clearly listed on the agenda for the meeting.

14.6.7. Additional Studies Required

Before granting an Administrative approval, studies may be required as identified in Article 13.

14.6.8. Applicable Conditions

Conditions may be attached to an Administrative approval including, but not limited to, conditions that:

- A. Meet the standards identified in the Land Use Development Code;
- B. Minimize adverse impact on other development;
- C. Control the sequence and timing of development;
- D. Control the duration of development;
- E. Assure that development is maintained properly;
- F. Designate the exact location and nature of development;
- G. Require the provision of on-site or off-site public facilities or services;
- H. Require more restrictive standards than those generally required in this Code ;
- I. Require mitigation of effects of the proposed development upon service delivery by any governmental agency/district, including school districts, providing services within the planning jurisdiction.

14.6.9. Site Plan Review

Site Plan Review is required to ensure that all construction and development complies with the applicable requirements of the Land Use Development Code.

A. Site Plan Review Procedures

- 1. The Administrator will determine if the Application/Property Development Plan is complete, and then review the application.
- 2. Anything regulated in the Land Use Development Code will be reviewed for compliance by the Administrator, with additional review by internal City departments and external

agencies, as necessary. Comments for revisions will be forwarded to the applicant.

- 3. Once the revisions are made and the documents reviewed again, the Planning and Zoning Administrator will approve or deny the application. A decision will be made within 65 days of receiving a complete application. This time period may be extended if both the applicant and the Administrator agree on an extension.
- 4. If the Administrator finds that the application does not meet all the applicable requirements of the Land Use Development Code, the Administrator will notify the applicant of the specific provisions that have not been met and offer the applicant the opportunity to make changes to the application.
- 5. Approval or denial of the application is based on whether or not the submittal meets or fails to meet the applicable requirements of the Land Use Development Code. Neither the Administrator nor the Commission may not modify a standard in the Land Use Development Code unless the requested modification is allowed. If an applicant is unsatisfied with the
- 6. Administrator's decision, an appeal may be filed with the Planning and Zoning Commission, as outlined in Div. 14.8. If the applicant is unsatisfied with the Commission's decision, an appeal may be filed with the City Council as outlined in Div. 14.8.

B. Approval Criteria Used for a Site Plan

- 1. The use is allowed in the respective zoning district, or the proper permits have been obtained.
- 2. The design complies with the specific standards of this Code, without the granting of any variance.

- 3. The design is compatible with adjacent properties in terms of location, scale, and site design characteristics.
- 4. Any adverse impacts resulting from the proposed design will be effectively mitigated or offset.
- 5. The City and other service providers will be able to provide sufficient public facilities and services including schools, roads, recreation facilities, wastewater treatment, water supply and stormwater facilities, police, fire and emergency medical services, while maintaining sufficient levels of service to existing development.

C. Modification of Standards

1. Applicability

The Administrator may modify the following standards during Site Plan Review. Any other modification beyond those listed below must be approved by the Planning & Zoning Commission.

a. Setbacks

A reduction of up to 20% of the numeric standard for a minimum building setback.

b. Build-to

- i. An increase or reduction of up to 10% of the numeric standard for the minimum or maximum primary street or side street setback.
- ii. A reduction of up to 5% of the minimum build-to percentage.

c. Ground Floor Elevation

A reduction of the minimum ground floor elevation by up to one foot (except in areas subject to minimum base flood elevations).

d. Ground and Upper Story Floor Heights

A reduction of the minimum ground-story and upper-story floor heights by up to 10%.

e. Transparency

A reduction of the minimum transparency requirements by up to 5%.

f. Blank Wall Area

An increase of the maximum allowed blank wall area by up to 15%.

g. Street-Facing Entrances

An increase in the minimum distance between street-facing entrances by up to 10%.

2. Criteria for Approval

The Administrator must consider the following when approving a request for a modification:

- a. There are clear and compelling reasons that are not purely financial why the required standard cannot be met; and
- b. The approved modification is the minimum amount necessary to meet the objectives identified above.

D. Length Site Plan Approval is Valid

A Site Plan remains valid as long as a valid building permit is current on the property.

E. Site Plan Appeal

Appeal procedures for a site plan decision can be found in 14.8.

14.6.10. Design Review

Design Review occurs only in Design Overlay Districts (such as the Scenic Corridor Design Review Overlay) or as specified in Div. 14.9.5., and ensures that the guidelines in the Design Standards are met. All development shall be subject to design review to ensure that the location, scale, and appearance of buildings, structures, and development of land shall preserve the rural character of the areas bordering Idaho State Highways and to prevent the construction of buildings that project upward beyond the ridgeline as specified in Div. 9.3 or Div.13.3.2.

A. Design Review Procedures

1. The Administrator will determine if the Application/Property Development Plan is complete, and then review the application.
2. Upon determination of a complete Application/Property Development Plan, the Administrator will promptly review the application. The Administrator may distribute the application to internal City departments and external agencies if the design will present challenges for these agencies.
3. If after the internal and external review, the Administrator finds that the application meets all applicable requirements of the Land Use Development Code, the application will be certified as complying with all applicable requirements of the Land Use Development Code, and scheduled for the next available Commission meeting.
4. Upon certification by the Administrator that the application complies with all applicable requirements of the Land Use Development Code, no changes to the application are permitted prior to the Commission meeting.
5. The Commission will hold a public meeting to approve, approve subject to listed modifications, or deny the application.
6. The Commission has 65 days from the date of the public meeting to make a final decision. This time period may be extended if both the applicant and the Commission agree on an extension.
7. Approval or denial of the application is based on whether or not the submittal meets or fails to meet the applicable requirements of the Land Use Development Code. The Commission may not modify a standard in the Land Use Development Code unless the requested

modification is allowed per the Land Use Development Code.

8. If the Commission finds that the application does not meet all the applicable requirements of the Land Use Development Code, the Commission will notify the applicant of the specific provisions that have not been met and offer the applicant the opportunity to make changes to the application.
9. If an applicant is unsatisfied with the Commission's decision, an appeal may be filed with the Commission, as outlined in Div. 14.8.

B. Approval Criteria Used for a Design Review

1. The use is allowed in the respective zoning district, or the proper permits have been obtained.
2. The design complies with the specific standards of this Code without the granting of any variance.
3. The design is compatible with adjacent properties in terms of location, scale, and site design characteristics.
4. Any adverse impacts resulting from the proposed design will be effectively mitigated or offset.
5. The City and other service providers will be able to provide sufficient public facilities and services including schools, roads, recreation facilities, wastewater treatment, water supply and stormwater facilities, police, fire and emergency medical services, while maintaining sufficient levels of service to existing development.
6. Setbacks: No permanent structure shall be constructed within 50 feet of the outer edge of the road right-of-way, unless the parcel does not contain any buildable site outside of the setback area, in which case primary structures shall be

located as far from the outer edge of the road right-of-way as possible.

7. Building Envelopes: The development shall identify building envelopes for all primary and accessory structures. Building envelopes shall comply with the following requirements:
 - a. Building envelopes shall be located so that existing topography and natural vegetation, such as ridges, hills, and existing trees, will screen buildings from view from the State Highways to the maximum extent feasible.
 - b. Where existing topography and natural vegetation cannot be used to screen buildings as described in Subsection 1 above, building envelopes should be located at the rear or side edges of an open meadow or pasture, or at the foot of a hill or ridge, rather than in the middle of a meadow, pasture, or hillside.
 - c. Notwithstanding Subsections 1 and 2 above, building envelopes shall be located so that no portion of a building up to 30 feet tall shall be visible over the ridge of the hillside on which it is located when viewed from the State Highways, and the applicant shall submit a sight line analysis in sufficient detail to confirm that this standard has been met.
8. Building Materials: All non-agricultural buildings shall not be of highly reflective materials according to ASTM C6007, Light Reflectivity Index.
9. Roads and Driveways: Roads and driveways shall be designed to eliminate the need to back out onto the State Highways. Existing roads and drive- ways shall be used where practical. When it is not practical to use existing roads, then new roads and driveways shall be located to skirt

the edge of meadows and pastures (i.e. avoid dividing them) to the maximum extent feasible.

C. Length Design Approval is Valid

A Design Review Approval remains valid as long as a valid building permit is current on the property.

D. Design Review Appeal

Appeal procedures for a design review appeal can be found in 14.8.

14.6.11. Temporary Use Permits

Temporary uses are allowed and permitted per Title 3 of the Victor Municipality Code.

14.6.12. Application of Guidelines

Guidelines or guiding principles are not mandatory, but not ignorable either. The words "should," "preferred" and "recommend" indicate guidelines, or parameters for interpreting, applying, and modifying the project. The Administrative Standards also contain illustrations and photographs. The graphics are intended to be interpreted as examples of recommended, acceptable or unacceptable elements, styles or Administrative treatments. Guidelines are intended to be balanced, and applied with discretion. Alternative Administrative applications that meet or exceed the intent of the Guiding Principles and Administrative guidelines are encouraged.

14.6.13. Establishment of a Precedent with Approval

Administrative approvals are based on the application, the proposed location, and the criteria identified in this Code. These approvals do not establish a binding precedent to grant other Administrative approvals.

14.6.14. Transferability of Administrative approvals

Administrative approvals may be transferred from one owner to another, however they are not transferable from one parcel of land to another.

14.6.15. Length an Administrative Approval is Valid

An approved project expires 1 year after the approval date unless the applicant has filed a complete application for a Building Permit or made substantial progress towards development that does not require a building permit.

14.6.16. After Approval of an Administrative Decision

Upon approval of an Administrative project, application for a building permit may be made or work on the project may commence, unless additional criteria was requested

14.6.17. Revocation of an Administrative Permit

- A. The Council may revoke an administrative permit for any one or more of the following reasons:
 1. There was a material representation in the original application or hearing
 2. One or more of the terms or conditions upon which such permit was granted has been violated.
 3. The use for which the permit was granted has become detrimental to the public health, safety or welfare and such as not the condition at the time of approval.
- B. If the City finds there is a violation of the conditions of an Administrative Permit notice shall be provided to the permit holder via U.S. mail with a time period to come into compliance specified.

- C. If the permit holder fails to come into compliance, within the specified time period, the Administrator shall schedule a discussion with the Council on the next available meeting and notify the permit holder of the scheduled time.
- D. If the permit holder fails to come into compliance, within the specified time period, the Administrator shall schedule a discussion with the Council on the next available meeting and notify the permit holder of the scheduled time.
- E. The Council shall refer the case to the Planning and Zoning Commission for review during a public hearing. The Commission shall recommend modification or revocation or that no action be taken and forward the case to Council. During a public hearing Council shall modify, revoke, take no action or remand the case back to the Commission.

Quasi-Judicial Review occurs for applications that are site specific. It ensures applications are being reviewed against a previously approved standard to ensure the applicant's due process rights are being protected.

14.7.1. Quasi-Judicial Review Required

A. Quasi-Judicial Review is required for:

- 1. Conditional Use Permits

A Conditional Use Permit can only be issued for the uses identified in Article 10 as uses requiring a Conditional Use Permit . The intent is to provide standards and oversight to mitigate the effects these uses may have on the public and surrounding land owners.

- 2. Rezone Map Amendments (Project Specific)

This review is intended to provide standards and oversight to mitigate negative effects a change in zoning may have on the public, neighborhood, or surrounding property owners.

- 3. Variances

Variances can only be approved if they are related to the zoning requirements of the Land Use Development Code, more specifically, relating to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting the size or shape of a structure, the placement of the structure upon lots, or the size of lots.

- 4. Annexation

An Annexation is a process to add land outside the boundary of Victor City Limits to the City. Annexation applications must be accompanied by a Re-Zone Map Amendment application in order to amend the

City's official zoning map, as is required by Idaho Code 67-6525.

- 5. De-Annexation

Only the City may initiate De-Annexation. De-Annexation, of Exclusionof Territory, excludes land from City limits, in accordance with Idaho Code. After De-Annexation occurs the land is under the regulation of Teton County.

14.7.2. Approval of Quasi-Judicial Review

The Planning and Zoning Commission approves Quasi-Judicial Review applications following a recommendation by the Administrator for Conditional Use Permits and Variances. The City Council approves a Rezone Map Amendment after a recommendation from the Planning and Zoning Commission. The City Council approves Annexation applications after a recommendation from the Planning and Zoning Commission. The City Council approves De-Annexation after a recommendation from the Planning and Zoning Commission.

14.7.3. Eligible Applicants

Any person, firm, corporation or agency can submit an application for Quasi-Judicial Review, other than De-Annexation, provided they are the legal property owner or the owner's representative of the subject property. Only the City can initiate an application for De-Annexation.

14.7.4. Submitting an Application

A. Scheduling a Pre-Application Conference

- 1. Before submitting an application, pre-application conference with the Administrator must be scheduled to discuss the procedures and standards as well as what items of the Property Development Plan will be required for approval.
- 2. To schedule a pre-application conference, call or visit the City of Victor Planning and Building Department.

B. Application Submittal

1. Following the pre-application conference, a complete application form, along with the required application fees, may be submitted to the City.
2. Quasi-Judicial Review application forms can be found on the City's website or paper copies can be obtained from City Hall.
3. The general submittal requirements for all development review applications are listed in Div. 14.3 and Article 13 must be followed.

14.7.5. Concurrent Review Allowed

Multiple Quasi-Judicial Review applications by one applicant may occur at the same time, as long as there is no violation of Idaho Code 67-6509 (b) regarding the noticing for public hearings.

14.7.6. Public Notice

Quasi-Judicial Review applications requires a public hearing in front of the Commission. Rezone applications will require a second public hearing before the Council, unless rezoning to the Preservation District. When rezoning to Preservation there may only be one public hearing required before the Council. Notice requirements for public hearings are specified in Div. 14.1 and Div. 14.3.5

14.7.7. Additional Studies Required

Before granting a Quasi-Judicial approval, studies may be required of the social, economic, fiscal, and environmental effects and any aviation hazard as defined in §21-501(2)of Idaho Code. (§67-2512)

14.7.8. Applicable Conditions

Conditions may be attached to a Quasi-Judicial approval (or recommendation) including, but not limited to, conditions that:

- A. Minimize adverse impact on other development;

- B. Control the sequence and timing of development;
- C. Control the duration of development;
- D. Assure that development is maintained properly;
- E. Designate the exact location and nature of development;
- F. Require the provision of on-site or off-site public facilities or services;
- G. Require more restrictive standards than those generally required in this Code;
- H. Require mitigation of effects of the proposed development upon service delivery by any governmental agency/district, including school districts, providing services within the planning jurisdiction.

14.7.9. Development Agreements

- A. A development agreement, as specified in Sec. 67-6511A, Idaho Code, is allowed as a condition of a Rezone Map Amendment or Conditional Use Permit.
- B. A development agreement may be modified as specified in Div. 14.10.

14.7.10. Conditional Use Permit Application Review

A Conditional Use Permit can only be issued for the uses identified in Article 10 as uses requiring a Conditional Use Permit . The intent is to provide standards and oversight to mitigate the effects these uses may have on the public and surrounding land owners.

A. Conditional Use Permit Review Procedures

1. Initial Distribution of an Application

Upon determination of a complete Application/ Property Development Plan, the Administrator will promptly distribute the application for review by internal City departments and external agencies and schedule the DRC meeting.

2. DRC Meeting

This meeting is to begin the discussion about the proposal and is not a forum for final decisions or for accepting comments concerning public support or opposition. No minutes of the meeting are required to be taken or provided at future meetings or hearings. Planning and Zoning Administrator staff will take noted to summarize the findings from this meeting.

3. Administrator Review

- a. If after the internal and external review, the Administrator finds that the application meets all applicable requirements of the Land Use Development Code, the application will be certified as complying with all applicable requirements of the Land Use Development Code and scheduled for the next available Commission hearing.
- b. Upon certification by the Administrator that the application complies with all applicable requirements of the Land Use Development Code, no changes to the application are permitted prior to the Commission hearing.

4. Planning and Zoning Commission Public Hearing

- a. The Commission will conduct a public hearing to approve, approve subject to listed modifications, or deny the application.
- b. The Commission has 65 days from the date of the public hearing to make a final decision. This time period may be extended if both the applicant and the Commission agree on an extension.
- c. The Commission may require conditions necessary to make the proposed project compatible with the applicable guidelines of the Quasi-Judicial Standards.

B. Approval Criteria Used for a Conditional Use Permit Review

1. The use is in compliance with the requirements of Articles 3-7.
2. The use is allowed as a conditional use in the respective zoning district and complies with the specific use standards listed in Article 10.
3. The use complies with the specific standards listed in Article 10 and conditions listed in Article 9, if any, without the granting of any variance.
4. The use is compatible with adjacent uses in terms of location, scale, site design, hours of operation and operating characteristics.
5. Any adverse impacts resulting from the proposed use in the affected area will be effectively mitigated or offset.
6. The City and other service providers will be able to provide sufficient public facilities and services including schools, roads, recreation facilities, wastewater treatment, water supply and stormwater facilities, police, fire and emergency medical services, while maintaining sufficient levels of service to existing development.

C. Length Conditional Use Permit Approval is Valid

1. An approved Conditional Use Permit expires 1 year after the approval date unless the applicant has filed a complete application for a Building Permit or made substantial progress towards development that does not require a building permit.
2. The approval may also contain an expiration or review deadline where the application must be resubmitted.

D. Conditional Use Permit Appeal

Applicants or affected property owners unsatisfied with the Commission's decision based on the identified criteria for approval, may submit in writing an appeal identifying the specific criteria that were not met along with the associated fee no more than 14 days after the written decision of the Commission's decision is delivered. The appeal will be heard by the Council. Decisions of the Council are final. Applicants or affected property owners shall have no more than 14 days after the written decision is delivered to request reconsideration by the Council. If still not satisfied with a decision of the Council, one may pursue appeals to District Court within 28 days of the written decision being delivered.

14.7.11. Rezone Map Amendment Application Review

This review is intended to provide standards and oversight to mitigate negative effects a change in zoning may have on the public, neighborhood, or surrounding property owners.

Recommendations of the Commission and decisions of the Council shall be made a matter of public record in accordance with sections 67-6511, 67-6519 and 67-6535 of the Idaho Code.

A. Rezone Map Amendment Review Procedures

1. Initial Distribution of an Application

Upon determination of a complete Application/Property Development Plan, the Administrator will promptly distribute the application for review by internal City departments and external agencies and schedule the DRC meeting.

2. DRC Meeting

This meeting is to begin the discussion about the proposal and is not a forum for final decisions or for accepting comments concerning public support or

opposition. No minutes of the meeting are required to be taken or provided at future meetings or hearings. Planning and Zoning Administrator staff will take notes to summarize the findings from this meeting.

3. Administrator Review

- a. If after the internal and external review, the Administrator finds that the application meets all applicable requirements of the Land Use Development Code, the application will be certified as complying with all applicable requirements of the Land Use Development Code and scheduled for the next available Commission hearing. If rezoning to Preservation, the Administrator shall determine whether a public hearing is required before the Commission or if the recommendation to the Council will be made at a regularly scheduled meeting.
- b. Upon certification by the Administrator that the application complies with all applicable requirements of the Land Use Development Code, no changes to the application are permitted prior to the Commission hearing.

4. Planning and Zoning Commission Public Hearing

- a. The Commission will conduct a public hearing to recommend approval, approval subject to listed modifications, or denial of the application to the Council. If rezoning to Preservation, the Commission may discuss the application at a regularly scheduled meeting and make a recommendation to the Council. The Administrator may determine that a public hearing is not required with the Commission, based on the application.
- b. The Commission has 65 days from the date of the public hearing to submit their

recommendation to the Council. This time period may be extended if both the applicant and the Commission agree on an extension.

- c. The Commission may require conditions necessary to make the proposed project compatible with the applicable guidelines of the Quasi-Judicial Standards.

5. City Council Public Hearing

- a. The Council will conduct a public hearing to recommend approve, approve subject to listed modifications, or deny the application.
- b. The Council has 65 days from the date of the public hearing to make a final decision. This time period may be extended if both the applicant and the Council agree on an extension.
- c. The Council may require conditions necessary to make the proposed project compatible with the applicable guidelines of the Quasi-Judicial Standards.

B. Approval Criteria Used for a Rezone Map Amendment

1. The Zoning Map Amendment substantially conforms to the Comprehensive Plan.
2. The Zoning Map Amendment substantially conforms to the stated purpose and intent of this Code.
3. The Zoning Map Amendment will reinforce the existing or planned character of the area.
4. The subject property is appropriate for development allowed in the proposed district.
5. There are substantial reasons why the property cannot be used according to the existing zoning.

6. There is a need for the proposed use at the proposed location.
7. The City and other service providers will be able to provide sufficient public facilities and services including schools, roads, recreation facilities, wastewater treatment, water supply and stormwater facilities, police, fire and emergency medical services, while maintaining sufficient levels of service to existing development.
8. The Zoning Map Amendment will not significantly impact the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation.
9. The Zoning Map Amendment will not have a significant adverse impact on property in the vicinity of the subject property.

C. Rezone Map Amendment Appeal

Decisions of the Council are final. Applicants or affected property owners shall have no more than 14 days after the written decision is delivered to request a reconsideration by the Council. If still not satisfied with a decision of the Council, one may pursue appeals to District Court within 28 days of the written decision being delivered.

14.7.12. Variance Application Review

Variances can only be approved if they are related to the zoning requirements of the Land Use Development Code, more specifically relating to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots as outlined in Idaho State Code 67-6516.

A. Variance Application Procedures

1. Initial Distribution of an Application

Upon determination of a complete Application/Property Development Plan, the Administrator will promptly distribute the application for review by internal City departments and external agencies and schedule the DRC meeting.

2. DRC Meeting

This meeting is to begin the discussion about the proposal and is not a forum for final decisions or for accepting comments concerning public support or opposition. No minutes of the meeting are required to be taken or provided at future meetings or hearings. Planning and Zoning Administrator staff will take notes to summarize the findings from this meeting.

3. Administrator Review

- a. If after the internal and external review, the Administrator finds that the application meets all applicable requirements of the Land Use Development Code, the application will be certified as complying with all applicable requirements of the Land Use Development Code and scheduled for the next available Commission hearing.
- b. Upon certification by the Administrator that the application complies with all applicable requirements of the Land Use Development Code, no changes to the application are permitted prior to the Commission hearing.

4. Planning and Zoning Commission Public Hearing

- a. The Commission will conduct a public hearing to approve, approve subject to listed modifications, or deny the application.

- b. The Commission has 65 days from the date of the public hearing to make a final decision. This time period may be extended if both the applicant and the Commission agree on an extension.

- c. The Commission may require conditions necessary to make the proposed project compatible with the applicable guidelines of the Quasi-Judicial Standards.

B. Approval Criteria Used for a Variance Application

1. A literal interpretation of the provisions of this Code would effectively deprive the applicant of rights commonly enjoyed by other properties of the zoning district in which the property is located;
2. Granting the requested variance will not confer upon the property of the applicant any special privileges that are denied to other properties of the zoning district in which the property is located;
3. The requested variance will be in harmony with the purpose and intent of this Code and will not be injurious to the neighborhood or to the general welfare;
4. The special circumstances are not the result of the actions of the applicant;
5. The variance requested is the minimum variance that will make possible the proposed use of the land, building, or structure;
6. The variance does not permit a use of land, buildings or structures, which is not permitted by right in the zoning district; and
7. The variance does not reduce the lot size below the minimum lot size allowed in the zoning district.

8. If applicable, all variances requested in the Trail Creek Flood Damage Prevention Overlay conform with the requirements of Title 11: Flood Control.

C. Length Variance Approval is Valid

An approved variance expires 1 year after the approval date unless the applicant has filed a complete application for a Building Permit or made substantial progress towards development that does not require a building permit.

D. Variance Application Appeal

Applicants or affected property owners unsatisfied with the Commission's decision based on the identified criteria for approval, may submit in writing an appeal identifying the specific criteria that were not met along with the associated fee no more than 14 days after the written decision of the Commission's decision is delivered. The appeal will be heard by the Council. Decisions of the Council are final. Applicants or affected property owners shall have no more than 14 days after the written decision is delivered to request reconsideration by the Council. If still not satisfied with a decision of the Council, one may pursue appeals to District Court within 28 days of the written decision being delivered.

14.7.13. Annexation

This review is intended to provide standards and oversight to mitigate negative effects an annexation of land into the City limits may have on the public, neighborhood, or surrounding property owners.

Any land that is added to the city by annexation must be added to the official zoning map, as required by I.C. 67-6525. Also, an annexation plat shall accompany all proposals for annexation. That plat may be strictly an annexation plat, showing the boundaries of the area to be added to the city, or it may be a plat associated with a Lot Split, Short Plat, or Full Plat, which shall be reviewed as required by this Title.

A. Annexation Application Review Procedures

1. Initial Distribution of an Application

Upon determination of a complete Application/Property Development Plan, the Administrator will promptly distribute the application for review by internal City departments and external agencies and schedule the DRC meeting.

2. DRC Meeting

This meeting is to begin the discussion about the proposal and is not a forum for final decisions or for accepting comments concerning public support or opposition. No minutes of the meeting are required to be taken or provided at future meetings or hearings. Planning and Zoning Department staff will take notes to summarize the findings from this meeting.

3. Administrator Review

- a. If after the internal and external review, the Administrator finds that the application meets all applicable requirements of the Land Development Code, the application will be certified as complying with all applicable requirements of the Land Development Code and scheduled for the next available Planning and Zoning Commission hearing.

- b. Upon certification by the Administrator that the application complies with all applicable requirements of the Land Development Code, no changes to the application are permitted prior to the Planning and Zoning Commission hearing.

4. Planning and Zoning Commission Public Hearing

- a. The Planning and Zoning Commission will conduct a public hearing to approve, approve subject to listed modifications, or deny the application.

- b. The Planning and Zoning Commission has 65 days from the date of the public hearing to submit their recommendations to the City Council, or make a final decision. This time period may be extended if both the applicant and the Planning and Zoning Commission agree on an extension.
 - c. The Commission may require conditions necessary to make the proposed project compatible with the applicable guidelines of the Quasi-Judicial Standards.
5. City Council Action
- a. After reviewing the recommendation of the Planning and Zoning Commission, the City Council will take action on the application.
 - b. The public hearing for the City Council cannot be scheduled and/or noticed until a recommendation is made by the Planning and Zoning Commission.
 - c. The City Council has 65 days from the date of the public hearing to approve, approve with conditions, deny, or send the application back to the Planning and Zoning Commission for additional consideration. This time period may be extended if both the City Council and the Applicant agree on an extension.

B. Approval Criteria Used for an Annexation Application

1. If a request is made from a property owner for City services, and the property is outside of City limits but contiguous to the Victor City limits they shall be required to apply for annexation. (Res. R03-0403-2, 4-3-2003)
2. Additional development proposed for the property is within the capacity of the City and other service providers (police, fire, library, etc) to provide;

3. Traffic generated by additional development proposed for the property can be accommodated by existing streets serving the site, or the traffic generated can be mitigated;
4. Additional development proposed for the property will not negatively impact natural resources as identified in the Property Development Plan.

C. Length Annexation Approval is Valid

An approved Annexation expires 1 year after the approval date unless the Annexation plat has been recorded.

D. Annexation Application Appeal

Decisions of the City Council are final. Applicants or affected property owners shall have no more than 14 days after the written decision are delivered to request a reconsideration by the Council. If still not satisfied with a decision of the City Council one may pursue appeals to District Court within 28 days of the written decision being delivered.

14.7.14. Deannexation

his review is intended to provide standards and oversight to mitigate effects land being deannexed, or excluded gorm the boundaries of the city in acordance with Idaho State Code 50-225.

A. Deannexation Application Review Procedures

Deannexation will follow the same procedure for annexation (Div. 14.7.13).

14.7.15. Application of Guidelines

Guidelines or guiding principles are not mandatory, but not ignorable either. The words “should,” “preferred” and “recommend” indicate guidelines, or parameters for interpreting, applying, and modifying the project. The Quasi-Judicial Standards also contain illustrations and photographs. The graphics are intended to be interpreted as examples of recommended, acceptable or unacceptable elements, styles or Quasi-Judicial

treatments. Guidelines are intended to be balanced, and applied with discretion. Alternative Quasi-Judicial applications that meet or exceed the intent of the Guiding Principles and Quasi- Judicial guidelines are encouraged.

14.7.16. Establishment of a Precedent with approval

Quasi-Judicial approvals are based on the application, the specific location and the criteria identified in this ordinance. These approvals do not establish a binding precedent to grant other quasi-judicial approvals.

14.7.17. Transferability of Quasi-Judicial approvals

Quasi-Judicial approvals may be transferred from one owner to another, however they are not transferable from one parcel of land to another.

14.7.18. Quasi-Judicial Reapplication after a Denial

No application for the same Quasi-judicial approval affecting the same or any portion of property that was denied by the City will be accepted for filing within 12 months of the date the application was denied.

14.7.19. After Approval of a Quasi-Judicial decision

Upon approval of a Quasi-Judicial project, application for a building permit may be made or work on the project may commence, unless additional criteria was requested by the Council.

14.7.20. Revocation of an Quasi-Judicial Approval

- A. The Council may revoke an Quasi-Judicial Review permit for any one or more of the following reasons:
 1. There was a material representation in the original application or hearing.

2. One or more of the terms or conditions upon which such permit was granted has been violated.
 3. The use for which the permit was granted has become detrimental to the public health, safety or welfare and such as not the condition at the time of approval.
 4. The use violates the law.
- B. If the City finds there is a violation of the conditions of an Administrative Permit notice shall be provided to the permit holder via U.S. mail with a time period to come into compliance specified.
 - C. If the permit holder fails to come into compliance, within the specified time period, the Administrator shall schedule a discussion with the Council on the next available meeting and notify the permit holder of the scheduled time.
 - D. The Council shall refer the case to the Planning and Zoning Commission for review during a public hearing. The Commission shall recommend modification or revocation or that no action be taken and forward the case to Council. During a public hearing Council shall modify, revoke, take no action or remand the case back to the Commission.

14.8.1. Eligible Applicant for the Appeal an Administrative Decision

Any affected person unsatisfied with an administrative decision on an application that is related to a requirement in this Code can file an appeal as shown below.

14.8.2. Appeal Submittal

- A. To begin the appeal process, submit a complete application form, along with the required application fees, to the City. The appeal application must be filed within 14 days of the date of decision..
- B. Administrative Appeal application forms can be found on the City's website or paper copies can be obtained from City Hall.
- C. The general submittal requirements for all development review applications are listed in Div. 14.3 and must be followed. An official denial letter must be provided to the applicant prior to the application of an appeal.

14.8.3. Administrative Appeal Review

- A. Appeal of the Administrators decision.
 - 1. Any appeal received and all papers constituting the record relating to the action appealed will be transmitted by the Administrator to the Commission for a public meeting within 30 days of receipt by the Administrator of a complete application.
 - 2. The Commission will, during a regularly scheduled public meeting, make findings and render a decision within 30 days after the public meeting on the administrative appeal.
- B. Appeal of the Commissions decision.
 - 1. Any appeal received and all papers constituting the record relating to the action appealed will be transmitted by the Administrator to the Council

for a public meeting within 30 days of receipt by the Administrator of a complete application.

- 2. The Council will, during a regularly scheduled public meeting, make findings and render a decision within 30 days after the public meeting on the administrative appeal.
- C. Appeal of the Council's decision.
 - 1. One may pursue an appeal of the Council's decision to District Court within 28 days of the written decision being delivered.

14.8.4. Pursuit of Other Approvals While Appeal is Pending

The filing of an appeal means you can no longer move forward with any other approvals related to your development project until a decision has been made related to the appeal.

14.8.5. Criteria for Appeal Review

The criteria for approving or denying the request are the same used for the original decision by the Administrator. The Commission may affirm or reverse the Administrator's decision based on the applicable standards in this Code.

14.8.6. Denial of Appeal

- A. Decisions of the Commission are considered final (unless appealed to the Council). Any effected party not satisfied with a decision of the Commission may pursue an appeal to the Council, within 14 days of the decision.
- B. The Council will follow the same procedure outlined in Div. 14.8.3. Decisions of the Council are final. Applicants or affected property owners shall have no more than 14 days after the written decision is delivered to request reconsideration by the Council. If still not satisfied with a decision of the Council, one may pursue appeals to District Court within 28 days of the written decision being delivered.

14.9.1. Nonconforming Building or Structure

A. Defined

A principal or accessory building or structure that does not meet the requirements for the applicable zoning district.

B. Expansion

A nonconforming building or structure may be expanded, enlarged, or extended only where the expansion, enlargement or extension is for a conforming use in the applicable zoning district. Any expansion, enlargement or extension of a nonconforming building or structure must meet the dimensional requirements for the applicable zoning district and all other requirements of this Code, unless it qualifies for the exception in Div. 14.9.5.

C. Damage of Destruction

1. In the event that a nonconforming structure devoted to a conforming residential or civic use is damaged or partially destroyed by exercise of eminent domain, riot, fire, accident, explosion, flood, lightning, wind or other calamity or natural cause, such structure may be restored within the existing footprint and to the condition existing immediately before the damage or destruction.
2. In the event that a nonconforming structure devoted to a conforming non-residential use is damaged or partially destroyed by exercise of eminent domain, riot, fire, accident, explosion, flood, lightning, wind or other calamity or natural cause to the extent of 50% of the value of the structure prior to the damage or destruction, such structure may only be restored in conformance with this Code.

14.9.2. Nonconforming Use

A. Defined

Any use of land, building, or structure that does not conform to the use regulations of this Code, but which was lawfully existing (conforming) on or before the effective date of this Code or its amendment.

B. Continuance

A nonconforming use may be continued, subject to the requirements of this Division. The right to continue a nonconforming use is tied to the land and not with the owner.

C. Proof of Lawful Establishment

It is the responsibility of the owner of a nonconforming use to prove to the Administrator that the use was lawfully established and existed on the effective date of adoption or amendment of this Code.

D. Change in Use

A nonconforming use may not be changed to another nonconforming use. A change in tenancy or ownership is not considered a change to another nonconforming use, provided that the use itself remains unchanged.

E. Discontinuance

A nonconforming use may not be re-established after discontinuance for 180 days. Vacancy of the building, regardless of the intent of the owner or tenant, constitutes discontinuance under this provision.

F. Expansion

A nonconforming use may not be expanded, enlarged or extended, in land area or in floor space or volume of space in a building or structure, except for a use allowed within the applicable zoning district.

G. Repair

A nonconforming use may not be rebuilt, altered or repaired after damage exceeding 50% of its replacement cost at the time of damage, as determined by the building inspector, except for a use that conforms with the applicable zoning district, and provided any rebuilding, alteration or repair is completed within one year of such damage.

14.9.3. Nonconforming Lot of Record

A. Defined

A lot that does not conform to the lot requirements of the applicable zoning district, but which was a lot of record prior to the date of adoption of this Land Development Code.

B. Use as Building Site

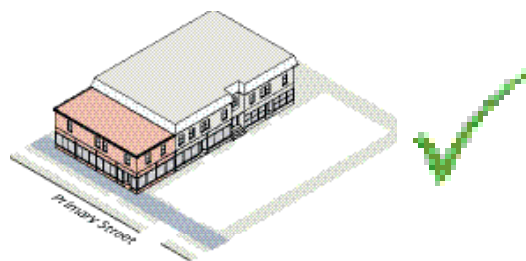
A nonconforming lot of record may be used as a building site, provided that the all other dimensional requirements of the applicable zoning district are met or a variance is obtained from the City of Victor. Where applicable, the nonconforming lot of record must meet all current requirements of Eastern Idaho Public Health, District 7.

14.9.4. Nonconforming Build-to Requirement

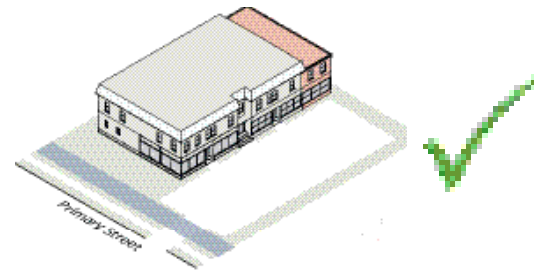
A. Additions

When an existing building is being expanded and the building doesn't meet the build-to requirement, the following provisions apply.

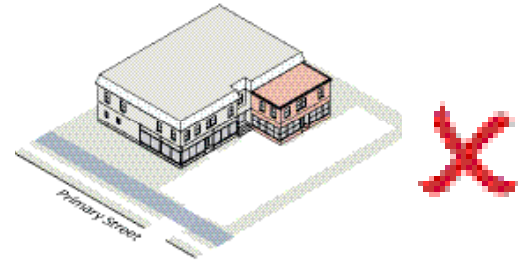
Front: Addition. Any addition to the front must be placed in the build-to zone. The addition does not have to meet the build-to percentage for the lot.



Rear: Addition. Rear additions are allowed because the addition does not increase the degree of the nonconformity.



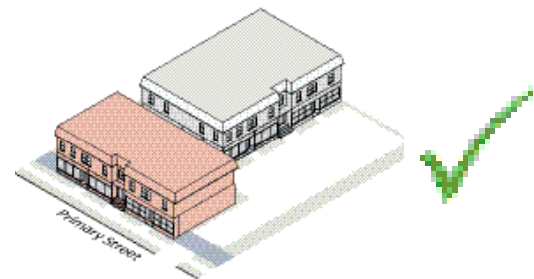
Side: Addition. Side additions are not allowed because the extension increases the width of the building not located in the build-to zone.



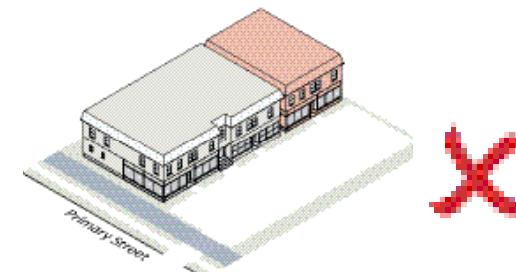
B. B. New Buildings

Where a new building is being constructed on a lot or site with an existing building on it that doesn't meet the build-to requirement, the following provisions apply.

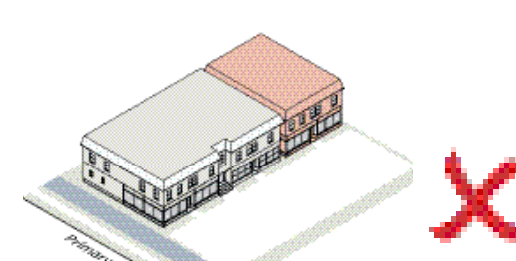
Front: New Building. All new buildings must be placed in the build-to zone until the build-to percentage for the lot has been met.



Rear: New Building. New buildings located outside of the build-to zone are not allowed until the build-to percentage for the lot has been met.



Side: New Building. New buildings located outside of the build-to zone are not allowed until the build-to percentage for the lot has been met.



C. Replacement Buildings

New buildings located outside of the build-to zone are allowed to replace an existing building. Where the replacement building footprint is increased, it must be approved by the Council.

14.9.5. Nonconforming Setback Deviation Requirements

Due to the large number of non-conforming residential structures, based on setbacks and small parcel sizes, in the City of Victor it is imperative to address these non-conformities in a separate section.

A. Where the property owner seeks an addition to the existing residential structure, and the existing structure is in the established setback, but the addition will not encroach any further into the setback than the existing structure, the Design Review Process (Div. 14.6.10) shall be used for approval of the addition, with the exception that

the Commission will make the final approval at a public meeting, after a recommendation from the Administrator.

This section only applies to main residential structures (not accessory structures) that had a building permit issued by the City of Victor, but no longer meet the established setback requirements, due to setback regulations changing, the structure was constructed prior to setback regulations, or an error was made by the City of Victor when the building was permitted.

B. In existing townsites where the lot is question is less than 1 acre, any deviation from setbacks for additions, shall utilize the process in described above (Div. 14.9.5.A) for approval of the addition. The property owner must combine all parcels under their ownership into one parcel through the Boundary Line Adjustment process (Div. 14.10.2) prior to application.

14.10.1. Approval of Modifications Needed

If an applicant wishes to modify an approval that has already been granted by the City of Victor, they must obtain approval for the modifications. In order to obtain approval for the modification an applicant may be required to repeat the process that was utilized for the original approval.

14.10.2. Modification of a Non-Subdivision Parcel

A. Boundary Line Adjustment

The adjusting or removing of common property lines or boundaries between adjacent tracts or parcels that are not part of a recorded plat, for the purpose of accommodating a transfer of land, combining existing parcels, or rectifying a disputed property line location. The resulting adjustment shall not create any additional tracts or parcels and all reconfigured tracts or parcels shall contain sufficient area and dimension to meet minimum requirements for zoning and building purposes.

1. Criteria for Approval

a. Conformance with Underlying Zone

Each of the resulting parcels shall conform with the zoning district in which it is located, or the degree of nonconformity of either parcel shall not be increased, except for cases involving parcels that do not conform to the minimum lot size standards in Articles 3-7. In such cases, a parcel may be made more non-compliant in order to make another parcel more compliant, provided the Administrator makes the following findings:

- i. The benefit of the increased compliance of one parcel outweighs the detriment of the increased noncompliance of the other parcel, resulting in a greater overall compliance with the intent and/or the standards of the City of Victor Land Use Development Code and The City of Victor Comprehensive Plan.

- b. Buildability - The overall capability of the lots or parcels to safely accommodate development is improved or not diminished, particularly by providing needed land area for water supply and wastewater systems.
- c. No net increase in density- The acreage transferred from one parcel to another does not allow for increased density on the subject parcels.
- d. Adjustments between public and private land- The conveyance of a parcel from a public agency to a private party who owns land, which is contiguous to the conveyed public land, shall be treated as a boundary adjustment to the contiguous private land and not as the creation of a separate legal building lot.

2. Process for Boundary Line Adjustment Approval

a. Scheduling a Pre-Application Conference

- i. Before submitting an application, pre-application conference with the Administrator must be scheduled to discuss the procedures and standards as well as what items of the Property Development Plan will be required for approval.
- ii. To schedule a pre-application conference call the City or go to City Hall.

b. Submitting the Application

- i. Following the pre-application conference, a complete application form, a modified Property Development Plan (if required), along with the required application fees, may be submitted to the City.

- ii. Boundary Line Adjustment application forms can be found on the City's website or paper copies can be obtained from City Hall.
- iii. The general submittal requirements for all development review applications are listed in Div. 14.3 and must be followed.
- iv. The application for a boundary adjustment shall include:
 - a. Unrecorded, new legal descriptions for each parcel;
 - b. Latest recorded deed to each property;
 - c. Designation of agent authorization form;
 - d. Application page, complete and signed by all property owners; and
 - e. Map of Survey containing all the required items found in Idaho State Code §55-1906.

c. Fees for this process shall be in accordance with the current fee schedule and are due at the time of submission of the application for review by the Planning Department. The fees for this process are nonrefundable after the Planning Department reviews the proposed adjustment.

d. Administrator Review

- i. The Administrator will determine the application is complete and then review the application.
- ii. Anything regulated in the Land Use Development Code will be reviewed for compliance by the Administrator, with additional review by internal City

departments and external agencies, as necessary. Comments for revisions will be forwarded to the applicant.

iii. Once the revisions are made and the documents reviewed again, the Planning and Zoning Administrator will approve or deny the application. A decision will be made within 20 days of receiving a complete application. This time period may be extended if both the applicant and the Administrator agree on an extension.

iv. If the Administrator finds that the application does not meet all the applicable requirements of the Land Use Development Code, the Administrator will notify the applicant of the specific provisions that have not been met and offer the applicant the opportunity to make changes to the application.

v. Approval or denial of the application is based on whether or not the submittal meets or fails to meet the applicable requirements of the Land Use Development Code. The Administrator may not modify a standard in the Land Use Development Code unless the requested modification is allowed.

vi. If an applicant is unsatisfied with the Administrator's decision, an appeal may be filed with the Commission, as outlined in Div. 14.8.

3. Recording:

After a Boundary Adjustment is approved by the Administrator, and all fees paid, a Mylar copy of the Map of Survey and all other required materials outlined above for a Boundary Adjustment shall be submitted to the Planning Department prior to recording with the Teton County Clerk/Recorder.

4. Length of Approval:

An application that is approved and not recorded within six (6) months of the date of approval shall be considered expired and a new application shall be required.

B. Modification of lots created from the Lot Split or Land Division Process

For modifications of the boundaries of the lots created from a Lot Split or Land Division, the Boundary Line Adjustment procedure must be followed.

14.10.3. Modification of a Plat (Short Plat or Full Plat)

The purpose and intent of this division is to provide an efficient procedure for reviewing changes or proposed vacations to previously recorded rights-of way, easements, recorded plats of subdivisions, Planned Unit Developments or to recorded Development Agreements. All revisions must comply with all applicable current regulations. It may be unnecessary to duplicate studies and analyses that may have been required as part of the initial plat application and approval. Revisions generally should reduce the intrusion of development into sensitive natural areas of the City and reduce governmental costs associated with scattered development by expediting changes to recorded plats that reduce the number of vacant platted lots in the City.

A. Required Signatures

Certain types of modifications to a recorded plat will require multiple applicant/signatures. The list below is intended to be a general guide as to when all the owner of a plat need to sign, versus just one owner.

- 1. Modification of open space, density, common area, road/right-of-way realignment, change of use, and similar changes, require all property owners in the platted subdivision to sign the amended plat and application.
- 2. Changes to correct a property boundary, combing of lots, or changes on a single lot only require the property owner of the effected lots to sign the plat and application.

B. Insignificant Changes

1. Definition

The proposed changes to the recorded land records have minimal direct impact on the immediate neighborhood, general vicinity of the subdivision, or overall community. These include:

- a. Vacations of portions of a plat, except where platted open space acreage would be reduced in acreage, the value of the protected resource may be diminished or where land/easements are dedicated to the public.
- b. Amendments to the recorded Master Plan that do not change use or density,
- c. Boundary line adjustments between lots within a subdivision,
- d. Lot consolidations of two or more platted lots into fewer lots,
- e. A boundary adjustment between a lot in a platted subdivision and an adjacent non-platted property;
- f. Minor changes to the layout of roads, utilities, or other facilities;
- g. Other changes of similar magnitude and minimal direct impact as determined by the Administrator.

2. Criteria for Approval

- a. Any proposed changes shall comply with all applicable criteria and standards of the City regulations, conditions of approval established in the previous approval, and the development agreement approved as part of the previous approval.
- b. Insignificant changes shall not reduce the area of designated open space or increase the number of lots.
- c. Insignificant changes shall not change the uses approved or the location of where certain uses are approved.
- d. Insignificant changes shall not increase or create new and potentially substantial direct or indirect impacts on the neighborhood, vicinity of the subdivision or overall community.
- e. Any changes to the layout of the utilities must be approved by the Public Works Director prior to going before City Council.

3. Process for approval

- a. Scheduling a Pre-Application Conference
 - i. Before submitting an application, pre-application conference with the Administrator must be scheduled to discuss the procedures and standards.
 - ii. To schedule a pre-application conference call the City or go to City Hall.
- b. Submitting the Application
 - i. Following the pre-application conference, a complete application form, along with the required application fees, may be submitted to the City.
 - ii. Insignificant Plat Amendment application forms can be found on the

City's website or paper copies can be obtained from City Hall.

- iii. The general submittal requirements for all development review applications are listed in Div. 14.3 and must be followed.
 - iv. The application for an Insignificant Plat Amendment shall include:
 - a. Narrative explaining the changes that are being proposed,
 - b. Plat, if applicable, is labeled correctly as "Amended Final Plat",
 - c. Recorded documents, if applicable, are labeled as "Amended"
 - d. Itemize briefly the amendments to the original plat and/or original recorded documents
 - e. Approval letter from Eastern Idaho Public Health, District 7
 - f. Approval letter from Teton County Fire District
 - g. Acceptance letter from city for sewer hookup from the providing community, if applicable
 - v. Fees for this process shall be in accordance with the current fee schedule and are due at the time of submission of the application for review by the Planning Department. The fees for this process are nonrefundable after the Planning Department reviews the proposed application.
- c. Administrator Review
- i. The Administrator will determine the application is complete and then review the application.

- ii. Anything regulated in the Land Use Development Code will be reviewed for compliance by the Administrator, with additional review by internal City departments and external agencies, as necessary. Comments for revisions will be forwarded to the applicant.
- iii. Once the revisions are made and the documents reviewed again, the Planning and Zoning Administrator will recommend approval or denial of the application to the Council. A recommendation will be made within 20 days of receiving a complete application (or revised application). This time period may be extended if both the applicant and the Administrator agree on an extension.
- iv. If the Administrator finds that the application does not meet all the applicable requirements of the Land Use Development Code, the Administrator will notify the applicant of the specific provisions that have not been met and offer the applicant the opportunity to make changes to the application.
- v. The recommendation of approval or denial of the application is based on whether or not the submittal meets or fails to meet the applicable requirements of the Land Use Development Code. The Administrator may not modify a standard in the Land Use Development Code unless the requested modification is allowed.
- vi. The Administrator shall recommend to the Council approval, approval with conditions, or denial of the application pursuant to the criteria and standards in the City regulations

- d. Council Review:
 - i. The Council may review the recommendation and proposed insignificant changes at a regularly scheduled public meeting.
 - ii. The criteria they will use in making their decision is found in Div. 14.10.3.B.2.
- e. Recording:
 - i. After an Insignificant Plat Amendment is approved by the Council, a Mylar copy of the Amended Plat and all other required materials outlined above for the amendment shall be submitted to the Planning Department prior to recording with the Teton County Clerk/Recorder.
- f. Length of Approval:
 - i. An application that is approved and not recorded within six (6) months of the date of approval shall be considered expired and a new application shall be required.

C. Significant Changes/Vacations (Minor)

1. Definition

Significant Changes (minor) of a plat, the master plan, or portions of it that substantially decrease the direct or indirect impacts on the immediate neighborhood, general vicinity of the subdivision or overall community. These substantial changes may include the following:

- a. A reduction in the number of lots or parcels;
- b. The re-arrangement or relocation of more than five (5) lots.
- c. Renegotiation of development agreement in associated with additional uses or lots;
- d. Complete Vacation of the Plat
- e. Other changes of similar magnitude or reduction of impacts as determined by the Administrator.

2. Criteria for Approval

- a. Any proposed changes to an easement, public right-of way, or Planned Unit Development, shall comply with all applicable criteria and standards of the City regulations, conditions of approval established in the previous approval, and the development agreement approved as part of the previous approval.
- b. The applicant shall submit to the Administrator revised maps showing the proposed vacation or revisions to the layout of lots or buildings and any reduction in the number of lots or buildings. The project's Development Agreement and Property Development Plan may require adjustments in order to reflect the significant changes being proposed. This revised layout shall not impact any of the maps and analyses

that were submitted as part of the previous application's Property Management Plan (Article 13) or approval. These maps and analyses may include, but not limited to:

- i. Land Management Plan and/or Open Space Management Plan
- ii. Fiscal and Services Analysis;
- iii. Natural Resource Analysis; and,
- iv. Traffic Impact Study.
- c. The master plan and plat for a subdivision or Planned Unit Development, including the proposed changes, shall reduce governmental costs for operations and capital expenses.
- d. The applicant shall provide financial surety of 125% of a current engineer's cost estimate for infrastructure associated with the change;
- e. The development agreement shall require no lot sales in the approved amended plat until such time as infrastructure is complete and financial surety (warranty) has been provided;
- f. The revised Plat/Plan shall reduce the intrusion of development into natural resource areas that are protected by criteria in City regulations, reduce development in the Overlay Areas, and reduce the impact to neighboring properties.
- 3. Process for approval
 - a. Scheduling a Pre-Application Conference
 - i. Before submitting an application, pre-application conference with the Administrator must be scheduled to discuss the procedures and standards.

- ii. To schedule a pre-application conference call the City or go to City Hall.
- b. Submitting the Application**
- i. Following the pre-application conference, a complete application form, a modified Property Development Plan (if required), along with the required application fees, may be submitted to the City.
 - ii. Significant Plat Amendment application forms can be found on the City's website or paper copies can be obtained from City Hall.
 - iii. The general submittal requirements for all development review applications are listed in Div. 14.3 and must be followed.
 - iv. The application for a Significant Plat Amendment shall include:
 - a. Narrative explaining the changes that are being proposed,
 - b. Plat, if applicable, is labeled correctly as "Amended Final Plat",
 - c. Recorded documents, if applicable, are labeled as "Amended"
 - d. Itemize briefly the amendments to the original plat and/or original recorded documents
 - e. Approval letter from Eastern Idaho Public Health, District 7, if applicable
 - f. Approval letter from Teton County Fire District
 - g. Acceptance letter from city for sewer hookup from the providing community, if applicable

- v. Fees for this process shall be in accordance with the current fee schedule and are due at the time of submission of the application for review by the Planning Department. The fees for this process are nonrefundable after the Planning Department reviews the proposed application.

c. Administrator Initial Review

- i. The Administrator will determine the application is complete and able to proceed.
- ii. Additional review by internal City departments and external agencies, is necessary.

d. Initial Distribution of Application

Upon determination of a complete application, the Administrator will promptly distribute the application for review by internal City departments and external agencies and schedule the DRC meeting.

e. DRC Meeting

This meeting is to begin the discussion about the proposal and is not a forum for final decisions or for accepting comments concerning public support or opposition. No minutes of the meeting are required to be taken or provided at future meetings or hearings. Planning and Zoning Administrator staff will take notes to summarize the findings from this meeting.

f. Administrator Review (Concept Review)

- i. Anything regulated in the Land Use Development Code and concerns brought up at the DRC meeting will be reviewed for compliance by the

Administrator. Comments for revisions will be forwarded to the applicant.

- ii. Once the revisions are made and the documents reviewed again, the Administrator will recommend approval or denial of the application to the Council. A recommendation will be made within 65 days of receiving a complete application. This time period may be extended if both the applicant and the Administrator agree on an extension.
- iii. If the Administrator finds that the application does not meet all the applicable requirements of the Land Use Development Code, the Administrator will notify the applicant of the specific provisions that have not been met and offer the applicant the opportunity to make changes to the application.
- iv. The recommendation of approval or denial of the application is based on whether or not the submittal meets or fails to meet the applicable requirements of the Land Use Development Code. The Administrator may not modify a standard in the Land Use Development Code unless the requested modification is allowed.
- v. The Administrator shall recommend to the Council approval, approval subject to listed modifications, , or denial of the application pursuant to the criteria and standards in the City regulations.

g. Council Review:

The Council will review the recommendation and hear public testimony at a properly

noticed public hearing prior to making a decision on the Significant Plat Amendment. The Council has 30 days after a public hearing to approve, approve subject to listed modifications, or deny the Significant Plat Amendment. This time period may be extended if both the applicant and the Council agree on an extension.

h. Recording:

After a Significant Plat Amendment is approved by the Council, a Mylar copy of the Amended Plat and all other required materials outlined above for the amendment shall be submitted to the Planning Department prior to recording with the Teton County Clerk/Recorder.

i. Length of Approval:

An application that is approved and not recorded within six (6) months of the date of approval shall be considered expired and a new application shall be required.

D. Significant Changes (Major)

1. Definition

Significant Changes (major) of a plat, the master plan, or portions of it that substantially increase the scale or scope of the platted subdivision, or increase the direct or indirect impacts on the immediate neighborhood, general vicinity of the subdivision, or overall community. These significant changes may include the following:

- a. An increase in the number of lots;
- b. Addition or change in uses as identified in the original approval; or
- c. Other changes of similar magnitude or projected impact.

2. Criteria for Approval

- a. Any proposed changes to a plat, shall comply with all applicable criteria and standards of the current City regulations, conditions of approval established in the previous approval, and the development agreement approved as part of the previous approval.
- b. The applicant shall submit to the Administrator revised maps showing the proposed revisions to the layout of uses, lots or buildings. The project's Development Agreement and Property Development Plan may require adjustments in order to reflect the significant changes being proposed. This revised layout may impact any of the maps and analyses that were submitted as part of the previous application's Property Management Plan (Article 13) or approval. The Property Development Plan shall be updated to reflect the proposed changes.
- c. Any proposed changes to a recorded plat or master plan that increase direct or indirect impacts may require additional mitigation pursuant to the criteria and standards of City regulations.

3. Process for approval

- a. The process for a Significant (Major) Plat Change shall follow the procedures for Preliminary and Final Plat approval as identified in Div. 14.5.11.
- b. Additional Items Required at Application
 - i. Following the pre-application conference, a complete application form, a modified Property Development Plan (if required), along with the required application fees, may be submitted to the City

ii. The application for a Significant (Major) Plat Amendment shall include:

- a. Narrative explaining the changes that are being proposed,
 - b. Plat, if applicable, is labeled correctly as "Amended Final Plat",
 - c. Recorded documents, if applicable, are labeled as "Amended"
 - d. Itemize briefly the amendments to the original plat and/or original recorded documents
 - e. Approval letter from Eastern Idaho Public Health, District 7, if applicable
 - f. Approval letter from Teton County Fire District
 - g. Acceptance letter from city for sewer hookup from the providing community, if applicable
 - h. Amended Property Development Plan.
- iii. Fees for this process shall be in accordance with the current fee schedule and are due at the time of submission of the application for review by the Planning Department. The fees for this process are nonrefundable after the Planning Department reviews the proposed application.

14.10.4. Modification of Administrative Approvals

A. Site Plan, Temporary Use Permits

1. Change in conditions of approval

Prior to making changes to an approved use, an applicant shall seek to modify the conditions of approval. The applicant shall submit a narrative describing the scale/scope, plans (or diagrams) identifying the changes and the reasons for the changes. The Administrator will determine, within 20 days, based on the Land Use Development Code whether those changes are substantial enough for denial or if the permit is still valid with the desired changes.

2. Change in location

If an applicant seeks to move a previously approved use to a new location, they are required to submit a new application.

B. Design Review

1. Change in conditions of approval

Prior to making changes from an approved design, an applicant shall seek to modify the conditions of approval. The applicant shall submit a narrative describing the scale/scope, plans (or diagrams) identifying the changes and the reasons for the changes. The Administrator will determine, within 20 days, based on the Land Use Development Code, whether those changes are substantial enough for denial or if the permit is still valid with the desired changes. The Administrator's decision shall be based upon:

- a. The scope of the proposed changes,
- b. Whether the changes will be visible from the public right of way,
- c. The prior approval and the conversation or concerns discussed at that time, and

d. The criteria listed in the Code.

2. Change in location

If an applicant seeks to move a previously approved structure or use to a new location they are required to submit a new Design Review application.

14.10.5. Modification of Quasi-Judicial Approvals

A. Conditional Use Permit

1. Minor Modification

- a. If an applicant seeks to modify up to two (2) of their conditions, the Commission may reconsider those specific conditions administratively in a Public Meeting, given that:
 - i. The change in conditions will not impact the public, service providers, neighborhood, or surrounding property owners.
 - ii. The change in conditions will not alter the original approval substantially.
 - iii. The change in conditions is within the criteria identified in Div. 14.7.10
 - iv. The change in conditions does not increase the scale or intensity of the use.

- b. If the Commission finds that the modification of conditions cannot meet the criteria listed above, the modifications shall be considered a Major Modification

2. Major Modification

Any change to an approved Conditional Use Permit that do not meet the requirements for a Minor Modification require a new application as outlined in Div. 14.7.10.

B. Rezone

Any change to an approved Rezone requires a new application as outlined in Div. 14.7.11.

C. Variance

Any change to an approved Variance requires a new application as outlined in Div. 14.7.12.

14.10.6. Retroactive Approvals to Correct Unauthorized Land Splits

In an effort to correct previous land divisions that were done as a) agricultural splits without building permits, b) deeded off property, or c) other divisions of land that did not meet the ordinance requirements at the time, the Planning and Zoning Administrator may authorize a Lot Split or Boundary Line Adjustment approval that would correct the unauthorized action. The subdivision process may need to be used to correct previous unauthorized land divisions. The corrected lots need to meet the standards of this ordinance, and would become eligible for building permits where they currently are not.

14.10.7. Modification of Undefined Approvals

If an applicant seeks to modify an approval that is not identified elsewhere in Div. 14.10, they must submit a new application and follow the same procedure for the original approval.